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THE MUNICIPAL WORLD

Published Monthly in the Interests of Every Department of the Municipal Institutions of Ontario.

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NOTICE.

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The Municipal World

PUBLISHED MONTHLY

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

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ST. THOMAS SEPTEMBER 1, 1900.

We will be pleased to receive from readers of the WORLD opinions in reference to changes that should be made in the Assessment Act. The Commission recently appointed will soon commence ts duties and all communications received will be considered.

That defects are to be found in the present laws, every one will admit, and municipal councillors and officers of the Province who are administering these laws, are in the best position to offer practical suggestions that will remedy the defects and assist the commission in reporting an equitable system of assessment and taxation.

* * *

The council of the township of Augusta have evidenced their patriotism by ordering the purchase of a flag pole and flag, the latter to be hoisted on national and patriotic occasions and during all meetings of the council.

* * *

The Ontario Municipal Association, formed at the municipal conference, which convened in the city of Hamilton, in September last, will hold its first annual meeting in London, on the 11th and 12th of the present month.

* * *

A certain municipality in Ontario is experimenting with a new system of performing statute labor. The office of pathmaster or road overseer has been abolished and the superintendence of the performance of statute labor is entrusted to four commissioners appointed by the council. Time will show whether the change will have any beneficial or profitable results.

The Assessment Commission.

The commission to inquire into matters connected with the system of assessment has been issued by the Ontario government. The personnel of the commission is as follows: Mr. Justice Maclennan, of the Court of Appeal; Mr. Justice McMahon of the Queen's Bench Division of the High Court; K. W. MacKay, of St. Thomas, editor of THE MUNICIPAL WORLD; D. R. Wilkie, General Manager of the Imperial Bank; Thos. H. Macpherson; M. P., Hamilton, senior member of the firm of Macpherson & Glassco, wholesale grocers; Abraham Pratt, Assessment Commissioner, Ottawa; Major M. D. Butler, Napanee, civil engineer.

Mr. C. R. W. Biggar, Q. C., of Toronto, is the Secretary.

As to the scope of the labors of the commission the *Globe* in its issue of the 22nd August last, says: The points that the Commissioners will have to consider, are not matters regarding which the general farming community are much interested. The difficult and irritating questions relating to assessment are those which result from all those new classes of corporations that have come into existence since the old Assessment law was passed, and which its provisions were not framed to meet or provide for.

Among these corporations are the electric companies and the street railways, telephone companies, etc. The public in the centres of population have been paying a great deal of attention to the question. Some of the companies pay large annual sums for the franchises which they possess, yet it is held by not a few that they should be assessed as if they were not paying anything in the shape of annual license fees to the municipalities. On the other hand, in the case of some of these companies, it may be that there are large revenues and excessive dividends being paid to the municipalities for the franchise, and it has been contended, and perhaps contended with much force, that to assess the property of these companies, as the law now requires it to be assessed, namely, on what is called the scrap-iron basis, is an injustice to the municipality. In reality there are, it is reported, only three or four street railways in the province at most which are burdened with much, if any, revenue over and above the operating expenses. As to these the Ottawa Street Railway Company has made its bargain with the city of Ottawa, paying a certain amount in lieu of taxes, while in the cities of Toronto and Hamilton the companies pay a certain amount, and claim the amount so agreed to be paid was on the basis of the law relating to the taxation of their property as it then stood, and that it would be manifestly unfair to make any radical change in the basis of their assessment. The municipalities, on the other hand, advance the opposite contention, and claim that the bargain made for the rental of the road was subject to any change that might be made in the general law, the same as is the case with any other property that is leased. As do most of the other street railways in the province, it is doubtful how far, after all, any of them are earning dividends.

The same remarks apply to the telephone companies which have made different bargains with different municipalities. One very important matter that has been urged upon the legislature from year to year is the assessment of merchant's stocks, there being in the provincial law an exemption from assessment of so much of the value of the stock as is owing thereon, and it has been contended that a merchant's stock of goods should be assessed for its value irrespective of whether it has been paid for in full or otherwise.

The vexed question of the assessment of departmental stores, general exemptions from taxation and other points will no doubt all have the very careful consideration of the commissioners.

The property-owners of Brockville recently decided, by a majority of 404, to purchase the gas and electric plant in that town, and by a majority of 468, to manage the municipal light plant by five commissioners. The *Times* thus editorially comments on the result:

"The people of Brockville are to be congratulated upon their good judgment in securing control of their gas and electric light plant, as they did recently, by a very decided majority. They have taken a large stride forward by the adoption of this modern principle of municipal ownership, and their decision will be applauded from all quarters of the country and encourage others to take a similar step." The village of East Toronto has also passed a by-law providing for the lighting of the village by electricity.

* * *

A correspondent writes as follows: In the MUNICIPAL WORLD for July, "G. W" asks in question 299, "How this difficulty could be overcome by a judge? Had he stated the facts you perhaps could have enlightened him. The township of Roseberry does not equal one square mile in area and is all settled, there is no prospect of its having 50 inhabitants in the near future except a village springs up. The first election was called by the Judge who appointed a returning officer though perhaps the judge's name does not appear on the notice."

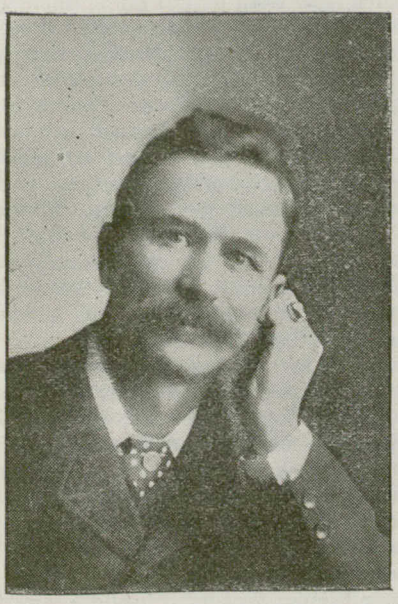
* * *

Dr. Playter, superintendent of the Highfield sanitarium for consumptives, has been fined $200 (or in default fourteen days in jail) for maintaining a nuisance. The prosecutors were the corporation of the township of York. The magistrate decided that, as conducted, the sanitarium was a menace to the public health, and that, in refusing to obey the order of the Board of health to remove it, the doctor had magnified his offence.

Municipal Officers of Ontario.

Clerk, Township of Stephen.

Mr. Eilber was born in the township of Stephen, in 1857. He was reeve and deputy-reeve of the township for eighteen



MR. HENRY EILBER.

successive years. He was elected to the Local legislature in 1898, being the first Conservative elected in South Huron since Confederation. At the request of the council he accepted the office of clerk in 1899.

MR. P. M'PARLAND.

Clerk, Township of North Burgess.

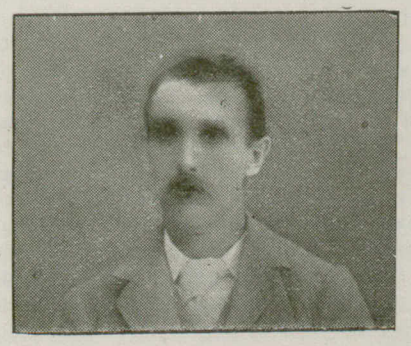
Mr. McParland was born in Ireland, in 1854, and received his education at the National Schools, in his native country. He clerked in general stores for some time, and came to Canada in 1875. He moved to his present abode in 1879, and has since there conducted a general store. He was appointed postmaster in 1884, and clerk in 1891. He is also engaged in farming.

Clerk, Township of Colchester North.

Mr. Atkinson was born in the township of Manvers, in December, 1862, of Irish parentage. He was educated at the Lifford public school, the High school, at Port Hope, and the Ottawa Normal School. He taught school for three years in Manvers, and thirteen years in Colchester. He was elected councillor in 1897, but resigned to accept the clerkship, to which he was appointed in that year. He is also now engaged in farming.

Clerk, Townships of Medora and Wood.

Mr. Guy was born in Wiltshire, England,



MR. A. C. ATKINSON.

and was educated in a commercial school, in old London. He came to Canada in 1858, where he taught school for a number of years. He moved to Muskoka in 1875, and was appointed clerk in 1879. In politics Mr. Guy is a staunch liberal.

Clerk Township of Dysart.

Mr. Prust was born in Cheltenham, England, in 1847, and came to Canada in 1872. He was appointed clerk in 1883, and is also clerk of the Second Division Court of Haliburton.

The board of health of Woodstock has compelled bakers to give up using tickets, on the ground that by so many persons handling them, disease germs were spread. Hereafter the bakers must use cards, good for a dollar's worth of bread, and as each loaf is delivered, a hole is punched in the card.

Official Oaths.

The thought often strikes us that oaths of office are generally of little use. The statutes are very imperative in insisting that in nearly all cases persons appointed or elected to office must, before entering upon their duties, take an oath or solemn declaration that they will do their duty to the best of their ability, and without fear, favor or affection.

MR. HENRY C. GUY.

How is this carried out in practice? In ninety-nine cases out of a hundred is it not patent to all that the official favors his friends? If no favor was to be shown, but everything done on the square, and according to the stern rules of justice, it would make no difference to the public at large who was elected, or which party got into power.—Cardwell *Sentinel.*

MR. W. PRUST.

Through municipal ownership Grand Rapids, Mich., furnishes electric street lighting at $32 a light a year.

Aldermen as Public Benefactors.

A writer in the *Contemporary Review* discussing the question of municipal ownership of public franchises, says :

"Municipal work attracts the most capable business-men in every town. It is just the men who are at the head of their trades and callings who are found most active in serving their fellow citizens. The town councillors are thoroughly representative of the life and business interests of the community which they serve. One could tell what was the predominating industry of a town from the occupation of the councillors. I find, for instance, that the great manufacturing centre of Birmingham has on its city council forty manufacturers and tradesmen associated with the metal and jewellry trades (brass founders, nail manufacturers, iron masters, manufacturing jewellers, etc.,) fifteen profes-ional men (chiefly solicitors and doctors,) ten shopkeepers and merchants and six gentlemen. The gentlemen will be found, as a rule, to be retired manufacturers or tradesmen. Burnley is a centre of the cotton industry; we, therefore, find cotton manufacturers strongly represented on its council. Half the members are manufacturers and tradesmen, fifteen are shopkeepers and merchants, six are professional men, and three are described as gentlemen. Every phase of the commerce of Manchester has its representatives on the city council. Hull is a great shipping centre ; we natur ally find, therefore, that the largest class on the town council are co nected with the shipping. On the Huddersfield town council one would expect to see a large number of manufacturers, and I find that half the number are manufacturers and tradesmen. The staple of Sheffield stands out well in all its branches on the city council. There are steel manufacturers, spade and shovel makers, directors of steel manufacturing companies, cutlery manufacturers, saw-makers, managers of steel works, steel workers, metal spinners, silver stampers and moulders. An enquiry into the occupations of councillors in other towns brings out the same con clusion—that the council draws from all classes pretty much in proportion to their interests in the community."

The business men of these English towns evidently recognize the importance, from a business point of view of having civic affairs properly administered, and although many of them have great business enterprises of their own to look after they do not begrudge the time spent in attending meetings of the city council.

In Canada there is not the same readiness on the part of successful businessmen to serve on municipal councils, and the natural consequence is that the cost of municipal government is greater and the administration of affairs less effective than in England.

It would be a good thing for this country if the business men of our cities and towns would take a more active interest in the administration of civic affairs.

A good alderman may be as great a public benefactor as a man who gives large amounts of money to public institutions. Assuming that money can be borrowed by a city at three-and-a-half per cent. interest, if ten aldermen, working together, can, by their united influence, effect a permanent saving of $35,000 annually without reducing the efficiency of public service, it is equivalent to jointly giving the city a million dollars, or one hundred thousand dollars each. A permanent saving of $35,000 annually may seem a trifling matter, but it is equivalent to a gift of $10,000. Even if the saving is not permanent, it is equivalent to giving the use of $10,000 for so long a period as the saving continues.

However, there is no merit in cutting down civic expenditures by failing to produce good pavements, clean streets, pure water, parks and other public conveniences. For such economy, or rather parsimony, citizens have no reason to feel grateful to aldermen, but when granting a franchise, awarding a contract or carrying out any civic undertaking, an alderman's influence is so exercised as to permanently save the city $350 annually, it is equivalent to a gift of $10,000, and the alderman deserves to be honored by the citizens accordingly.

Oiled Roads a Success.

Much has been said of late as to the use of crude petroleum in the making of permanent roadways. The idea originated in the oil regions of Pennsylvania, but it is in California that the experiment has been tried with success. In the southern part of the State it is said the problem of good roads has been solved by the application of oil. A recent letter to the New York *Evening Post* states that there are now nearly a hundred miles of road in the several counties which have been so treated in this manner, and so pronounced in every instance, and so particular has been the success of the trial that there is no doubt that nearly a thousand miles will be put under contract for the treatment during the coming year.

On all of the main highways in Los Angeles county oil-coating is now supplied. Many of them have but patches of it, half a mile or a mile in extent, the oil being used upon it to test the effect it will have upon earths of different character, and upon roads of varying qualities. It has been found that where the road had an even, hard foundation, smooth and clear of ruts, and about two inches of dust on the surface, upon this road the oil is a complete success, and gives a surface as polished, clean and clear as an asphalt street. Where the soil is clayey though the surface is rutty, it will maintain the hard character of the ground, allay the dust, and prevent further decay by resisting the formation of mud, the oily and impervious ground holding the water in the ruts until it dries out, preserving the earth beneath from becoming saturated with it. One hundred barrels of oil per mile, spread over an area eighteen feet in width, will put a road in condition along the extent of the oiled surface, and give an excellent roadway adequate for ordinary traffic. The oil is put on in three applications ; the first at the rate of sixty barrels per mile, and the two subsequent treatments at the rate of twenty barrels per mile each. Great care must be taken in delivering the oil. It should be hot when discharged, and poured upon a hot surface. so that the work of the oil sprinkling is confined to the heat of the day. The oil cannot be poured on indiscriminately, but must be drilled into the dust as wheat is drilled into land prepared to receive it. If it is not so applied, the oil will lie in splotches, run together, and so make a very imperfect success, either as a job of sprinkling or as an oiled surface. In order to meet the requirements a machine has been devised. A big tank mounted on four wheels, drags a sort of tender-box supported by two wheels, into which is run from the tank supplies of oil. This box has a furnace beneath it which heats the oil, and attached to it is a drag, looking somewhat like a hay rake. A number of curved rods or fingers go out from the bottom, and these are drawn through the dust and along the road. They mark little furrows in the dust and into these furrows, through a series of pipes, is discharged the oil. A second finger, or sort of thumb arrangement, fixed farther back, turns the dust over the oiled furrow, and the surface is then left to absorb, a process which requires about an hour to effect. A roller is then drawn over the oiled width, and thus the first treatment is completed.

Contracts for the three treatments are taken at from $205 to $270 per mile, according to the price of oil and the character of the surface to be worked. But even at this rate the cost is not over six cents per running foot of the eighteen feet width, and of this sum, under the general regulations, the county pays one-third, and the property owners on the road on each side pay each one-third. Under this arrangement it would cost an owner $2 to put in condition the road in front of one-hundred feet of land, and this is about what it now costs him to have the road sprinkled with water throughout the dry season. One saturation will keep the road in good repair during the year succeeding the first three treatments, and this application requires about twenty barrels to the mile. Its cost to the adjacent owners of land is about forty cents per hundred feet of road, and there is maintained a most excellent driveway.

—*London Free Press.*

The movement for good roads is extending. A letter has been received from the secretary of the board of trade of Edmonton, Alberta Territory, for information on the subject. There is no part of Canada where good roads are more needed than in our great Northwest.

Engineering Department

A. W. CAMPBELL,
O.L.S., C.E., M.C.S., C.E.

Drinking Troughs by the Roadside.

Driving through an occasional township in some sections of Ontario, and more especially in the counties of Oxford and Middlesex, there are to be found water-troughs by the roadside, to which water is led in pipes from flowing springs near by. This is a matter of which too little is made throughout the Province, and which deserves much greater attention from citizen and councillor. The sufferings of horses driven with heavy loads, and for considerable distances in the almost tropical heat of some of our summer days, can only be guaged by the extreme discomfort felt by men who are compelled to work under a hot sun without water to allay thirst. The sufferings from hunger are great, but it is admittedly the case that extreme thirst is far more to be dreaded. It is, therefore, but a humane deed to provide for the comfort of hardworked, perhaps over-worked, horses by conveying water to the roadside wherever the opportunity offers itself. More than this, it affords a real means of economy, for it is well known that there is no more common cause of injury to horses than the lack of water, particularly when working in hot weather. It is common to find horses driven for several hours under a boiling sun with water obtainable for them only at the end of the journey. The result is well known, a thirst which it seems impossible to satisfy, and many a case of heaves. As a matter of humane treatment of a horse, and as well, the profit of the owner, the small outlay required in a great many townships to provide drinking troughs by the roadside, especially on main roads, can be well afforded by the ratepayers.

Springs near the road, from which water can be carried in pipes by hydraulic pressure, offer the cheapest and most convenient means. In other cases true artesian wells might be bored or driven. It does not seem to be beyond the range of practicability where a natural flow cannot be obtained, to place pumps by the roadside at convenient distances, or at points where much travelled roads cross or converge. Were water obtainable in every two or three miles, horses would be saved much severe suffering, they would do more work, and the destruction of horses would be much lessened. Drivers, too, although they have merely to rest while their horses toil, would know how to appreciate a cup of cold water on many a hot summer's day. Councillors could undertake no more popular public work than the placing of drinking fountains wherever they are most needed, or wherever the presence of a flowing spring offers opportunity, and they will earn the gratitude of many a thirsty traveller, many a weary horse, and even the dog under the wagon will hold the name of "councillor" in reverence.

Inspection of Sewer Work.

The specifications are practically the instructions to the contractor as to the way in which the average system is to be built, the lines, grades, and dimensions being given by the engineer, chief or assistant. If the contractor was left unwatched to carry out these instructions it would be impossible to know whether he had done so or not, since only the inside of the sewer can be examined, and this only with difficulty. And if it were found, after the completion of the work, that it had been improperly built or of poor material, even though the contractor should be compelled to replace it with satisfactory work, the delay and inconvenience of this might better be avoided by proper oversight during construction. It is advisable, therefore, that a competent inspector be constantly on hand when any construction is progressing. This is not necessary during excavation, but even this should be looked after at least once a day, that any unforeseen underground condition which may modify the plans may be noted, and in general to ascertain that the contractor is obtaining the proper width of trench, is not interfering unnecessarily with private drains water or gas pipes, and is in general following the directions for trenching, blasting, etc.

For this oversight it will usually be necessary to have an inspector for each set of pipe-layers and of masons. But if only one or two trenches are being worked at a time the instrument man may also be inspector. The omissions and poor work which may be accepted from the contractor if such inspection is not constantly made may be seen from a statement of the inspector's duty.

The inspector should be on hand before work is begun at morning and noon to see that no mortar left from the previous day is worked over, that new mortar is properly proportioned and mixed, and to examine grade lines or stakes. In the case of pipe sewers he should examine the inside of the sewer near the end and see that any stones, dirt or other matter which may be there, be removed before the laying begins. He should also examine the one or two cemented joints nearest the end, and if they are not sound the pipe should be removed and relayed.

He should continually keep an eye upon material and workmanship, examining each pipe before it is lowered into the trench, each load of brick and of sand as they are brought upon the ground, each barrel or bag of cement to see that it bears the engineer's mark or is of the required make and that it is not caked by moisture. He should see that the proper proportions of cement and sand are used for the mortar, and that no mortar partially set is retempered and used.

On pipe sewers he should see that each pipe is laid to grade and line by the use of the grade-rod and a plumb-bob in connection with the grade-cord, that each pipe is pushed "home" each joint properly cemented and the swab or piston in the sewer pulled forward, and that the back filling is properly placed and tamped around the pipe. He should see that house branches are placed where directed, that covers are cemented in each one (about this he is sometimes careless, to the detriment of the sewer), and should drive a stake in the bank directly over each.

He should keep a record of all extra work, such as foundations or sheathing left in the trench, which cannot be measured after the completion of the sewer.

If the ground is wet he should see that no water flows over the brickwork or through the pipe, except as permitted by the engineer. In general he should be thoroughly familiar with the specifications and have a copy constantly on the work, and see to their enforcement, reporting to the engineer any difficulty in obtaining this.

He should not be permitted to be in any way indebted to, or under the influence and power of the contractor, and should receive orders from the engineer only.

He should be a man with some experience in the character of work he is inspecting, sober, and having the respect of the contractor and workmen.

Annual Reports.

Municipal ownership of electric light and gas plants and of waterworks is decidedly growing in favor in Ontario. These are matters which lie very close to the comfort and pocket of the citizen, they are essentially monopolies, and while municipal ownership may to some extent curtail private enterprise, the absence of competition which would regulate both price and quality, renders their operation for the benefit of stockholders of every advantage to the general public.

The objection is raised to municipal ownership that an incentive to economical management is lacking, and that careless methods may cause little if any saving to the taxpayer. It is to the credit of the councillors and commissioners of this province, that such has rarely if ever been the result. As a safeguard, however, full reports of initial cost, and of the expenses and methods of operation, should be printed annually for the information of the citizens. Publicity is essential. These statements permit of comparison one year with another, and with the results obtained in other municipalities, and thereby serve a purpose the benefits of which are far in excess of the trifling cost.

A by-law to grant a $20,000 bonus to the James Bay Railway Company was carried at Parry Sound by a majority of 185.

Municipal Ownership in Brockville.

A by-law to raise $100,000 to purchase the electric and gas plant of the Brockville Light and Power Company, was submitted to the voters of Brockville, Ontario, last month, with the result that the by-law was carried by 413 votes for and 67 against. A vote was also taken as to whether the plant would be under the management of the town council or of a board of five commissioners. The vote in this case also showed a large majority in favor of commissioners.

This all but unanimous endorsation of the principle of municipal ownership, and management by commissioners, is given after eight years experience in Brockville with a waterworks plant operated in this way by the municipality. Of about ninety waterworks plants in Ontario, nearly all are under municipal ownership, and the results have been exceedingly favorable. It is, therefore, to be anticipated that the near future will witness a coniderable change with respect to electric lighting plants of which there are about one hundred and forty in the Province, with only, as yet, fifteen owned by municpalities.

The following statement and particulars of the purchase were submitted by the light committee of Brockville to the electors of the town prior to the day of voting, in support of the by-law :

"The principal of municipal ownership of all such necessities as water, light, etc., is now almost universally recognized, and our own experience with the waterworks has demonstrated its advantages beyond question. The waterworks have been bought and extended, and the interest and sinking fund have been regularly paid without costing the ratepayers one cent of extra taxation, and at the same time the cost to the consumer has been materially reduced. The discount, which at first was only ten per cent., is now ten and thirty per cent. We are confident we can do the same with the lighting plant.

"To understand what we are desirous of doing, we would bring the following facts to your notice : The council, in order to save the great expense and delay of an arbitration, endeavored to see if a price could not be arrived at without it. The works and plant of the Brockville Light and Power Company were carefully valued by Willis Chipman, C. E., who is an acknowledged authority in such matters. His valuation, after deducting all allowances he made for depreciation, etc., for the works and plant of the company, was $94,000. Your committee carefully considered his report, and knowing that he had valued some things of the company the town did not want, but under the statute have to take over from the company, and some machinery which was old and would need repairing, met the company and negotiated for the fixing of a price less than the total amount.

Finally the price of $85,000 was agreed upon, and your committee are confident that, in securing these terms, they have made a good bargain for the town, and have secured an opportunity for us to acquire a lighting system of our own on easy terms, which we may never obtain again.

Your committee ask you to vote for the expenditure of this $85,000, and in addition the council asks for the sum of $15,000 in order to pay for the stock, tools and supplies needed at once to run the works when taken over, the necessary expenses and any improvements required to be made immediately, making in all the sum of $100,000. To pay this amount there will be required to be raised for payment of interest, and the annual instalments of principal, the sum of $7,358 18 per annum, for the term of twenty years, at the expiration of which term we will own the works free of this annual charge. At present the corporation pays the company for the lighting of the streets and public offices, the sum of $6,300 per annum. It is surely beyond doubt that the difference of $1,058.18 can, in addition to the cost of running the works, be easily raised from the revenue to be derived from the other consumers.

Curiosities of Municipal Ownership.

It is not an uncommon circumstance to-day to find municipalities owning and operating a waterworks plant, a gas works, or an electric light plant. It will be a matter of much interest if, as seems not improbable, the city of St. Thomas will own and operate its own electric street railway.

In England and Scotland all of these concerns are frequently controlled by municipal councils, yet in that country there are to be found some curiosities of municipal ownership. Doncaster, the famous St. Leger town, owns the race-course, from which it derives a revenue of about £10,000 a year. Lincoln, Chester and Ayr, are owners of similar but less profitable race tracks.

One corporation only, that of Saltash, owns its own parish church, from which, however, a revenue is not derived, to lessen the tax-rate as is the case with the race course to which reference has been made.

Plymouth owns a theatre, a very paying property. Birkenhead owns the famous line of ferries between that city and Liverpool, comprising a fleet of ten steamers. The profits now amount to about £12,000 yearly.

Cookery classes are not unusual, but Bristol has a cookery school amongst its possessions. It costs £300 annually, but the citizens regard it as a very wise expenditure. Nottingham is the only municipality in the United Kingdom which owns its own university. Macclesfield and the Yorkshire town of Halifax own stone quarries. A town in Wales, Pwllhili, anxious to shine as a summer resort, successfully conducts its own tourist agency.

Only two of the many castles which dot the British Isles are owned by municipalities, these being Norwich and Conway. That at Norwich has been converted into one of the finest museums in the country. Very few art galleries are a source of profit, but every year Liverpool gives an exhibition in the Walker Art Gallery the receipts from which vary from £3,000 to £4,000 each year.

Ontario is too young to yet have many departures of this kind, but enterprise is strong and the idea of municipal ownership is growing in favor, so that at an early day we may expect to find many towns earning an honest penny from various sources.

Improving the Roadside.

A great deal has been said and written in regard to the construction of good roads, but comparatively little is being urged with respect to the treatment of the roadside. It would seem almost as though the good roads advocate did not consider any portion of the road allowance, save the travelled track with the drains on each side. It should not, however, be supposed that good roads advocates are forgetful of that important portion of the Queen's highway which borders the roadway between the open ditches and the fences. There is much which should be done to the roadside, but road reformers are silent upon this phase of the question, merely because they feel that, for the present, there is a sufficient work to be done in obtaining a good broken stone or gravel track to support travel.

The roadside is the "trimming" of both road and farm which it borders. The appearance of both road and farm is vastly improved by having all stumps removed from the side of the road, a thick covering of level sod, and a row of trees either on the road itself, or immediately inside the fence on the farm land. So great an improvement is this to the farms that it should not be necessary for municipal councils to undertake the work of levelling the sides of the road, and yet, when councils own graders and other earth moving machinery, they are in a position to do this work much more cheaply than can the average farmer, who has only his plow, drag, scraper and harrow to do the work. Individual farmers in some sections of the Province have seen fit to do this work for themselves, and where this can be generally done it can be wisely left to individual effort. But seldom will more than a few individual farmers do the work, intervening stretches of roadside are left in all their primitive roughness, so that the full benefit of the improvement is not reached, and the few enterprising landowners are handicapped by the more slovenly. While it would be entirely just to leave this work to each property owner, yet it is not practicable, and councils should see to it that their grading machines are not allowed to remain idle while this work is still undone.

Tree planting is a further step which should be taken, for not till the roadway

proper is well metalled, solid and firm; not till the roadside is a level stretch of sod; not till unsightly and dangerous open ditches are replaced by covered tile drains; not till bridges and culverts are built of durable and serviceable material; not till the whole is an avenue of suitable trees, will the work of the road reformer be accomplished. And when all this is done, there will still be the work of maintenance which is, in reality, the heart of the whole situation. And while all these changes, when enumerated, seem to comprise a vast work, they can, nevertheless, be largely accomplished by a proper guidance of the energy now expended upon useless and perishable improvements.

Municipal Improvements in England.

The result of the observations of Mira Lloyd Dock, during a summer's trip through England and the continent is given in a most instructive pamphlet issued by the Department of Agriculture of Pennsylvania. In a general comment upon public improvements in England the writer says :

"Travellers abroad who have only time to see and enjoy without opportunity of investigating the origin of the clean streets, parks and recreation grounds which add so greatly to the interest and comfort of their journeys, usually carry away an impression that the "government" is in some mysterious way responsible for a delightful state of affairs that we can never enjoy because our own government is so different and we are so young and new. The first discovery made by an investigator is, that the great civic improvements abroad were generally originated, not by the government, but by foresighted and public spirited citizens, and the second discovery is, that most of the modern works that add so much to the healthfulness and beauty of places visited, are of very recent origin. In many instances their projectors are living with a fair prospect of many years in which to enjoy the results of their foresight. The third discovery is, that everywhere the more responsible members of society are interested in all works that affect the general welfare. In business and manufacturing communities it is being more and more recognized that where there is of necessity a crowded population, there is an equal necessity for play and park grounds, swimming baths and other healthful amusements. In other communities the large land owners open all or part of their private parks to the public.

"In America the work of civic or village improvement Societies usually begins with an effort to have clean streets, and regulate the disposal of waste and rubbish. Abroad they have fortunately reached a matter of course, not only main thoroughfares but small and obscure streets as well.

"Disfiguring advertisements are permitted in Great Britain, but the field placards there do not have the usual accompaniment found here of tumbledown fences, buildings and rubbish heaps, for the outskirts of English towns are remarkably free of unsightly and unsavory objects, and one passes direct from beautifully kept streets, along beautifully kept roads right into the country."

The Roadmaker, a magazine published in Port Huron, just across the International boundary, has this appreciative comment on the last report of the Ontario Good Roads advocate :

"We have before us the Fourth Annual Report of the Provincial Instructor of Roadmaking of the Province of Ontario. It is a 48-page illustrated pamphlet and is full of interesting and instructive matter concerning Canadian Roads.

"The soil on which these roads are built, and the laws under which they are maintained are so similar to those in many of our states bordering on this province that the plans outlined for improving the roads, and the suggestions for abolishing and commuting the statute labor system, there in vogue, are so practical and pointed that we would recommend this report as an exceptionally valuable contribution to the road improvement cause.

"Among the subjects treated we note "Road Reform," "The Relation of Towns and Cities to Country Roads," "A County System," "The Township System," "Roadmaking Outlined," Road Machinery," "Highway Culverts, Specifications for same," and "Township Reports."

"These subjects are treated with a master-hand and the entire report is a credit to Mr. A. W. Campbell, an able road expert, who is imparting great zeal to the cause of good roads in Canada.

"Road-making Outlined, contains so many practical suggestions in so small a space that we are glad to copy them. They will be found on page 15. Pathmasters will do well to cut them out and paste them in their hats or commit to memory."

The estimated cost of buildings and machinery for a municipal electric power plant for Toronto has been placed by City Engineer at $950,000 The cost of installing an arc lighting plant would be $300,000 for 1,350 lamps, using overhead circuits ; or $510,000 using underground wires ; the cost of operating, including interest and depreciation, would be $63 per lamp per annum, or 17.2 cents per night with overhead circuits, or $70 per annum, or 19.16 per lamp per night with underground wires.

St. Mary's, Ont., will install an arc and incandescent municipal lighting plant. It has for some time past operated and owned its arc lighting system, and has recently bought the incandescent lighting plant from Ressor & Co. It is the present intention to combine the two plants into one system, and a new power station will be built, and a steam plant bought.

Concrete vs. Board Walks.

Some interesting information is given in the fourth annual report of the Provincial instructor in road-making. It is a problem in most municipalities whether or not it pays to lay concrete walks in preference to board walks, the cost of the former being over twice the cost of the latter. The life of a board walk may be extended to about fifteen years, but for the last ten years the repairs will have been many. The original cost is about five cents a square foot, and the necessary repairs are very expensive in comparison with the first cost. Cement concrete walks are being laid for eleven and twelve cents a square foot, although the circumstances of some cases, the difficulty of obtaining broken stone, gravel or sand may require a slightly increased outlay. The life of a concrete walk is indefinite, but it is safe to calculate that a well laid walk of good cement will last fifty years, and the repairs amount to a very small part of the original cost. The dissatisfaction in some municipalities with the concrete walk is due in a great measure to the ignorance of those who did the work.—Smith's Falls *News*.

Municipal Reforms.

The admittedly imperfect nature of the existing local government system, which will be remedied at an early date, has led to the establishment of a Municipal Association of New South Wales, the objects of which are : To watch over and protect the interests, rights and privileges of Municipal Corporations ; to take action in relation to any subject affecting municipal bodies or municipal legislation ; and to promote the efficient carrying out of municipal government throughout the colony. All municipalities subscribing £2 2s. annually to the funds of the association have the right to vote at meetings, and to participate in all the other advantages of membership as set out in the rules. The municipality of Sydney is not represented in the association, chiefly because the administration of the civic affairs is regulated by a special Act ; the mayor of Sydney, however, under the constitution of the association, is president.

Mr. A. W. Campbell, engineer, of highways and colonization roads, left recently for a trip through Northern Ontario, for the purpose of examining road work now in progress, and to locate a number of important roads, in newly opened agricultural and mining sections. He will go over the whole territory from Rainy River to Ottawa, and will be absent for several weeks. There are some roads in this district we should like Mr. Campbell to drive over.—*North Star*.

First Masher—Why do you hang two thermometers in the window?

Second Masher—My dear fellah, one is for the heat and the other is for the cold, you know. You're not so well up in astronomy as I thought you were.

Question Drawer.

Subscribers are entitled to answers to all Questions submitted, if they pertain to Municipal Matters. It is particularly requested that all facts and circumstances of each case submitted for an opinion should be stated as clearly and explicitly as possible. Unless this request is complied with it is impossible to give adequate advice.

Questions, to insure insertion in the following issue of paper, should be received at office of publication on or before the 20th of the month.

Communications requiring immediate atten ion will be answered free by post, on receipt of a stamp addressed envelope. All Questions answered will be published unless $1 is enclosed with request for private reply.

Compelling Repair of Town Line.

336.—D. G.—On a boundary line between two townships is about one mile of a very bad piece of road nearly impassible, and neither municipality will repair it and it is a main road to the nearest market for a good many of the farmers in both townships. The road is not a county boundary line.

1. Can the municipalities be forced to repair the road?

2. What steps would be legal to take?

3. Could pathmasters in either townships repair the road and demand the pay for their work and lawfully get same?

4. Would it be necessary to inform the councils of the work being done after they have been asked to repair it once?

5. Can money that is granted on a certain part of a road be taken and spent elsewhere, when the road is specified where money is to be laid out?

1. Yes, if the boundary line referred to has not been asumsed by the county council.

2. The proceedure required to be taken is laid down in sec. 648 and following sections of the Municipal Act.

3. No.

4. Giving notice to the councils will not entit'e pathmaster to repair the road in question and collect pay for the work done.

5. No. Money granted for a special purpose must be applied to that purpose only.

Drainage Liability.—Misconduct of Pathmaster.—Alteration of Road Ditch, Culvert Across Road.

337.—About 16 years ago the council of this municipality granted a sum of money petitioned for by the ratepayers to deepen a ditch through a small rise on the north side of the concession line in their vicinity along part of lot 6, and then all along lots 7 and 8, westward so as to give all the water a free flow to a creek to the injury of no person, but before this ditch was deepened through the said rising ground a part of the water flowed into a hollow about a couple of acres in circumference on lot 6 on the south side of the concession line from which there is no outlet, and remained there until it soaked and evaporated away causing considerable damage to the party living on said lot 6. To take the water out of the hollow would require a ditch ten feet deep the length of three acres, before he could get a run for the water, and continue the ditch to the end of his lot, so that is the reason the council granted the prayer of the petitioners to take the water along the concession line.

The party now living on lot 7, on the south side of the concession line, being pathmaster of that road division, petitioned the council at its meeting in May last to close the ditch on the rising ground at lot 6 so as to divert the flow of water the contrary way eastward, as the ditch along his lot 7 on the north side of the concession line has got filled up causing the water at the time of the spring freshet to flow over the road on to his land. Also for liberty to make a culvert across the road on the concession line opposite the hollow on lot 6, but the council refused to do so or take any steps until they get legal advice in the matter, but that the pathmaster was to clean out and deepen the ditch along his lot on the north side of the concession line so as to let the water have a free flow westwards to the creek. But the pathmaster has not cleaned out nor deepened the ditch, but on his responsibility and in violation of the directions given to him by the council, he has deepened the ditch eastward from the rising ground along lot 6 on the south side of the concession line to opposite the hollow on lot 6 on the south side of the concession line, and put a culvert across the ditch from the end of the culvert to the fence on lot 6. The owner of said lot 6 forbade him putting the culvert across the road causing the water to flow on his land, but paid no attention to him and continued the work.

1 Can the pathmaster on his own responsibility turn the flow of the water the contrary way after running for sixteen years along the concession line to the creek, or can he put a culvert across the road without orders from the council?

2. Is he liable for putting the water on the said lot 6 to the owner's injury?

3. Can the council cause the pathmaster to close up the culvert again at his own expense and charge him with the statute labor expended in putting the culvert across the road after being ordered not to do so?

4. What course should the council pursue in the matter?

1. No.

2. Yes, from your statement of the facts the pathmaster has acted in such a way as to disentitle him to the protection of chap. 88, R. S. O, 1867, as a public officer acting in his official capacity. In the case of Stalker vs. Township of Dunwich, et al. (15 Ont. Repts., page 342), where the facts were very similar to those in your case, it was held that where a pathmaster of a township in the course of his employment so acted as to disentitle him to the protection of the statute, and thereby caused damage to the plaintiff, the township corporation as well as the pathmaster was liable, and even if not originally so, the corporation made itself liable by sanctioning what was done and refusing to amend it after notice.

3 & 4. The council should require pathmaster to close the culvert causing damage to the lands of the owner of lot 6. If the pathmaster neglects or refuses to comply with this request of the council, the latter should do the work, or cause it to be done themselves, otherwise on the authority of the case above cited the municipality would be held liable, equally with the pathmaster, for any injury or damage the owner of lot 6 may suffer or sustain. The council can and should then charge the pathmaster with and collect from him all expense, outlay or loss they may have been put to or sustained by reason of the misconduct and default of the pathmaster.

Opening New Road—Statute Labor.

338—J. B.—I have a piece of land 4 acres and John C. 2½ acres, and we have no road to get to it. I have done 2 days' roadwork each year for 48 years on the concession line where it has been no good to me. They also take J. C. out there to do his work. 1. I want you to tell me if the county council can get me a road out, or if I must look to the township council? I have been to township council, but they do not seem willing to get me a road. 2. Have not the township council a right to buy me a road if I keep it up? I am a poor man but would like to have the privileges of others. 3. Can they make me do my roadwork if I have no road?

1. This appears to be a matter for the township council alone to deal with.

2. It is optional with the township council whether they purchase and open up a road under the circumstances. They are not bound to do so, and unless public convenience requires it, should not do so.

3. Yes. The land is liable for its proportionate share of statute labor, and sub-sec. 5 of sec. 561 of the Municipal Act, authorizes township councils to pass by-laws "for regulating the manner and division in which statute labor shall be performed.

Abolish Statute Labor.—Neglect of Pathmaster.

339.—SUBSCRIBER.—1. If a municipal council wish to do away with statute labor what steps will they have to take? Will it be necessary to take a vote of the ratepayers, or have the council the power within themselves?

2. One of our pathmasters neglected to warn out the men in his division last year, consequently the work was not performed, nor did he return his road list. What is the law in regard to this state of affairs?

1. The council should pass a by-law pursuant to section 101, of The Assessment Act, and sub-section 6, of section 561, of The Municipal Act. It is not necessary to submit such a by-law to the vote of the ratepayers

2. The pathmaster ought to have demanded the performance of statute labor within his division and ought to have made a return of any defaulters to the clerk before the 15th day of August. Not having taken this course, as provided by section 100 of The Assessment Act we do not think there is now any remedy.

Notice of Filing Engineers' Report

340—T. F.—When the report of an engineer is filed on a Municipal Drain, which takes in a great part of four municipalities, is the clerk of the initiating municipality required by statute to notify all persons assessed in the different municipalities of the amount of their assessment? Is it sufficient to notify all in the drainage area?

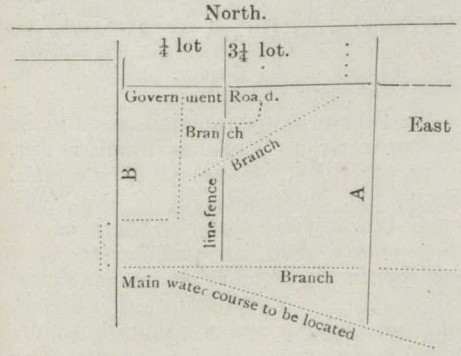
The parties to be notified are "all parties assessed within the area *described in the petition.*" See sec. 16 of the Drainage Act, R. S. O., 1897, chap. 226.

Duty of Township Engineer.

341.—SUBSCRIBER.—Can the engineer of the municipality locate three branches of ditch draining into a main watercourse for the benefit of only one owner (A) and draining only ¾ of a lot having to cut the neighbor's (B) ¼ lot at three

places for the draining by means of the branches.

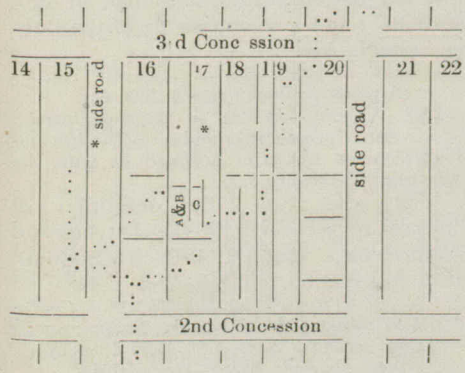
A requiring the watercourse to be located to the government road as described in the diagram below only for his own benefit by draining the branches into the main watercourse. Owner B does not want the watercourse at all.



If the preliminary proceedings laid down in The Ditches and Watercourses Act have been taken by A (the party applying for the ditch), and in the opinion of the engineer the proper drainage of A's land requires the three branch drains, then the engineer has authority to make an award providing for their construction, observing, of course, the formalities required by the act.

Opening New Road.

342—J. H.—Two men live at A and B (see diagram) and in order to get to the road had to cross lot 17 and the owner of said lot objects. Now what they want is to get a new road across the south part of lot 16 to the side-road between lots 15 and 16. Can they do so, this being the nearest way to a regularly laid out-side road? And in order to get to this side road would the parties themselves or the municipality have to pay for opening the road?



Public convenience does not appear to require the opening up of this road, and therefore the council should not provide a road for these parties, but should leave them to provide one at their own expense.

Vacancy in Council by Death.

343—J. Mc.—The members of our council are elected by general vote. A vacancy was caused by death. The Mayor issued his warrant for a new election to fill the vacancy, bearing date Aug. 2nd. As returning officer, I fixed the date of nomination for Aug. 10, and election Aug. 18, between the 2nd and the 18th, two Sundays intervene. It is contended by some, that had the election been held, it would have been invalid by reason of not being brought on within fifteen days, and also because eight days intervened between nomination and election.

1. Am I justified in assuming that sec. 203 R.S.O., 1897 should apply where the election was held under sec. 212?

2. Is there anything in the statutes which makes it compulsory to give seven days notice between nomination and election, in the case of a vacancy?

In computing the 15 days in section 214 we are of the opinion that Sundays must be counted. This section also states that the election shall in respect to notices and other matters be conducted in the same manner as the annual elections. It therefore follows that under section 127 at least six days' notice of the nominations must be given. So far the law is clear, but if a poll becomes necessary it is difficult to say what should be done for the reason that subsection (3) of section 128 does not fit such a case as this. It provides for an adjournment to a named day, namely, the first Monday in January. If it had provided for a week's adjournment it would be elastic and the like adjournment could be made in this case. We think, however, that by analogy the nomination proceedings should be adjourned for a week. In computing the six days' notice we think that Sundays should be counted because section 203 applies to sections 137 to 201 only. The law, as it stood in 1877, did not present the same difficulty. Section 177 of chapter 174, R. S. O., 1877, provided that the clerk, in case a poll should be demanded should, at least four days before the polling, post up a public notice thereof, under his hand, in at least four of the most public places in the municipality. Under that section all that was required was a sufficient adjournment to enable the clerk to give the four days' notice. We shall draw the attention of legislature to this point, and we are very glad that you have raised it. In regard to the invalidity of the election, we refer you to section 204 which is curative in its effect.

Purchase and Opening of New Road.

344—A. M.—You did not answer questions 6 and 7 of 312 in the August MUNICIPAL WORLD. For further information I might say, that we have about 75 or 100 deviations already on our public roads, and we made this summer two or three deviations and we have to buy them and in order to be able to register, if we have to put a surveyor on and pass a by-law for all these deviations it will come very high on us. We have had one experience already. Besides surveying the deviation to publish the by-law and register it costs us $14.00. Can you suggest any way we could do and be able to register, and be legal. A great many of these deviations are waste land, and we were not called on to buy yet, the three we are making this year we have to pay for them and we want to make it legal.

If the council can procure conveyances from the owners of the land, all that you will require is the passage of a by-law declaring that it is necessary to acquire such land for the purpose of a public road, describing the land accurately, and then have the by-law, and the conveyances registered It will not be necessary to publish the by-law. Care must, however, be taken that the consent of all persons interested in or affected has been had so as not to give any person an opportunity to complain that the provisions of section 632 have not been observed.

Tenant's Liability for Ditch Tax—Change of Roadbed—Collection of Taxes—Redemption of Land Sold for Taxes—Amendment of By-law Adding 5 per cent. to Unpaid Taxes - Bailiff's Costs of Distraing for Taxes.

345—J. M.—1. A tenant rents a farm for 5 years and agrees to pay taxes including special rates of every description. Would this include drainage tax (see sec. 87 Drainage Act) and payment for portion of D. & W.? See sec. 29 D. & W. Act.

2. A ditch is constructed under the provisions of the Drainage Act, and all parties assessed therefor are satisfied to sign an agreement, under the provisions of the D. & W. Act. Would it be legal?

3. A municipality opened up a road and it has been opened for at least 20 years. A special drain is constructed on one side of the road, and a small ditch on the other side. An owner of land situate thereon claims that the road is partly on his property. Will the council be obliged to change the ditches and road-bed, or pay the person for his land? The road allowance was left in government survey.

4. A person owns a piece of property in a town, but has nothing thereon on which to distrain. Would it not be legal to proceed under sec. 142, Assessment Act.

5 A piece of land has been sold for less than taxes. Can the owner redeem it by paying purchase money and interest? (Sec. 184 Assessment Act.)

6. A township council passes a by-law adding 5% to all unpaid taxes on the 1st day of Feb. in the year succeeding that for which the taxes are imposed, and the notice of the same is printed on the tax demand Could the next council in the month of January amend the by-law and reduce the percentage without giving a new demand to each person whose taxes are not paid?

7. The Collector issues a warrant to Bailiff to distrain on a certain person for taxes. When the bailiff goes to distrain, the person offers his taxes. Must the bailiff accept the taxes, or can he also demand pay from said person for services?

1. Section 87 of The Drainage Act provides that "any agreement on the part of any tenant to pay the rates and taxes in respect of the demised lands, shall not include the charges and assessments for any drainage work unless such agreement in *express terms* so provides." The Ditches and Watercourses Act contains no provision similar to that contained in section 87 of the Drainage Act. But the cost of a drain under this Act would not be chargeable against a tenant without apt words for that purpose.

2. Section 84 of the Drainage Act makes provision for converting a ditch constructed under the Ditches and Watercourses' Act, into a municipal drain, but there is no provision for converting a municipal drain into an award drain. However, if the council obtain the consent of all parties interested to their abandonment of the drain as a municipal drain, an agreement may be entered into by the parties for the maintenance of the drain, provided all the parties affected or interested join

in the agreement, and it so registered so as to be binding on subsequent purchasers.

3. You do not state whether, as a matter of fact, the road is partly on the claimant's property or not. His claiming it to be so does not make it so. However, if the road, as it exists now, is an original government road allowance, is fenced, and has been used as a public highway, and statute labor has been performed and public moneys expended on it, it cannot now be interfered with.

4, No. The land must first be offered far sale for the arrears of taxes in the manner prescribed by the Assessment Act. The remedy provided by section 142 can be made available only after every special manner provided by the Act for the collection of the taxes has been exhausted.

5. No. The latter part of subsection 2 of section 184, provides that "the owner of any land so sold for less than the full amount chargeable against the same as aforesaid, shall not be at liberty to redeem the same except upon payment to the County Treasurer of the full amount of taxes due, together with the expenses of sale and the ten per cent provided for in section 200 of this Act."

6. The by-law passed in January can have no effect on the previous year. The old by law governs. The latter part of subsection 2 of section 60 of the Assessment Act (as enacted by section 4 of the Assessment Amendment Act, 1899) provides that "such additional percentage shall be collected by the collector or otherwise, as if the same had been originally imposed and formed part of such unpaid tax or assessment, rent or rate of instalment thereof and therefore we are of the opinion that the council of the subsequent year has no more power to reduce or remit the increased tax than it would to remit or reduce any other part of the taxes.

7. The bailiff can refuse to accept the amount of the taxes unless he is also paid his lawful fees.

Building and Maintaining Fence Around School Premises.

346.—G. P.—Do school sections have to build all the fence around the school property, or do the parties owning property adjoining have to build half the fence?

The Line Fences Act does not apply to a Board of Public School Trustees. Sub-section 2 of section 34 of the Public Schools Act, provides that any wall or fence deemed necessary or required by the regulations of the Education Department for the enclosure of the school premises shall be erected and maintained by the Board of Trustees at the expense of the school section

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Statute Labor By-Law.

347.—J. C. C.—We want to pass a sliding scale by-law to define the amount of statute labor for which each person shall be liable in the township as per section 102, Assessment Act. I send you a copy of our present scale as amended three years ago. We are not of one mind as to the legality of that part of section 2 which stipulates that each *householder* shall have one day's labor. Some householders have an understanding with their landlords that the latter shall pay all taxes, the householder merely paying the landlord so much per month rental. Then the landlord has himself assessed for the property and pays the taxes, an entry being made on assessment roll opposite householder's name. "See ———— owner." But, under our by-law, the householder is entered on the road list for a day's labor and when he is called upon for it he just reports same to his landlord reminding him of their agreement. Some landlords have performed this day's labor exacted by us from their tenants and some refuse saying it is i legal. Some householders claim that when the road work for the property they live in is performed they are clear. How is it?

Suggested draft of new statute labor scale for township of P. :

1. PERSONS NOT ENTERED UPON ASSESSMENT ROLL.

Every male inhabitant of township of twenty-one years of age and upwards, and under sixty years of age, who is not otherwise assessed, and who is not exempt by law from performing statute labor, shall be liable to one day of statute labor on the roads and highways in the township.

2. PERSONS ENTERED UPON ASSESMENT ROLL BUT NOT RATED FOR PROPERTY.

Every person between the ages aforesaid who is entered upon the assessment roll in any year as a farmer's son, or as a manhood franchise voter only, or as a tenant, occupant or householder of property rated and assessed to the owner thereof, who is not exempt by law, shall be liable to one day of statute labor likewise.

3. PERSONS ENTERED ASSESSMENT ROLL RATED FOR PROPERTY.

Every person assessed in any year upon the assessment roll of the township shall, if his property is assessed at not more than $100, be liable in that year to one day's statute labor; at more than $200, but not more than $300, 2 days, and for every full $100 over $300 one additional quarter of a day.

The first clause of the proposed by-law is unnecessary because section 100 of the Assessment Act itself fixes the quantum of statute labor to be performed by persons who are not otherwise assessed and who are not exempt by by-law from performing statute labor. This clause had therefore better be omitted. There does not appear to be any authority in the Assessment Act for clause 2 of the by-law, and it should therefore be stricken out. Clause 3 is authorized by section 102 of the Assessment Act and therefore may stand as it is.

Reeve's Casting Vote.

348—W. H. S.—To decide a bet please answer in your next issue the following:—A township council composed of reeve and councillors A. B. C. and D. held a meeting, D. being absent. The reeve moved a resolution which was seconded by A, but on being put, B. and C. voted against it, and the Reeve and A. for it. Can the reeve give another vote and declare it carried, or must he declare it lost—there not being a majority of those present in favor of it?

The motion, two having voted for and two against it, is negatived. The reeve could not vote the second time to break the tie. See section 274 of the Municipal Act.

Township Clerk not Eligible for Election as County Councillor.

349.—X. Y. Z.—I am not satisfied with your answer given some time since re township Clerks not being eligible for County Councillor. Please give in your next issue the wording of the Act debarring them the right. If you look in the April number of THE MUNICIPAL WORLD for 1899 you will see where you gave the sketch of a clerk, whom you said was then Warden of the County. If Warden he must be a County Councillor.

We adhere to the opinion given by us in our reply to question number 181, 1900, to which, we presume, you refer. Section 80, sub-section 1, of the Municipal Act provides that "no clerk of *any municipality* shall be qualified to be a member of the council of any municipal corporation." A township clerk is a clerk of a municipality and a county is a municipal corporation. (See subsection 9-10 of section 2 of the Municipal Act.) If the legislature intended to exclude a county it would have provided for it as it has done by subsection 2 of section 2 of "The High Schools Act." In sketch referred to the position of warden was held before being appointed clerk, not since.

Withholding School Grant for Cause.

350.—SUBSCRIBER. Our Public School Inspector for this county, Waterloo, has withheld the legislative grant to the schools not coming up to his standard in equipment to be eligible for the diploma and a grant of $5. Said diploma was given to some schools for year 1898 to 1899 of which ours was one, but the grant of $5 was withheld and those not eligible for the year 1899 to 1900. All grants are withheld.

Has the Inspector a legal right to withhold the legislative grant and the grant of $5 for the year 1898 to 1899 which was for said reasons?

The Inspector has the right to withhold school grants in case of noncompliance with the requirements mentioned in subsections 3 and 4 of section 83 of the Public Schools Act.

Applicant for Drain Under D. & W. Act.

351.—CLERK.—Which is the proper person to commence proceedings under the Ditches and Watercourses Act, the husband or wife, the wife being the owner?

The wife. See the definition of "owner" in section 1 of the Ditches and Watercourses Act (R. S. O 1897-Chap. 285) and section 8 of the Act.

Duties of Assessor—15th of December Statement in Districts—Proof for Payment for Sheep Killed by Dogs—Assessor's Salary—Provincial Municipal Auditor—Opening New Road.

352.—G. W.—1. Is it assessor's duty to assess non-resident land? In case of neglect of duty what is the penalty?

2. A took a homestead from the government land; being a bachelor A gets 120 acres free grant, and forty acres has to be paid for at the rate of $1 per acre, still unpaid. May assessor assess for 120 acres and A's interest in the 40 acres? Can council compel A to pay taxes on 160 acres? Will this make the assessment void?

3. In the MUNICIPAL WORLD for June, 1900, Question No. 273, clause 2, you state that the council is required to prepare a statement on the 15th day of December each year, of assets and liabilities, receipts and expenditures, and to be posted up. In the municipal law, clause 187, it states that this section does not apply to East or West Algoma. What other method has council to adopt?

4. What method has owner of sheep killed by a dog or dogs to adopt to obtain payment from

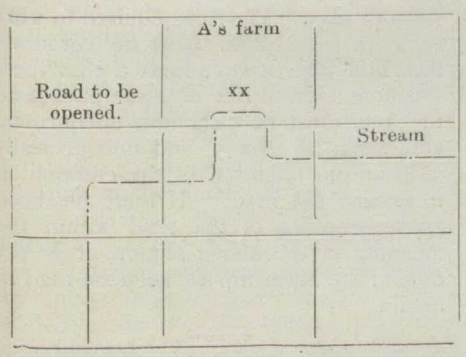
council? Has he to swear to owner of dog or dogs, if known, and to amount of damages, and to bring witnesses to prove the same? Owner of sheep finds he can collect two-thirds of value only. Said owner presented his bill to council at their June sitting; said bill was laid over until their next meeting, when owner withdraws first bill, and presents second bill increased by one-third more than first. Council grants owner his bill without his being sworn. Is this legal?

5. An assessor made an agreement with council to assess and collect taxes for a certain amount. Assessor claims that he has to go to the local Crown Land office to obtain a list of all lands located, also claims that he has to go to a certain part of the township where part of a school section is outside of the township, and in an unorganized territory, to arrange with school section assessor re equalization of assessment. He also claims that the council should pay him for assessing immediately. Assessor claims he has extra work, and is entitled to extra pay. Council grants assessor's demands. Is this legal?

6. What would you advise to be done when the assessor omits to place the letters M. F. in the proper column of the assessment roll?

7. Is there a municipal commissioner in the Province of Ontario? If so, upon the request of how many tax-payers signed to a petition does it require to call commissioner into municipality to audit township books, etc.? To whom should said petition be forwarded?

8. The Government road commissioner wishes to open out a road around a running stream through A's farm, marked XX. Said stream has very high banks on one side, and very low valley on the other side of the stream, and would require two bridges to open out road on proper road allowance, costing about $600. To open out road around it would cost about $75. A objects. A has not his deed. May said commissioner open road through A's farm?



1. Yes. (See sections 3, 20, 21, 22, and 34 of the Assessment Act.) The penalty for neglect of duty by an assessor is such a sum not exceeding $100 as a Court of Competent Jurisdiction may order or adjudge. (See section 249 of the Act.)

2. If A has been located for the 160 acres by the government, he should be assessed for and charged with taxes upon the whole of the land.

3. We presume you mean section 304 of the Municipal Act not section 187, because when referring to section 187 of the Municipal Act we find that it has no application to the question raised. Subsection 92, section 304 of the Municipal Act provides that subsection 6, 7 and 8 shall not apply to the districts mentioned by you. This simply means that the councils of townships in these districts are not required by law to perform the duties imposed on other municipalities by these subsections. Auditors should be appointed by the councils of these municipalities pursuant to section 299 of the Act whose duties are defined by section 304, as to the publication of the audit. (See section 306.)

4. The owner of the sheep killed is not entitled to receive anything from the council by way of damages, if the owner or owners, of the dog or dogs, doing the damage is, or are, known. Section 18 of chapter 271 (R. S. O., 1897) provides that "if the council is satisfied that the aggrieved party has made diligent search and inquiry to ascertain the owner or keeper of the dog, and that such owner or keeper *cannot* be found, they shall award to the aggrieved party, for compensation, a sum not exceeding *two-thirds* of the amount of the damage sustained by him." The council acted illegally if they paid the owner the full value of his sheep. We may say that the council may get in the evidence of the owner himself, and, upon his own statement, satisfy themselves as to whether he brings himself within the requirements of section 18.

5. An applicant for the office of assessor should inform himself fully as to the duties he will be called upon to perform before he applies for and accepts the office. If he accepts the office, at a certain salary he should perform all the duties pertaining to it for that salary, unless otherwise agreed at the time between him and the council. However, if the council thinks he has done extra work entitling him to extra pay, and have paid him, the money cannot be recovered or any one punished for having made the payment.

6. The corrections will have to be made by the Court of Revision on appeal to such court. If an assessor omits a plain duty, such as this one the best remedy for the future is to appoint a competent man as assessor.

7. There is an officer called the Provincial Municipal Auditor, appointed under the authority of section 2 of chapter 228, R. S. O. 1897. Subsection 1 of section 9 of the Act provides that, "when required by a requisition in writing signed by thirty ratepayers resident in the municipality, and directed by the Lieutenant-Governor in Council, he shall make an inspection examination, or audit."

8. Assuming that A bought his land from the Crown, and that he has not made default in the payment of his purchase money, and assuming that the Crown did not reserve the right to that part of the land where it is purposed to lay out a road, what right can the Government Road Commissioner have to expropriate part of A's land? We have not been able to find any statute giving such power to any Government Road Commissioner. It may be that A has paid all of the purchase money or all but a mere trifle, why then should the Government Roads Commissioner have anymore right before the patent issued than after it is issued, to expropriate A's land for a road? Perhaps the Crown can point out his authority.

Signatures to Drainage Petition.

353.—F. G. J.—1 A petition is being circulated for a drain under the Municipal Drainage Act. Sec. 3 of said Act reads as follows: "Upon petition of majority in number of resident and non resident persons (exclusive of farmer's sons not actual owners) as shown by the last revised assessment roll to be the owners of the lands to be benefited in any described area, etc." A, according to the last revised assessment roll, is assessed for one-hundred and fifty acres, but his mother is the actual owner of fifty acres of this and A is actual owner of the balance or one-hundred acres. The drain as petitioned for, runs across the fifty acres and also the hundred acres. In the event of these names not being on the petition, should they count two against or only one?

2. Two brothers living in the same house own a farm of one-hundred acres, jointly, (no division being made.) Has one or both the right to sign the petition for the drain?

3. If a farmer's son is assessed jointly with the father, according to section 14 (2)a of the Assessment Act will the son have a right to have his name on the petition and the father also?

1. We infer that A's mother is not assessed on the "last revised assessment roll" of the municipality for the fifty acres she actually owns; this being the case A has authority to sign the petition and therefore the mother cannot be counted. If neither name be on the petition, it will count only one against it.

2. If they are both assessed on the last revised assessment roll of the municipality they both have the right to sign the petition.

3. Farmers' sons, not actual owners, are parenthetically excluded from persons entitled to sign a petition under section 3 of the Drainage Act, by subsection 1. The son, under the circumstances you mention, has no right to sign the petition.

Damages by Animals Trespassing.

354.—An Interested Party—August number page 131, section 320. I beg to refer to Ontario Statutes, Vic. 42, 1879, page 73, section 32, "Damages by animals trespassing." Also Vic. 46, 1883, page 344, section 667 and 668. Do not know how they do in other parts of Ontario but knew well how affairs of that kind were in Muskoka before 1879. Do not know how it has been since.

Please take a look at the above named sections in said statutes.

We presume that the section to which you wish to refer us is section 94 of chapter 109, R. S. O., 1897. This section creates an exception in favor of the districts mentioned in the Act, but does not alter the general law on the subject throughout this province, as laid down in our answer to No. 320, 1900, page 131, August issue.

Compensation for Land used as Road.

355.—C. G. C.— The public road instead of following the original survey or allowance for road, enters upon land recently purchased by me, taking about two acres off my lot. There is no deed of this land to the municipality. The change in the course of road was probably made to avoid a bog. Road has been in use 40 or 50 years. Can I recover from the municipality for this land, or am I barred by Statute of Limitations? My deed simply conveys a certain portion of lot and part of this lot is covered by said road which appears to have been run as a matter of convenience and without regard to private rights.

Owing to the length of time the road has been used by the public your right to any compensation or to any other remedy is probably barred, and this is particularly the case if statute labor has been usually performed upon this road or public money expended upon it.

Clerk's Duties.

356.—A SUBSCRIBER.—1. Is it any part of the clerk's duty to write the tax bills which the collector gives to the ratepayers?

2 Is it the clerk's duty to get the tax bills printed?

3. Has the clerk of a township the authority to employ a constable at municipal elections, or does the employing and selection of the same belong to the council, independent of the clerk?

1. No.

2. This duty is not imposed upon him by statute, but it is customary for the clerk to have the tax bills printed at the expense of the municipality, and handed to the collector.

3 The power to appoint constables to assist in the preservation of the peace and of order, at an election, is conferred upon returning officers, deputy-returning-officers and Justices of the Peace, under section 110, of the Municipal Act, and section 173, of the same Act, entitles a deputy-returning officer to summon to his assistance any police constable for the purpose of maintaining order.

Road Crossing to Private Grounds.

357.—J. F.— Is it the duty of a municipal council to provide and build a crossing or entrance to private grounds over a ditch or waterway on the side of the street?

No. In the case of McCarthy vs. Oshawa, 19, U., C. Q. B., p. 245, Mr. Chief Justice Robinson says at page 247: "Then, as to the other ground of action introduced by the amendment, namely, the neglect of the defendants of an alleged duty to provide a bridge or crossing from the street to the plaintiff's land and house. No authority has been shewn for asserting that to be a duty incumbent on the corporation, and we do not think it is." See also question No. 89, 1900, page 31, February issue.

Collector's Omission.—No Tax Sale and Percentage.

358.—A. P.—1. Is your answer to Question No. 297, 1900, correct when applied to cities? See amendment, 1898.

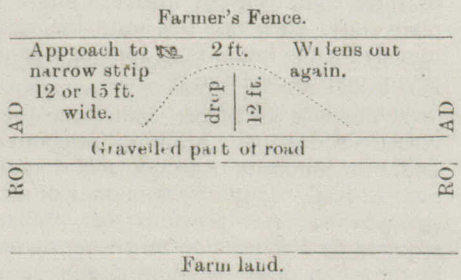
2. This municipality has not had a tax-sale for five years. The time was not extended by council. Could the treasurer legally add ten per cent. to all arrears of taxes on his books on the first of May last? Most of the lands in arrears should have been sold three or four years ago.

1. The form of question 297 implied that both the collector and clerk had neglected to perform certain duties imposed upon them by law and we assumed that it did not refer to a city but, even if it did the notice required by law was not given and no arrears were placed upon the roll and therefore we consider the answer correct in any case. Under the Act of 1898 the duty of giving notice to the person in default is imposed upon the treasurer instead of the clerk in the case of a city.

2. Section 169 of the Assessment Act, subsection 1 provides that "if, at the balance to be made on the first day of May of every year, it appears that there are any arrears due, upon any parcel of land the treasurer shall add, to the whole amount then due ten per centum thereon." The latter part of section 224 provides "and the treasurer and mayor of every city or town shall, for such purposes, also perform the like duties as are hereinbefore, in the case of other municipalities, imposed on the county treasurer and warden respectively." Reading these two sections together we think it was the duty of the treasurer to add ten per cent. in May last.

Non-Repair of Highway —Liability for Accident.

359.—P. Q.—On the townline between two townships a gravel bar runs across the road, from which both townships have been taking gravel for years. In doing so they have made a deep cutting, especially on one side of the road, where they have excavated up to within a couple of feet of a farmer's fence, leaving a perpendicular drop of twelve feet from the top of the cutting to the level of the road. Although, as already stated, the cutting comes to within a couple of feet of the farmer's fence, this is only at the top of the ridge, while the approaches to this narrow strip, leading up from the road level, are much wider, say twelve or fifteen feet. Some time ago a farmer, in driving his cattle home along the road, on which they had been pasturing, got a cow killed by dropping off the narrow strip referred to. She started up the wide approach, and when she got to the narrow strip at the top, tumbled off. The farmer says he tried to turn her back. He now claims damages from both townships for the loss of his cow. Both townships have by laws in force prohibiting cattle from running at large. The farmer admits that his cattle were pasturing on the road at the time. Are the townships liable? I attach a sketch, which may help to make the point clearer.



At the time the accident occurred the road was in a dangerous condition, and the cattle were lawfully on the highway, being driven home in the charge of their owner. We are of opinion, therefore, that the adjoining municipalities are liable if they have been served with the notice mentioned in sub-section 4 of section 606 of the Municipal Act (62 Vic., Ont. Stats., chap 26, sec. 39,) and if action be brought within three months of the happening of the accident. (See section 606 of the Municipal Act.)

Is Township or Police Village Liable to Build Bridge?

360.—R. H. H.—In the township of H there is a police village, and within the corporation, on a side street, a bridge, which had been built by private means a number of years ago, by a party owning a salt block, is now down, and a number of the villagers wish to have the bridge replaced, and have asked the township council to repair the same. The following is a diagram of the village and stream:

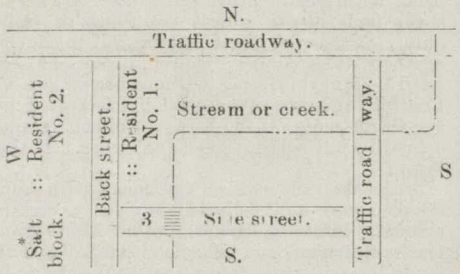


Figure 3 denotes the place where the bridge stood.

Residents numbers one and two wish to have the bridge rebuilt, as back street blocks up with snow so bad in winter time as to be impassible. Who is liable for the construction of the bridge, the police village or the municipality in which the village is situate?

Section 607 of the Municipal Act provides, "the last preceding section shall not apply to any road laid out by any private person, and the corporation shall not be liable to keep in repair any such last mentioned road until established by by-law of the corporation or otherwise assumed for public uses by such corporation." There is nothing before us to enable us to express any opinion as to whether there has been an assumption of this road by the township to make it liable to keep it in repair. The section referred to was considered in the case of Hubert vs. Yarmouth, 18 O. R., 458, and at page 467 of the report Mr. Chief Justice Armour says: "The Acts required to work such an assumption must be corporate Acts and here it was admitted that there was no corporate Act of assumption, and the Acts must be clear and unequivocal and such, as clearly and unequivocally indicate the intention of the corporation to assume the road." If there has been an assumption of the road within the meaning of the above section, it is the duty of the township to keep the road in repair.

Owner's Compensation for Road Allowance.

361.—A SUBSCRIBER.—Some forty years ago the government surveyed and opened the townline between townships A and B, till they came to a lake, then running a deviation in through the township of B across three lots, and opened the same for the travelling public. The Crown did not reserve right of way but gave patent for the total amount of land in said lots.

1. What claim have the present owners for compensation from the council, if any?

2. Cannot the councils hold the right of way by Statutes of Limitations, as they have expended public money on the road?

3. The present owners claim that the councils cannot hold the full width of the road, which is sixty-six feet, but can hold just what they occupy, which is the road-bed, the balance, four rods, being in its natural state, as the road was never fenced off? Will the present owners have to demand compensation from the different municipal councils interested in the road?

1. From your statement of the case, the deviation is part of an original government road allowance, as such is under the joint jurisdiction of the adjoining municipalities, and that it was laid out, opened, and dedicated to the public before

the granting of the patent of the lands through which it runs. This being the case, the owners of these lands took their patents subject to the rights of the public to the use of the road as a public highway, and have no claim to compensation or ground for complaint.

2. The councils can hold the road in the same way, as they can control any other road allowance.

3. The public have the right to the use of, and the council's jurisdiction over, the road to the width it was originally surveyed and laid out by the government surveyors.

Opening of Original Road Allowance.

362.—TEHKUMMAH.—Please let me know what steps to take to get road opened? The concession runs through a lake. Can we compel owners of land that runs into the lake to give a road? Can it be used for road purposes? Can we compel the owners of the land to run a fence and leave the government allowance, on which he has built his fence to the lake, clear, and has given a trespass road through his farm somewhere about twenty years ago?

Can the council be compelled to open up this road? There is no crossing from one concession to another nearer than two miles and a-half.

What steps can we take to get a crossing?

It is difficult to understand the facts from your statement of them. We assume, however, that the concession road is cut in two by the lake, and that there is an original allowance for road running around the lake, connecting the portion of the concession road on one side of the lake with that on the other; that owners of land adjoining this allowance for road have erected fences across it to the waters of the lake, and that you desire the council to compel the removal of these fences, and open the road allowance for travel. If the facts are as we understand them, the council should pass a by-law providing for the opening of the road allowance and the removal of obstructions therefrom. If on reasonable notice received from the council, the parties offending refuse or neglect to remove their fences, they can be compelled to do so. We assume, also, that the trespass road has not been assumed and taken over by the council in lieu of the original road allowance, in accordance with the provisions of the Municipal Act, and the original road allowance granted to the owners by way of compensation.

Authority and Proceedings to Sell Townline.

363.—M. H.—The townline between two townships in different counties has never been opened for public travel, and the townships have sold the same after having passed the necessary by-laws, and said by-laws have been ratified by the two county councils.

1. Who will have to sign the deeds?
2. When will the said deeds be registered?
3. In which township will lands be assessed after the deeds are given?

Parts 1, 2 and 3 were purchased by the adjoining farmers in township A, in county A, and part 4 by the adjoining farmer in township B, in county B.

COUNTY "A."

1	2	3	4

COUNTY "B."

The legislature does not appear to have provided for a case of this kind and therefore neither the councils of the two townships nor the councils of both counties and townships can make a conveyance of the land in question. County boundaries are referred to as roads between the municipalities and therefore we cannot see how a road which is said to lie between two municipalities can be regarded as being within either muni ipality and if it is not within either municipality, it cannot be divided so that one half can be registered in the registry office for one county and other half in the registry office of the other county.

Councillor's Qualification.

364.—CLERK.—Can a ratepayer, who was auditor for 1899, be appointed or nominated councillor to fill a vacancy on the council board for the year 1900?

If the ratepayer has completed his duties as auditor for 1899, and his employment as such by the council has ceased, and he has no claim against the council for salary, or otherwise, being otherwise qualified, he can be elected a member of the council for 1900 to fill the vacancy.

Clerk's Salary—Line Fence Expense of Surveyor—Assessment of Wild Lands.

365.—F. L. T.—1. Can the clerk of a council demand payment besides his yearly fixed salary as clerk, for officiating at the Court of Revision, and can he fix his own reasonable price or is he obliged to accept only what the council offers?

2. (a) In a mutual line-fence between two parties is one party obliged to build his own share in wire because the other has done so? (b) If one of these absolutely needs the whole of the line built up, is the other, who does not need it and too poor to bear such a heavy expense, obliged to build up his share right away?

3. When a neighbor wants a surveyor and the adjoining neighbor does not, is the neighbor who does not want it obliged to bear half the expense to the surveyor?

4. (a) Is land which has been cleared three years ago, but now with a three years' growth of brush without fence, at all liable to taxation? (b) The Court of Revision sat on the 9th of June and refused to rectify the appeal to that effect. Has the party yet the right to go further in the courts for rectification?

1. Section 320 of the Municipal Act makes provision for the remuneration of the clerk and other officers of a municipality by by-law of its council. The amount of work to be done by the clerk in the several municipalities differs, and, as a consequence, the clerk's remuneration is subject to considerable variation. The council should pay its clerk a fair remuneration for the work he does, and should specify whether it is intended to cover all the work he will be called upon to do, or, if not, what portion, and what will be considered extras. If the by-law simply fixes his salary as clerk, he is not entitled to anything extra, except when there is some Act, which entitles him to extra remuneration, such, for example, as the Ditches and Watercourses Act. Attendance at the annual Court of Revision is part of the ordinary duties of a municipal clerk, and he is entitled to no extra allowance for such attendance, unless it is specially provided for in the by-law fixing his salary.

2. (a) No.

(b) If a party is legally liable to build a share of the fence between him and his neighbor, his poverty does not absolve him from such liability.

If these parties cannot agree as to the nature of the fence required between them, and the time within which their respective shares are to be completed, the fence-viewers should be called upon to make their award under the provisions of the Line Fences Act.

3. No.

4 (a) Yes. All property, real and personal, of a municipality, except the exemptions mentioned in section 7 of the Assessment Act, is liable to assessment and taxation.

(b) We cannot answer this question definitely until you give us the date fixed under section 41 of chapter 225, R. S. O., 1897, by by-law of your council for the return of the assessment roll in your municipality, (your township being in the district of Nipissing.) Section 44 provides that the roll shall be finally passed by the Court of Revision within two months after the time so fixed for the return of the assessment roll. Section 45 provides for an appeal from the Court of Revision to the district Judge in your district, and section 47 enacts, that notice of such appeal shall be given, as provided in the section, within ten days after the date fixed by section 44 for the passing of the assessment roll by the Court of Revision.

Assessment of Shingle Mills and Threshing Engines.

366.—J. M.—There are in our municipality small shingle mills run by threshing engines. One man came to the council at our last meeting, and thought we had no right to assess mill, as he has not much paid on it. He said he had a lawyer's advice that we could only assess it for what he had paid for it.

1. Can we assess those shingle mills?
2. Is it as personal property?
3. Do we assess for full value or what is over $100.00?
4. Does it make any difference whether it is paid for or not in full or in part?
5. Are those engines assessable when kept for threshing?
6. Or is there any difference what they are used for?

1. Yes.

2. You do not say whether the mills you refer to are portable or permanently attached to real estate. If the former they should be assessed as personal estate, if the latter, realty.

3 and 4. They should be assessed at their "actual cash value, as they would be appraised in payment of a just debt from a solvent debtor" See section 28, of the Assessment Act. If the mills are portable, and therefore personal property, and their cash value, estimated as above, is not over $100, they are exempt from assessment. If such value is over $100, they are assessable for the whole amount. See sub-section 25, of section 7, of the Assessment Act. So much of the cash value, (if personalty,) as is equal to the just debts owed by the owners on account of such property, is also exempt. See sub-section 24, of section 7, of the Assessment Act.

5. Yes. 6. No.

Legal Department.

J. M. GLENN, Q. C., LL. B.,
OF OSGOODE HALL, BARRISTER-AT-LAW.

Assessment of Local Machine Agencies.

The following interesting judgment has been forwarded to us for publication :

In the Matter of the Appeal from the Court of Revision of the Village of Exeter

The Massey-Harris Co., limited, Appellants, and

The Corporation of the Village of Exeter, Respondents.

JUDGMENT.

The appellants have, for a number of years, had a show-room in the village of Exeter, where sample instruments were exhibited and where a local agent conducted sales and took orders. Last spring they rented other premises not adjoining, but on the same street, in which they placed a load of plows, and put one McCarthy, in charge. Neither the local agent nor McCarthy was called by appellants, but Mr. R. B Smith, general agent for the district, stated that he had supplied McCarthy with a span of horses and wagon, and his principal duties were to fix up a load of p ows, take them out the country roads, sell and deliver them,returning for another load. That it was quite probable McCarthy may have sold s me in the *warehouse or on* the street, but the intention was that the company's local agent at the *show-room* would look after sales in the village.

W. H. Levett, examined on behalf of the village, said he had frequently seen the door of the wareroom open and plows exposed while McCarthy was talking to farmers, apparently, and, as he believed, negotiating sales. McCarthy made no objection when assessment made. It is contended on behalf of the company that this, like in "Watty, City of London, 19 A. R., 675," was a mere case of storing and not a carrying on of business, and there was no right to assess ; and further, that if a prima facie right to assess was established, it was met by certificate of assessment elsewhere, pursuant to sub. sec. 2 of sec. 40, R. S. O. 224 (Assessment Act). In the London case referred to the plaintiffs were wholesale merchants carrying on business in city of Brantford, and had stored large quantities of sugar in a warehouse in London, paying the owner of the warehouse a certain rate per ton for storage. They employed travellers and agents in London and other places to make sales. Orders were sent to Brantford and invoices made out there and goods shipped from London.

The facts are quite different. In the London case, the goods were merely *warehoused*. In this case the Company rented premises and put a man in charge. I fail to appreciate the point urged that the man in charge was not the man in charge of show-room and that each must be considered as entirely separate. Both were the appellant's servants ; both were under the more immediate control of General Agent Smith. The two premises are entitled to be considered. Many a business is carried on by means of show or sale rooms with goods stored in a back out of-the-way place, while here even the alleged warehouse is on the main street, and to a limited extent at least, was used as sale-rooms are used. The absence of any explanation from McCarthy and the local agent, together with general agent Smith's admission,that, sales were probably made in or about the warehouse, give additional weight to Mr. Levett's evidence. The question whether or not there is a place of business of a company in a municipality, must be decided in each case as a question, of fact upon the evidence and circumstances. And I see no good reason why municipalities or their assessors should be tied down by any fine drawn theoretical definition of what a place of business is. Wherever a company has a place where sales may be negotiated and the goods on hand to deliver when sale concluded, and such sales are made and goods are delivered, there is in my opinion a place of business. And the primary instruction to assessors is that "each branch shall be assessed as far as may be in the locality where it is situate for that portion of the personal property which belongs to that particular branch." It is only when "this cannot be done" that such company may elect at which of its (it may be many) places of business it will be assessed for the whole of its personal property "that is to say elect which municipality shall have the benefit of their taxes, while others furnish them with roads, sidewalks, fire and police protection, light and water free. But in order to get the benefits of these things at the expense of the other ratepayers, they are required "to produce a certificate at each of the other places of business of the amount of personal property assessed against it elsewhere."

The Appellants produced no such certificate. The only certificate produced is as follows :

"Assessment Department, Toronto, "July 23, 1900 ; I hereby certify that "Massey-Harris Company, Limited, is "assessed in this city of Toronto for "the full amount of its personal property "and net income in the Province of "Ontario for the year 1900, as given by "the said Company and accepted by "me. Signed, Robert J. Fleming, As-"sessment Commissioner."

A similar certificate, it is alleged, was sent with notice of appeal to Court of Revision, but it is admitted no certificate was produced to assessor. And this certificate produced now, does not meet the requirements of the statute, in that it does not show the amount of personal property assessed against the Exeter branch at Toronto or elsewhere.

I am of opinion the appellants had a place of business in Exeter, and carried on business there, and have brought themselves within the provisions of sub. sec. 2 of sec. 40 of the Assessment Act. In the first place, they do not show any reason why the goods could not be assessed in Exeter ; and secondly, the appellants have failed to produce proper and sufficient certificate, of assessment elsewhere.

The appeal will be dismissed, but under the circumstances, without costs.

Re Bogden and City of Ottawa.

Judgment on motion by J. Bogden and P. C. Guillaume, heard at Ottawa to quash by-law 1,983 of the city of Ottawa, passed 19th March, 1900, to provide for the raising of money by debentures to recoup the money paid for the construction of a permanent pavement constructed pursuant to by-law 1,856. Held, that the court should not be called on in a summary way when the work in question has been completed and paid for for a year and all proceedings on their face regular, that Bogden is disqualified from moving against the by-law by reason of his acts as a direct agent in promoting the construction of the pavement. As to the majority who petitioned the by-law is good and as toGuillaume, representing those who did not pet tion, it is now too late to quash a by-law under which the work had been done and money expended, and, by parity of reason, too late to quash this by law to levy the rate to pay for the work. If the contract, so far as it relates to extra price to keep it in repair for fifteen years, is ultra vires, having regard to the last provision of sec. 666 of the Municipal Act, it would be unjust to quash in toto, for those who petitioned are clearly liable. Those who did not petition can object to assessment. Taking this in view, it is not necessary to deal with the question of the competency of the corporation to make the repair contract. Application dismissed with costs as to Bogden and without costs as to the other applicant.

Clothier vs. Villiage of Kemptville.

Judgment in action tried at Ottawa, brought for damages for improperly closing a highway and for a mandamus. Held, that there had been a bona fide exercise of discretion by the councillors for defendants, which should not be interfered with, and that there had not been any negligence by the defendants, and that assuming that the defendants are proceeding with the erection of the bridge the action should be dismissed, but without costs.

Currie vs. the Township of Dunwich.

This is an action recently tried before His Honor Judge Hughes, the senior judge of the county of Elgin. The plaintiff sustained personal injury by slipping and falling on some ice that had formed in a depression on the highway along which she was walking, caused by water flowing across it. She sought to recover $200 damages from the defendant municipality, and her costs of suit. The following is the judgment:

In considering all the facts and circumstances connected with this case and the application of the several decisions of the courts to those facts I find as follows:

1. That there was a pond of water gathered and standing on the land of D. McCallum which, in a wet time, overflowed into the ditch on the road running north of concession 5, north of concession A and thence to and across a low place in the middle of the road where the accident to the plaintiff occurred.

2. That that low place is just where the culvert ought to have been placed instead of or in addition to the culvert which stands inefficiently carrying the water away from the pond and ditch I have referred to further to the east of it.

3. That for want of that culvert on the proper place during wet seasons of the year the road at the point referred to was covered with water at that low place.

4. That the condition of the road was at that point made dangerous not only when the water flowed over or into that low place in mild weather, but also when by reason of frost ice was formed and made the road at that low place slippery, not only for horses and teams but for persons travelling along the highway on foot as well.

5. It is admitted that the road in question was and is a common highway and that the road work furnished by statute labor, instead of being expended in the construction of a culvert or in repairing the road at that point, was altogether withdrawn and laid out in gravelling the other part of the road more immediately connected with the general traffic of the neighborhood to and from the village resorted to by people living and having business to do, and for purposes of trading in that part of the township.

6. I do not know how the authorities of the t wnship may seek to justify this course of ordering or expending the statute labor of the township over which they have a discretion, but I have no hesitation in saying, that when it comes to the making and continuing a public nuisance, such as this was, which is alike dangerous to the ordinary traffic of teams, and was and had been for a long time unsafe to persons travelling either by carriages or horses, or teams, or by walking, it became a duty (in absence of a sidewalk for those travelling on foot) to have removed the nuisance, in so far as reasonable and proper repair required.

7. I find also that the condition of the road at that place was not only not sufficiently guarded from danger but that it was not guarded or kept in repair at all. It was a trap for teams and wagons and carriages when there was no frost to freeze up the water crossing the road, and was a slide for passers over it on foot when frost caused ice to cover it—so that no wonder the plaintiff fell there when the ice became covered with snow, and thereby caused her to fall and injure herself as she did.

8. As to the allegations of contributory negligence of the plaintiff—I find she was lawfully passing and walking on this public highway there—that there was no sidewalk or other place for her to do so, and that she used reasonable care when passing along the highway at the time of the accident.

9. This was not a public highway only used in winter time, but had been used by other travellers and their teams, one traveller travelling there had injured or bent the axle of his vehicle on this exact spot by reason of the slough existing there, so that I find it was a breach of obligation of the defendant municipality to have kept it in repair, and that the defendant corporation was in duty bound (outside of the statute labor) to keep it safe for ordinary travel.

10th. I find also that, having used reasonable care on the occasion of the accident (although she knew by having passed over it the previous day that there was ice at that spot) she is not chargeable with contributory negligence on the authorities of Wilson vs. City of Charleston J. Allen, 138, and Gordon vs. the City of Bellevile, 15 O. R. 26, and the cases cited in the judgment of the learned Chief Justice, in the latter case.

11th. I find it my duty to find for the plaintiff and to order judgment to be entered for her against the defendant corporation with costs for one hundred and fifty dollars ($150).

The long continuance of the condition of the road there and of the hole complained of, coupled with the fact that a previous accident had occurred there, affords sufficient evidence of constructive notice of the existence of the nuisance under the decisions upon the subject of notice to a municipal corporotion.

Brereton vs. Town of Rat Portage.

Judgment on appeal by plaintiff from order of District Court of Rainy River, setting aside the verdict and judgment entered thereon for plaintiff for $50, and dismissing the action with costs as against defendant McCarthy, and directing a new trial as against the other defendants. Action for damages for trespass to land in entering on lot 155, P. Coney Island, and removing the western boundary fence. The defendant McCarthy is the mayor, and the defendant Woods is the chief of police of the town of Rat Portage. The corporation allege that the fence in question, which was removed, stood upon Sixth street and was an obstruction. The court below dismissed the action against the defendant McCarthy on the ground that their was no evidence that the acts complained of were done maliciously and without probable cause, and not being satisfied upon the evidence as to title, and the actions of defendant Woods, and that the jury had given due consideration to the evidence directed in this trial. Held, after careful perusal of the evidence that the judge below was right. This court strongly advises a settlement without further costly litigation and adds that the evidence is cogent to show that plaintiff has taken in more land than he is aware of. Appeal dismissed with costs.

Town of Peterborough vs. G. T. R. Co.

Judgment in action tried without a jury at Peterborough. Action for a declaration that the defendants are liable to rebuild or repair a certain bridge in the town upon Smith street, where a small stream (as diverted by the Midland Railway Company, to whose liabilities the defendants have succeeded) cross the street, and for a mandamus to compel the defendants to rebuild it and to make good and restore the highway to its former state. Held, that the railway company had acted within their rights in diverting the stream, and if the municipality had sustained damage by reason of the exercise of those rights, they must proceed under the Railway Act to obtain compensation. Should the defendants refuse to proceed, the plaintiffs would have their remedy by mandamus upon motion. Such a mandamus should not be granted in the present action, a motion being the proper course. Action dismissed with costs.

Jamieson vs. City of Ottawa.

The defendants appealed from the judgement of Falconbridge, J., for $250, upon report of Master at Ottawa, finding that by reason of the acts of the defendants, their agents or servants, a drain known as the Jamieson drain, into which the plaintiff had the right to drain, was rendered useless, and that the plaintiff's property had suffered damage occasioned by extra flow of water in consequence. Defendants urged the same reasons against the judgment as those in Rochester vs. City of Ottawa. Appeal dismissed with costs.

Winterstein vs. Hood.

This was a case of damage done by a barbed wire fence, and was heard by Judge Morgan, at Markham Division Court, last Thursday. His Honor decided that barbed wire fences were a nuisance, and if placed in a line fence or road fence the party owning it is responsible for damages to cattle. In this case he assessed $30 and costs. All parties interested should paste this in their hats, and remove such wires if they desire to avoid litigation.

Challoner vs. Township of Lobo.

Judgment in action tried at London. Action to set aside a by-law authorizing the doing certain drainage work, and for damage for cutting timber on plaintiff's land over the proposed part of the drain. The petition for the work was presented to the council of the township on April 10, 1899, and the engine r's report was handed to the clerk on July 31, 1899. On August 14, 1899, the report on the work was adopted by the council. The by-law was provisionally adopted on September 4, 1899, and finally passed on October 9, 1899. The assessment roll of the municipality for 1899 was finally revised before August 1, 1899. Held, that what is contemplated by the Act, R. S. O., chapter 226, section 3, is that at the time action is taken by the council by passing the by-law the council must have before it a petition for the work signed by the necessary majority according to the then last revised assessment roll, and that the governing roll in this is the roll of 1899, and not that of 1898 upon which the council acted; that the words "exclusive of farmer's sons not actual owners," used in the section, mean those who are not actual owners as shown by the last revised assessment roll. The two Crovens, the sons, and the two McKellars, are for the reasons given in the judgment not entitled to petition, and therefore the petition is insufficiently signed and the by law must be declared invalid. Held, also, following Hill vs. Middaugh, 16 A. R., 356, and McCullock vs. Caledonia, 25 A. R., 417, that the action in respect to damages is not maintainable. Judgment accordingly, and enjoining the defendant corporation from continuing the work through plaintiff's lands. Costs to plaintiff as against both defendants. As between defendants the costs of defendant Oliver should be paid by his co-defendants.

Town of Peterboro vs. C. P. R. Co.

Judgment in action tried without a jury at Peterboro In 1888 the plaintiffs were the owners in fee of Island No. 1, in the Otonabee River, opposite the town. On the 4th of June, 1888, the town council passed a resolution recommending that authority be given to defendants to construct a siding connecting the mills and factories in the Dickson raceway with the main line upon certain conditions, etc. On 24th October, 1888, a further resolution was passed by the town council permitting the defendants "to take gravel and soil from the island in the river Otonabee at Peterboro for a roadbed without charge for their railway, at or near that point . . . but that nothing in this resolution shall be understood or construed as giving the said railway company any right or interest in the said island beyond the right of way." On the 1st of September, 1888, the defendants obtained the authority of the Privy Council to construct the siding or branch line referred to in the above resolutions, and having procured and paid for the right of way, proceeded to construct it in 1888-9, and expended upwards of $13,000 in so doing. No claim was made by the plaintiffs upon them of any kind until shortly before this action, which was begun on the 17th of August, 1898. The plaintiffs asked that their title to the lands covered by the right of way might be established, and that it might be declared that defendants executing an acknowledgement of plaintiff's title the plaintiffs might be declared entitled to possession. The defendants set up that their occupation was by a license from plaintiffs under which they were to expend moneys in doing certain acts for plaintiffs' benefit, which they did at great expense, and that plaintiffs were estopped from contesting the defendants' right to retain possession of their right of way, and defendants counter-claimed for a conveyance. Held, that plaintiffs should be left to the remedies provided by the railway act; their claim was entirely without merit; the intention of the resolution was to give defendants a free right of way over the island to some mills and factories which (it was to be assumed) were a benefit to the town. The mayor appeared before the Privy Council in support of the application of defendants, and the latter took all proper steps, and spent several thousand dollars in building the spur and compensating persons affected by it. If plaintiff's contention is right, their proper and only remedy is compensation under the railway act. But if they are estopped by their acquiescence, and by the expenditure of money at their request, they cannot succeed in the action. The defendants have not shown themselves entitled to a conveyance. Both action and counter-claim dismissed with costs.

Renshaw vs. Township of West Oxford.

Judgment in action tried in Woodstock brought to recover damages for injuries sustained by plaintiff while being driven in a buggy along a highway in West Oxford. Held, on the evidence that the highway being without a guard along the top of the embankment at the place where the accident happened, was out of repair. Judgment for plaintiff for $400, with full costs.

Five Per Cent.

An act to amend the acts respecting interest, passed at the last session of the Dominion Parliament, marks an epoch in the financial world, in that it makes 5 per cent. per annum the legal rate of interest (as it is popularly called), instead of 6 per cent. If the accumulation of capital increases as it has done during the last quarter of a century, the rate will soon be down to four per cent.—*Canada Law Journal.*

Good Roads in Michigan.

At the Masonic Temple, recently, a session of the good roads convention was held. Hon. Martin Dodge presided. It was resolved that "the members of the Michigan good roads convention in session in the city of Saginaw, Mich., this 22nd day of August, 1900, do hereby organize and constitute ourselves into a permanent association for the promotion of good roads in the state of Michigan, and to secure such national and state legislation and co-operation as will hasten the time when the people in the country over may be emancipated from the thraldom of impassible roads."

It was decided to call the organization the Michigan Good Roads and Improvement Association, and the co operation of all was invited "to the end that the greatest advancement in road-building and repair may be secured in all the several road districts in Michigan, and that good roads, the greatest blessing on earth, shall be enjoyed by all the people all the time."

A committtee on permanent organization was appointed as follows: S. G. Higgins, Saginaw, president; E. O. Shepard, Charlotte; John McAvoy, M. W. Tanner and C. H. Peters, Saginaw. The object of the committee is to formulate a plan for temporary formation, arouse interest, appoint temporary officers, and call a general state meeting later.

In the afternoon the delegates were taken to the south end of the city, where an exhibition of the process of modern roadmaking was given.

In many townships by-laws are passed regulating the height of fences, and stating whether cattle may or may not run at large. Municipal councils are permitted by statute to pass such by-laws, but some of our best legal authorities maintain that an owner of land bordering on a highway is not bound to erect a fence along the highway to protect his crops against cattle running at large upon the highway, notwithstanding such by-law. This question, as far as we are aware, has not been before our provincial courts; and it would appear that owners of animals running at large might be held responsible in damages, as it is questionable whether such permission by by-law would be valid as against property owners. Our opinion is that persons allowing their cattle to run on the roads are responsible in case of damage, by-law or no by-law. It might be well for municipal councils to peruse the Line Fences' Act and Municipal Act as far as it relates to fences. The general law is that those keeping animals must attend to them, as it is not the part of any man to fence out his neighbor's cattle.—Stouffville *Tribune.*

The township of East Flamboro recently appealed from its equalized assessment as fixed by the County Council to the county judge of Wentworth. The township succeeded in having its assessment reduced from $50 to $46 an acre.

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