THE MUNICIPAL WORLD

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The Municipal World

PUBLISHED MONTHLY

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

K. W. McKAY, EDITOR,

A. W. CAMPBELL, C. E. } Associate
J. M. GLENN, LL.B. } Editors

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OFFICES—28 Elgin Street, St. Thomas. Telephone 101

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THE MUNICIPAL WORLD,
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ST. THOMAS, AUGUST 1, 1898.

The County Council of York has decided to petition the Legislature to make more explicit the criminal code in reference to the conviction of persons who have committed petty larceny. The council wish the clause relative to the power of magistrates to imprison or fine to be made much clearer than at present.

* * *

At a recent session of the Ontario county council an effort was made to change the county's bank account from the Western Bank to the Dominion Bank, but the account was left with the Western Bank by its agreeing to reduce the rate of interest from five per cent to four per cent, and to pay all county cheques at par at any of its branches.

* * *

It is an old saying that competition is the life of trade, and it would appear that even banking is not an exception to its truth. Heretofore the municipal councils in Norfolk County have had to pay six per cent. for temporary loans made by them to carry affairs along until tax gathering time. The advent of the third bank in Simcoe has, however, had the welcome effect of bringing the rate down a peg, and now our municipalities get their requirements met at five per cent.—*Reformer.*

* * *

We notice that in some counties a difference of opinion occassionally arises in reference to the proper method to be adopted in the purchase of gaol supplies. In the rules and regulations for the government of common gaols within the province, section 12 refers to the duty of the sheriff and states that he shall see that all requisitions made by the gaoler for gaol clothing, furnishings and supplies are properly transmitted to the clerk of the council or to the chairman of the committee of the council having charge of gaol affairs, and that such clothing, furnishings and supplies are properly delivered.

Dominion Franchise Act.

The Dominion Franchise Act of 1898 was assented to on the 13th June. Under its provisions the provincial franchises and Voters' Lists are adopted.

Municipal Clerks, of Ontario are particularly interessed in section 10, sub-sections 1 and 2, which refer to the transmission of the certified copy of the list as finally revised by the Judge to the Dominion authorities.

(1) "Within ten days after the final revision of every list of voters for the purposes of provincial elections, it shall be the duty of the custodian thereof to transmit to the Clerk of the Crown in Chancery by registered mail, a copy of such list, certified under the hand of such custodian, and having every alteration, addition or erasure therein identified by his initials. The fees to be paid for such certified copy shall be those fixed by the provincial law for furnishing such copies to applicants therefor, and if there is no fee fixed by the provincial law, shall be twenty five cents for each 100 hundred names including additions and descriptions and fifty cents for the certificate."

(2) "For the purposes of Dominion elections, such certified copy shall be deemed to be the original and legal list of voters for the polling division for which the list of which it is a copy was prepared so long as that list remains in force, subject, however, to such changes and additions as are, subject to revision, made in such list under the provisions of the provincial law."

The penalty for non-compliance is provided for by subsection 9 of said section 10, which reads as follows : "Every officer or person who, under the provincial law, is the custodian of any list of voters, or has the official record of any changes in or additions to any such list since the last final revision thereof, and who refuses or omits to perform any duty imposed upon him by this section, is guilty of an indictable offence, and for each such refusal or omission shall incur a penalty of not more than one thousand dollars and not less than one hundred dollars."

As soon as the Voters' List for 1898 is finally revised and corrected by the Judge, the Clerk should prepare a copy in accordance with the above, and send it per registered mail to tbe Clerk of the Crown in Chancery, Ottawa. Care should be taken to see that every alteration, addition or erasure is identified by the clerk's initials, and that a certificate under his hand is attached thereto. This certificate may be in the following form :

I,.....Clerk of the Municipality of....., Province of Ontario, do hereby certify that the annexed Voters' List for said municipality of.....for the year....., is a true and correct copy of the said Voters' List as certified by the County Judge, in accordance with the provisions of the Ontario Voters' List Act.

Dated at..... ....this.....day of .....1898.

.....
Custodian of said Voters' List.

Seal of Municipality.)

The clerk is entitled to the same fee as that fixed by the provincial law. In Ontario when printed copies are furnished, the clerk is entitled to receive six cents for every ten voters whose names are on the list. This includes the price of the certificate. The account should be enclosed with the copy of the list.

County Judges and clerks of the peace are custodians of duplicate copies of the list and unless clerks forward them promptly they may be obtained elsewhere.

Equalization in Dufferin County.

The Equalization Committee of the Dufferin County Council at the last session reported the following recommendation :

That the Government be asked to introduce legislation authorizing the assessment of townships to be made every three years instead of annually, thus rendering it possible to pay the assessor a higher salary without increasing the expense to the townships and ensuring more thorough and accurate work.

Your committee is also of the opinion that the winter months are times within which proper assessments cannot be made as lands cannot then be properly valued, and this has, in their opinion, resulted in many instances in no attempt whatever being made to examine them, the assessment rolls in some instances being merely copies of those of previous years, thus indicating that the assessors had not left their houses for the purpose of making a personal examination.

Your committee is also of the opinion that this later omission is largely due to the fact that the local assessors are insufficiently paid, it being impossible for them, without actual loss, to examine the lands within their respective municipalities as thoroughly as is contemplated by the Assessment Act on their present meagre payment for such work, and it would recommend that the local municipalities grant a more liberal allowance for such work, particularly if the legislation recommended be obtained.

Poor highways are incompatible with the public welfare.

The New York Board of Health placards houses where patients have removed or died of consumption, in such cases as the premises seem to warrant. Orders are also issued to the owners of the property to have it renovated before being again occupied.

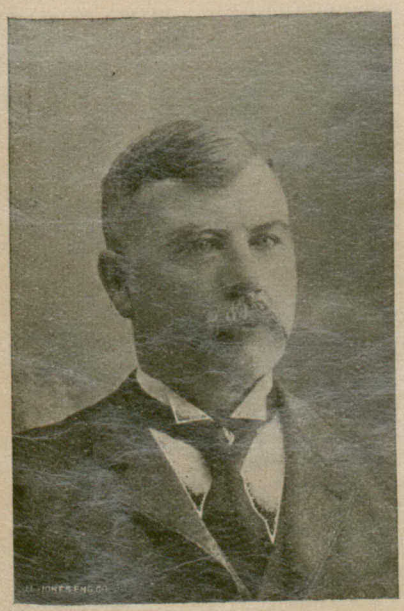
Municipal Officers of Ontario.

Clerk, Township of Cumberland.

Mr. Dunning was born in the township in 1854. He attended the public and

MR. W. W. DUNNING.

grammar schools, and then engaged as clerk in a general store and telegraph office, and was for some years member of the firm of McDonald and Dunning. He was appointed township clerk in January, 1896, succeeding Mr. J. D. Wilson, who had held the office for 43 years.



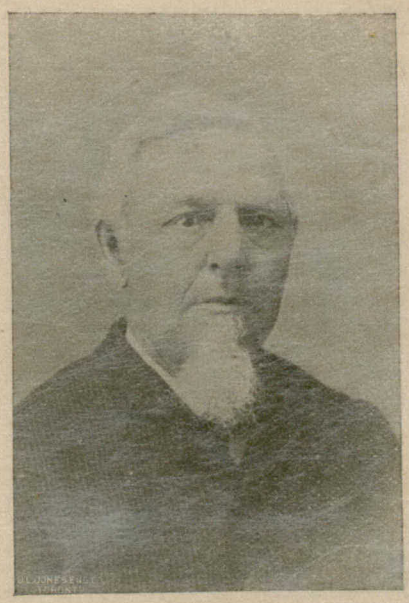
MR. A. J. STEWART.

Clerk, Town of Harriston.

Mr. Stewart was born in the county of Huntingdon, in Quebec, in 1842. He received an ordinary common school education, and in 1875 became a resident of Harriston. He was appointed auditor for 1876 and 1877, when he was appointed town treasurer, which office he held until 1888, when he was appointed town clerk. Mr. Stewart has engaged in the grocery and boot and shoe business, and is an issuer of marriage licenses.

Clerk, Township of Percy.

Mr. Hurlbut was born in Vermont in 1824. In 1829 he came with his parents to Prescott, and in 1831 removed to Belleville, where he received a good common and grammar school education. In 1844 he engaged in the general store business in the township of Percy, where he still resides In 1853 he was appointed deputy clerk of the Ninth Division



MR. R. P. HURLBUT.

Court, and in 1878 he was appointed clerk. In 1857 he was appointed councillor and reeve. In 1858 he was appointed secretary and afterwards treasurer of the Percy Agricultural Society, and in 1863 secretary of the East Northumberland County Agricultural Society, both of which positions he still holds. In January, 1863, he was appointed township clerk. In addition to his various offices, Mr. Hurlbut is a commissioner and notary public, insurance agent and appraiser for the C. P. L. & S. Co, of Toronto.

Clerk, Township of Brantford.

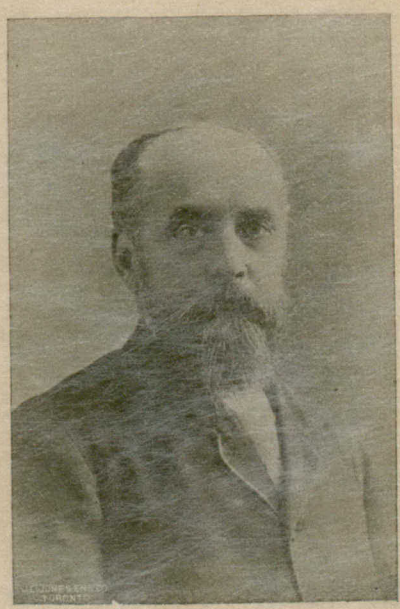
Mr. Wilson was born in the township in 1837. He was appointed clerk in 1875, and since that time has filled the office most acceptably.

Clerk, Township of Wilmot.

Mr. Holwell was born at Brantford in 1845, and settled in the township of Wilmot in 1867. He was appointed township auditor in 1878, which office he held until 1883, when he was elected reeve six consecutive years, and warden of the county of Waterloo in 1888. He resigned

MR. F. HOLWELL.

his office as reeve near the close of the year and was appointed township clerk. He was a director of the Wilmot Agricultural Society for twelve years, and is now secretary-treasurer. Mr Holwell is an active politician, and in 1886 was the unsuccessful Conservative candidate for the Local Legislature. During his term in the



MR. R. M. WILSON.

County Council he took an active interest as chairman of the Finance and House of Industry Committees. In addition to his municipal office, Mr. Holwell is a conveyancer, etc., and postmaster of Baden.

County Auditors a Necessity.

The County Council of the County of Dufferin have ordered the following petition to be presented to the Legislative Assembly :

1. That for many years past throughout this province frequent defalcations have occurred in their accounts by many municipal treasurers, both county and local.

2. That the system of auditing that has hitherto obtained has by experience proved totally inadequate to place any cheque on treasurers misappropriating municipal funds arising largely from the fact that the auditors are in the great majority of instances unqualifiedfor their work.

3. That the low remuneration for their labor paid by the various municipalities is not sufficient to attract skilled and competent men to the work of auditing—in fact, in the majority of municipalities we believe that such men cannot be found at any price.

4. That in the opinion of your memorialists, an auditor, in addition to being a skilled accountant, should be well versed in municipal law, in order that as a basis for his auditing he would be aware of every source of revenue belonging to the municipality, such as those arising from licenses, justices of the peace, judicial officers, non-resident lands, municipalities, taxes, government, etc., etc., and thus ascertain whether sums due therefrom had, or had not, been collected, and not merely content himself, as in many instances he does, with simply comparing expenditure with receipts.

5. An illustration of this point may be furnished in relation to the single instance of the non-resident roll. It should be the duty of the auditor to examine the books relating to each lot, and notify the owners in so far as their addresses can be ascertained of the state of their accounts at the end of each year ; this is not only placing a check on the treasurer, but also securing an increased revenue to the municipality by the prompt payment of taxes. In a like manner every creditor or debtor of the corporation should be notified as they are by banks.

6. Your memorialists are further of the opinion that instead of the present system of appointing an auditor for each municipality one auditor should be appointed for a number of years, or during good behavior, for one group of counties into which Ontario should be divided, consisting of from four to five, whose duty it would be not only to audit the accounts of the county but also to audit those of the various local municipalities comprising them, thus securing a remuneration that would enable a skilled accountant to devote his whole time to the work without entailing any greater cost on the corporations than they now incur under the present imperfect system. Thus a group formed of the Counties of Wellington, Grey, Simcoe, Dufferin and Peel would contain five county and eighty-eight local municipalities. Assuming that an average of $15 is paid by each local and $40 by each county municipality for auditing their respective accounts, a total of $1,520 is reached, which salary would be ample to secure the services of an auditor such as has been suggested, and secure such an auditing of accounts at all times of the year as now prevail in such institutions as the post office, railways, banks and other financial corporations. This sum could be paid by the counties in the first instance in proportion to their wealth, and the shares of the local bodies recovered from them by action if necessary in such proportions as may be fixed by the various counties.

7. In order to obviate the cry of parliamentary centralization that is sometimes raised, your memorialists are of the opinion that the auditors, instead of being appointed by the Lieutenant-Governor-in-Council, should be appointed by the wardens of the various groups in the manner and at a time and place to be specified by the Act.

8. Your memorialists, without professing to have indicated all the details of the said Act or the manner of working them out, are convinced that the principles embodied in this presentation are sound, and pray that legislation may be effected, carrying out substantially the views above expressed.

We are pleased to see that at least one county council takes an interest in the improvement of the audit system of the province. The Provincial Municipal Auditor is a necessary official, but he cannot begin to supervise the accounts of the 750 municipalities in the province. The appointment of a permanent auditor or auditors of experience in each county is a necessity.

County auditors co-operating with the Provincial Auditor would have no difficulty in securing a uniform system of bookkeeping and proper audits in every municipality. The defect in the present system is with the local auditors. The aim of new legislation should be to make the annual audit so efficient that special investigations would be unnecessary.

We have for some years, advocated a system somewhat similar to that suggested in the petition, which provides for the appointment in each county of an auditor, and in large counties two auditors, whose duties may be briefly outlined as follows : 1. To be ex-officio auditor for the county and all local municipalities therein, to act with an auditor to be appointed by the county and local councils in the yearly audit of the treasurer's books. 2. To check over each local treasurer's cash account and verify balance on hand at least once during the year. 3. To furnish the Bureau of Industries, as required, with statements of the finances of his county and local municipalities. 4. To enforce such regulations as may be necessary to secure a uniform system of municipal accounts. 5. To make such recommendations to the council as he may deem advisable, and in a general way to have the supervision of financial transactions of all municipalities.

It may be claimed that there is an objection to the appointment of an additional official on account of the expense. Only a portion of the auditor's time would be required, and the cost of his services would not amount to more than one-half the cost of our present audit, after the first year. All treasurer's accounts would be kept on a uniform plan. This would greatly facilitate the work of the auditors.

The fact of having the financial transactions of the municipality performed in a business way would be true economy. An efficient man would be required to fill this office. The auditor would be independent of the council. His duties should be regulated by statute. He should be appointed by the county council, and after being three years in office a two-thirds majority of the whole council should be required to dismiss him

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"Read about that man who rides a wheel without having any feet.?"

"That's nothing—lots of people ride who haven't any head."

COMMUNICATION.

Township of York's Roads.

WILLOWDALE, July 9, 1898.

To the Editor of The Municipal World, St. Thomas :

DEAR SIR,—In your issue of July we notice an extract from an article by a person on a bicycle trip. You will kindly allow us to give a few explanations. The township of York has about thirty miles of abandoned toll roads to keep up, which we are used more by other municipalities than by the township of York. These roads are now fairly well graded, and are annually repaired with macadam and generally screened gravel, and are in a better condition than when tolls were collected on them and kept up at less expense.

As the township has not got steam rollers to bed the new macadam and gravel to give a smooth surface for our bicycle friends, these roads, which must be kept up for heavy traffic, are not as good as our back roads for bicycles. In back townships the clay roads are usually repaired with fine gravel, which is of no use for heavy traffic, with narrow tires, in spring and fall ; but are good roads in summer for bicycles, and very much better than the cedar block and some other roads in Toronto.

As to the taxes in the township of York, the extract is misleading, as out of the $83,470 taxes for 1897 only $21,628 are for township purposes and $9,752 commuted statute labor. The remainder is made up by a heavy county rate, amounting to $9,680 ; school tax of $26,463 and other taxes, such as local improvements, bonuses to street railways, etc., over which the council have no practical control.

From the above you will understand that there is not a very large sum of money available for keeping up over 200 miles of roads in the township.

Yours, etc.,
PETER S. GIBSON & SON,
C. E. and O. L. S.

An ordinance has been framed in New York restricting the exposure of fruit and vegetables upon the sidewalks where they come in contact with the floating impurities of the street.

To be Washed with Care.

"Yes," said the man whose narratives are almost invariable interesting. "I had some curious experiences in that mining country. One day I met two children with the dirtiest faces I ever beheld."

"Poor things !"

"That's what I thought. I said to them, 'Children, why don't you wash your faces?' and one of them answered, 'We dasn't. We've been playin' on pap's best claim, and he's liable to lose money if anybody touches us but him.'"—*Washington Star.*

ENGINEERING DEPARTMENT.

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

The Design of Sewers.

A system of sewers depends for its scientific and practical design upon a great many factors. The integral parts of the design are the size, shape, velocity, grades, depths of sewers, ventilation, flushing, alignment, junctions, etc.

SIZE.

It can readily be understood that the volume of sewage is not uniform during each day, week, month or year. There is a maximum and minimum daily flow and a maximum and a minimum yearly flow. To determine the size it is necessary to provide for the sewage at time of greatest flow. On the assumption that the average annual flow through a sewer is 100 gallons per minute, we must add 17 per cent. for the maximum monthly average, which gives 117. To this must be added 10 per cent. for maximum weekly average, which gives 127. To this must be added 37 per cent. for maximum hourly average, which gives 164. As the flow on Monday is generally greater than any other day, we add an additional 23 per cent. for this time, making 187. To provide, therefore, for times of maximum flow sewers must be 87 per cent. larger than for the mean daily flow.

Sewers should be designed so that at times of ordinary flow they should run half full. The "Y" branches or house connections enter the sewers half way up the sides of the mains. If, then, the sewers run more than half full under ordinary conditions, the ventilation would be imperfect.

In sewers subject to great fluctuations in volume of discharge, that form of sewer is best which will concentrate the sewage in time of low flow. For this reason the egg-shaped design is employed where the conduits perform the double function of carrying the sewage and the storm water. In the separate system, as the sewers are designed to run half full, this shape offers no particular advantage, and as the circular system is cheaper to construct, this form is generally utilized.

An 8-inch sewer is the smallest main that should be permitted in a permanent system of sewers. As ordinarily designed, a 4-inch pipe will suffice for most individual blocks; 6-inch pipes have been in frequent use for laterals. However, in cities adopting this construction fully 80 per cent. of the stoppages occurred in the 6-inch pipes, proving conclusively that matters get into the sewers which have no business there, and which the strictest regulations do not seem able to keep out. In England the minimum size used is 9 inches. As sewer after sewer converges in the system designed the sizes increase, first to 10 inches, then to 12 inches, then 15 inches, then to 18 inches, until the point is reached where the sewage is conveyed under pressure to the outlet.

VELOCITY.

This is an important factor in determining the size of the sewers. A proper velocity will prevent the precipitation of the heavy matter of sewage to the bottom, and also its deposit on the sides of the sewers. It should not be too great, because then there is a tendency to scour the bottom to such an extent that in the course of time there will be a positive wearing away of the material used in the construction of the sewers.

There is practically an unanimity among sanitary engineers that the velocity of the sewage when the sewers are running half full should be 150 feet per minute, and under no condition should the minimum velocity drop below 100 feet per minute. To secure this, when the minimum grade mentioned below is employed the depth of flow of the sewer should be maintained at 18 100ths of its diameter; that is to say, that the depth of flow in an 8-inch pipe should always exceed 1⅛ inches, a 10-inch pipe 1¾ inches, a 12-inch pipe 2⅛ inches, a 15 inch pipe 2¾ inches, an 18-inch pipe 3¼ inches.

It has been shown that it is quite difficult to secure these depths at the upper ends of the sewers, because the persons whose sewers are tributary thereto, especially at the inception of the system, do not contribute that amount of waste water, and further because a size is used on the upper stretchers of the system much greater than the theoretical requirements. Recourse, therefore, must be had to flushing.

GRADES.

The gradients of the respective sizes of sewers that will produce the minimum velocity above mentioned are: For the 8 inch pipe 40 per cent., 10-inch pipe 32 per cent., 12-inch pipe 25 per cent., 15-inch pipe 20 per cent., 18-inch pipe 18 per cent.

While these are considered safe gradients there are many instances where sewers are in successful operation on very much flatter gradients.

While these special cases are not a sufficient warrant to permit the general adoption of less grades than the above, they serve to show that if at any particular point and for any particular reason flatter grades than the minimum are used, there is not necessarily doubt of their satisfactory working. The factor of safety in such cases is simply reduced.

DEPTH OF SEWERS.

Many conditions govern the depth at which the sewers shall be constructed. In general they should provide for cellar drainage or be constructed at such a depth that the underdrains will lower the ground water sufficiently to make the building of cellars a possibility. This would necessitate an average depth of eight feet. No sewer should be laid unless provided with a sufficient covering to prevent freezing.

ALIGNMENT.

All sewers should be designed so that they may be inspected throughout. Manholes should be placed at all changes in grade or in alignment to permit of the inspection of every foot of pipe in the system.

In general sewers are designed to occupy the centres of the streets, but if this position has been pre-empted on any particular street the sewers can be laid to one side.

VENTILATION.

Much has been written and more might be said as to the needs of more perfect ventilation of sewers, and of the best method of securing ventilation. The frequent accounts we receive of accidents attributed to the explosion of sewers should convince us of the importance of making provision for their ventilation. An explosion of a sewer is not necessarily occasioned by sewer gas. It can be brought about by the compression and expansion of the air in the sewers by the fluctuation both of the sewage and the temperature. With properly constructed sewers such explosions will not occur.

Again, as was shown, the quantity of sewage flowing through the pipes varies greatly in the course of the day. As the sewage recedes there is a tendency to leave a deposit on the sides of the sewers. The organic matter there detained, unless exposed to the benign influence of a free circulation of air, will putrify and generate sewer gas. For these and other reasons the ventilation of sewers is vitally important.

The usual method of ventilation is through perforations in the covers of manholes and through ventilating pipes connected to the house-drains outside the house-traps of the buildings, dependence being placed on this trap to prevent the passage of the gases from the sewers through the house-drains and soil-pipes. European practice treats the problem heroically and utilized the house-drains and soil-pipes themselves for ventilating the sewers, and it is reported to operate without bad effects. This necessitates thorough plumbing and adjustment of fixtures—more thorough than the work ordinarily done in this country.

The perforations in the manhole covers need not be large if they are so arranged as to prevent them filling up with dirt, snow, etc.

HOUSE CONNECTIONS.

The individual house connection as an important factor in the satisfactory and successful operation of a system of sewers cannot be too strongly impressed. As a rule, no part of the system is so poorly and carelessly looked after, the prevailing concensus of opinion appearing to be that if the private householder does not care to go to the trouble of seeing that his sewer connection is properly made he and his household alone are the sufferers for his carelessness. This is, of course, an erroneous idea. We are all mutually

interdependent and cannot afford to permit our neighbors to be careless in this matter any more than in any other. In the matter of health his affair is your affair.

To secure a uniformly good standard in the construction of house sewers it is advisable that every connection be made up to the house line under the direction and inspection of an official of the town or city, and upon each street upon which sewers are to be constructed means should be provided whereby the house laterals shall be immediately constructed up to the street line for each and every lot. There is a provision in the statutes whereby the house connections can be laid to the street line when the sewer is constructed. The advantage of this is obvious, since it will save the continual and repeated tearing up of the street each time a sewer connection is desired to be made.

FLUSHING.

The flushing of a system is done generally by means of automatic flush tanks located at the upper ends of some of the sewers. These tanks hold from 250 to 350 gallons each, and are arranged to discharge their entire contents in a few minutes, thus securing a perfect flush for the upper ends of the sewers, where there is but little flow from the house connections. These should be discharged twice a day, and will require not less than 30,000 gallons of water per day for their satisfactory operation. The flushing of the sewers may be accomplished by directing into it at different points the water from the fire hydrants. Even with the most perfect system of flushing stoppages are likely to occur, and periodical inspection is therefore as essential as perfect construction if you would have a satisfactory working of your sewers. The death rate in many cities where sanitary sewers have been constructed has not been decreased to that extent which might have been expected from so important a measure, the cause undoubtedly being that the sewers are supposed to take care of themselves, and the little but very necessary care is not given.

UNDERDRAINAGE.

Throughout those portions of a system where much water is encountered tile drains should be laid in the trench along side of the sewers. These tile drains can be laid into the sewer-pipes at the upper side of each manhole. With this construction 2-inch tile-pipe is sufficient for all parts of the system.

MANHOLES, LAMPHOLES, ETC.

At each vertical or horizontal change in the line or grade of the sewer a manhole should be constructed for the purpose of getting down into and examining the interior of the sewers. Manholes are spaced about three to four hundred feet apart, and where there is occasion for a change in grade at distances less than this lampholes can be used for the sake of reducing the cost of the system.

The Rights of Municipalities and of Road Users.

INTERESTING DECISION BY A QUEBEC JUDGE.

A case of considerable interest to municipal corporations was decided in the Supreme Court at Sweetsburg recently by Mr. Justice Lynch.

One Edward Charles Davipeon sued the corporation of the municipality of the corporation of Stanbridge Station for $800 damages for injuries received through the upsetting of his carriage while driving over a highway under the control of the corporation on 26th December last. The carriage in which the plaintiff was riding passed over an obstable in the road, which had the effect of upsetting it and of throwing the occupant to the ground. His leg was broken by the fall.

The plaintiff alleged that the highway was dangerous, owing to the projecting rock on which the carriage ran, and that the accident was caused by the negligence of the corporation in not maintaining the highway in the corporation required by law.

The defendant pleaded that the road was not dangerous and was in good condition; that plaintiff knew of the alleged obstacle in the road; that plaintiff was driving a spirited horse attached to a cart loaded with boards, a use for which it was not intended; that plaintiff was himself under the influence of liquor, and was himself the cause of the accident.

After reviewing the evidence the learned judge said: "As a rule our local municipalities do not appear to recognize the requirements of the law, as to the condition of the roads under their control; or if they are aware of their strictness, little attention is paid to the obligations which result from a non-compliance."

Speaking of the projecting rock on which plaintiff's carriage was overturned, his honor said: "Why it has been allowed to remain there so long is probably due to the same cause which renders so many of our roads defective, and in some places positively dangerous, negligence and indifference on the part of the municipal authorities coupled with the utter lack of competent supervision. It is nobody's special business to see that such defects are removed. They have existed from time almost immemorial; and they are simply overlooked and will continue to be overlooked, unless some rude wakening takes place."

Further on the judgment reads: "I now come to the second question—was plaintiff prudent? The Sacred writings (14 Prov. 15) contains this proverb, 'The prudent man looketh well to his going.' Plaintiff knew this road, the hill and the projecting rock well. He had passed there but a few hours before the accident on his way to Stanbridge Station. With this knowledge was it prudent for him to have put boards twelve feet long on a market cart? Was it prudent for him to have done so with a spirited horse such as his is shown to have been, attached to the cart with the ends of the boards extending by the horse and pushing up on him while going down the hill? Was it prudent to allow the horse to trot with such a vehicle while going down the hill? Was it prudent for plaintiff before starting to take three glasses of rye whisky? To each of these questions the answer 'no' almost instinctively suggests itself, but when they are combined, the answer must be an emphatic 'no.'"

After quoting a number of authorities the judge concluded as follows: "Here the accident might have been avoided had the plaintiff used even ordinary care, but he was most imprudent, and while his misfortune is much to be regretted it would be simply offering a reward and encouragement to imprudence to award him any damages. But I cannot allow the corporation to escape entirely free. Under all circumstances I shall dismiss the action without costs."

Purchasing Roadmaking Machinery.

In the purchase of roadmaking machinery councils often desire to extend the payments therefor over more than one year. This question came up in the Chatham Council when they were considering the purchase of a roller. The solicitor not being present, City Clerk Merritt very properly stated that it would not be legal to bind a future council in that way. We do not know what form of agreement municipalities sign when they are purchasing machinery in this way, but the agent for a steam roller company when before the council recently stated that the statutes governing this matter were the same in Ontario as in the United States. His firm has sold machinery to different municipalities, paying one-third each year, and if the next year's council did not see fit to make the payment the machinery goes back to the company.

Will Help to Reduce Taxes.

The wide-tire measure passed by the New Jersey Legislature was due, says assemblyman Crispin, its originator, to its inestimable value to taxpayers who were constantly being called upon for increased appropriations for road improvements, by both the farmers and bicyclists, which call would be unnecessary if the broad tire was adopted, as it would be of a two-fold service; first, in making the roads hard and smooth; second, in doing away with the complaint from bicyclists that the heavily loaded farm wagons cut the road to pieces,—besides lessening the annual appropriation for the roads about fifty per cent.

The Peterboro county council at its last session appointed the nominating officers for the coming county council elections, and the clerk was instructed to notify each nominating officer to advertise their proclamation by printed posters and not by newspaper advertisements.

The French Municipal Farm for Indigents.

By Edward Conner.

This establishment has for its aim the rescue from among the crowd of applicants to the municipal night refuges of Paris such unfortunates as apparently present the conditions of likelihood to regain by work an honest and an assured living. The farm consists of 265 acres, is the property of the Paris Municipal Council, and is managed by a director. La Chamelle, where the farm in question is situated, lies in the Department of the Marne, near the railway station of Essarts La Forrestiere. The institution, or Colonie Agricole, as it is officially described, accepts only male inmates. Ninety-three individuals out of work were admitted in 1896, but 113 passed through altogether. Almost all were from the municipal night refuges. Only two persons were accepted from private charitable institutions, but they refused to remain. The admissions are severely controlled, as La Chamelle is neither an agricultural school, destined to teach farm labor to those who have never practiced it, nor is it a reformatory institution for beggars, vagabonds and the idle. It is a kind of farm hands' registry office, destined to restore to field-labor the workmen who have quitted the rural districts who came to Paris attracted by chimerical hopes and ultimately drifted into misery. No individuals are admitted who are aged less than 25 years or older than 45 years of age, or who have never exercised the profession of agriculture. Thus, of the 93 newly admitted in 1896, 73 had been more or less connected with the cultivation of the soil. The twenty others declared they were so employed in their youth, though four had become cabinet-makers, bakers, masons, whitesmiths, etc. The establishment only accepts bachelors or widowers. It is difficult, as all who are engaged in the work of relieving the indigent are aware, to find permanent or stable employment for the sojourners at the night asylums. However, in 1896, La Chamelle found situations for 53 and in 1895 for 75 per cent. of its inmates. The result would have been higher, only of late the refuges for indigency now largely provide various kinds of work for the unemployed, which, in addition to paying for their support, produces a surplus of earnings. This they allow to accumulate, hence they prefer to remain in Paris rather than go to the agricultural colony and re-become farm laborers. Indeed, it is this desire to return to city life which forms the ambition even of those who, though secured a good situation through La Chamelle, resign it willingly for the flesh-pots of Egypt.

The "amateurs" who would like to try the establishment generally change their minds on being convinced that, if admitted, continuous work would be exacted along with good conduct. Of the 93 admitted 20 were aged between 25 and 30; 37 between 30 and 35; 32 between 35 and 40; 4 were more than 40 years of age, but were excellent farm hands. Only 4 inmates had been expelled, and 11 who had been secured situations had been re-admitted, having lost their employment from circumstances over which they had no control. The rules and regulations of the establishment are very precise and strictly enforced. When the bell rings in the morning the inmates open the windows of the dormitory, place there their bedding, descend to the kitchen to breakfast, return to make up their beds and then proceed to work for the day. None can sit down to or quit the table before the bell rings. After the evening meal all can repair to the dormitory, but they must make no noise or cause any trouble. Lights are extinguished at nine o'clock. The administration supplies each inmate with a full suit of clothes, or "trousseau," and he is held responsible for its due care, less ordinary wear and tear. The clothing is periodically inspected by an official, but after two months' regular residence in the establishment it becomes either wholly or in part the property of the wearer. Those who desire to leave before being secured a place must inform the director four days in advance. As all inmates are sent from Paris by rail at the expense of the municipality the latter will not pay the return fare for the discontented who leave, but it pays the traveling expenses of those to the place where employment has been provided for them. Every Sunday half a franc is handed to the inmates out of their accumulated earnings to buy tobacco or letter paper. If ever they require a larger advance they must state the reason why and the nature of such a demand, and if deemed reasonable a "bon," or order, for such on a tradesman will be given, so their savings can never be wasted on drink. A new arrival will be allowed the usual weekly pocket-money to cover thirteen Sundays. Every month the inmates are invited to come and note the surplus of their earnings and to attest same by their signature.

Discipline has to be stringently but not harshly maintained. Warnings privately or in public, fines, refusing Sunday outings, withholding pocket-money or dismissal—such are the penalties inflicted upon the inmates. The fines form a fund to reward meritorious workers. Immediate dismissal can follow disrespect or disobedience to those in authority, drunkenness, refusal to work or misconduct outside the establishment. The cost of food is nearly to within a fraction of one franc for the year's average per day. The farm raises and supplies nearly the half of the food necessaries. Between June and October—the farm work being more severe—the men receive a more liberal diet. The average ration of bread per day thirty ounces. A little cider or wine is given. The estimated cost per day per inmate for heating, lighting, laundry, repairing, bedding and cooking—in a word, the material usage—is 27 centimes, a fraction over a quarter of a franc. The health of the men is good; the total on the sick list was equivalent to one person ill during 243 out of the 365 days. Two facts La Chamelle has to combat — the tendency after a residence of four months of the inmates to retire; next to squander their savings in dissipation. They are paid regular wages. So long as they are subject to discipline, kept well in hand, all goes well, but with the resumption of liberty and the temptations to return to Paris, where they generally arrive, the result is to fall again into their old misery. Four men have been in the establishment for over one year—during 1896. Now, these are paid the usual rate of farm hand's wages. When neighboring cultivators are temporarily pressed with labor inmates of the La Chamelle establishment, as a reward, are allowed to work out, but they must lodge all money so earned to their frugalities already banked for them. The municipality is disappointed, but not discouraged, at the difficulty in inducing the men to remain permanently in situations which the institution procures for them. Those who have the courage to resist the temptation of a resumption of a vagabond life are ever grateful and comfortable. But the irresolute are so hurried to quit the berths found for them as to decamp without even claiming the wages due to them.

The farm is well cultivated, and equal in money returns to holdings in the neighborhood. Of the total area under cultivation—265 acres—145 are cropped with cereals, 25 are under potatoes, beets, carrots, etc, 51 are devoted to fodder crops, 4 form the kitchen garden and the remainder is pasture. The total agricultural outputs amounted in money to 27,400 francs in 1896. The milk sold at half a franc per gallon and the butter at a fraction over one franc per pound. The rent of the farm is 2,500 francs per annum, and the taxes, insurance, etc., amount to 2,200 francs. The salary of the director is 4,000 francs, and the salaries for the other paid officials absorb 11,900 francs, materials, which include food, clothing, etc., 12,000 francs, and farm expenses, as cattle feed, seeds, fertilizers, etc, 9,800 francs. The government has accorded 50,000 francs to enlarge the establishment, that sum being an allowance out of the taxes levied on the race course bettings. But the ordinary annual deficit is met by the municipal council That deficit in 1896 was 15,900 francs, incurred to reform, say, 100 indigents at an out-of-pocket cash expenditure of 159 francs per head

Room for the Discarded.

The announcement is very generally made by the Methodist conferences that they have far more young men on hand for the ministry than can be found missions. The young gentlemen who are crowded out of the sky pilot business have always one grand opening. Ontario has millions of acres ready to furnish homes of comfort and manly independence.

Street Paving and Material for Roadways.

The City Engineer of Hamilton, Ontario, in his last annual report states as follows respecting paving in that city during 1897 :

The paving with Trinidad Asphalt on a six inch bed of concrete on York street, between James and Mac Nab streets, and on Mac Nab street from King to Merrick street was one of the most important street improvements effected this year. The cost per squarge yard for the former being $2.15, and for the latter $2.08. The price per square yard for similar paving on James and King streets was $2.59.

The gutters were made of concrete, it being observed that the asphalte was most liable to decay next to the curb.

The paving of the above above streets, which form part of the market square, with asphalt, was a much needed improvement as the old worn out cedar block pavement was in a very bad state, and very unsuitable for a market where so many people and horses are congregated. The asphalt paving on King and James streets has only two slight cracks, although it has now been down nearly three years. That part of it between Stuart and Barton streets has not stood very well, large holes appearing which were repaired by the contractors this spring.

The materials chiefly employed in the construction of roads in the cities of Canada and the United States are asphalt, vitrified brick, granite, cedar block, macadam or broken stone, and, as in our city, broken stone mixed with tar. The two former are gaining in popularity, as is clearly shown by the additions which are yearly being made to them, while the reverse is the case with the block paving and granite pavements. The vitrified brick has passed the experimental stage, and the ease with which it can be repaired makes it a close competetor of the asphalt pavement. One of the objections urged against it is the noise it occasions, but it is said that by introducing strips of paving pitch at the curbs and at the centre of the streets and also across the street at intervals of fifty feet, this noise is very much deadened.

I would much like to be allowed to lay a brick or vitrified brick on a concrete foundation.

In the seleetion of a pavement or a material for forming a road too much weight should not be given to first cost. The expense of maintenance and repair, its smoothness and cleanliness should all receive due consideration. Unfortunately we have no exact minute information in Canada as to the cost of repairing and cleaning the different classes of pavement.

I think the traffic is becoming too much concentrated on the asphalt paved streets —James and King—and it would be advisable to have some of the streets close to them and parallel with them made of some material such a brick, or tar macadam, which, by affording superior tractive qualities, would tend to relieve these asphalt streets by diverting the traffic.

It was recommended by the municipal convention lately held at Nashville, Tenn., that the sureties for long period contracts of large amount should be guarantee companies of well-known reputation.

COST OF PAVEMENTS.

The following may be taken as an approximate cost of constructing the different classes of pavements in this city. In Toronto the prices are reported as being very much the same.

	SQ. YARD
Asphalt on 6-inch concrete foundation ..	$2 10
Brick " " " " ...	1 65
Tar asphalt on 6-inch stone foundation ..	1 25
Macadam " " " " ..	50

Estimating stone curbing, laid in concrete, at 50 cents per lineal foot, the cost of an average block 360 feet wide would be as follows :

Asphalt on concrete	$3,720
Brick " "	3,000
Tar asphalt on stone foundation	2,360
Macadam " " "	1,160

The actual cost of brick pavements laid down by the city in place of the cedar block pavement is estimated as follows:

	SQ. YARD
Removing old blocks	$0 03
Excavating bottom foundation	0 03
Concrete (material)	0 33
Concrete (mixing and laying).....	0 10
Unloading and teaming brick	0 06
Cost of brick.....	0 90
Laying brick	0 10
Grouting and sundries.....	0 10
	$1 65

Portland cost $2.08 per 350 pounds ; sand, 45 cents per yard ; broken stone, $3.25 per cord. The cost of cement sidewalks, exclusive of stone curbing, is estimated at 14 cents per square foot.

Relative Merits of Brick and Cement Sidewalks.

In regard to cost, a good brick sidewalk can be laid for from one-third to one-half the cost of a good cement walk. Though the cement walk is practically indistructible, on the ordinary residence street, or even business street, in a small town, a brick pavement can be renewed as often as necessary on the interest of the excess in cost of the cement walk. As to color, the brick walk is more satisfactory to most persons. With a light rain, the bricks absorb the moisture, while on the cement walk a slight film of water forms, making it more likely to wet the dresses and thin shoes of ladies. On the other hand, well-laid cement walk is in place for an indefinite period. If not too white it forms a pleasing contrast to grass, trees and pavement ; if laid with sufficient slope, pools of water do not form on it ; there is no unequal settlement, nor are there loose bricks to make the walk uneven or perhaps dangerous. A cement walk is perhaps more frequently slippery in winter, but the surface is uniform, so that falls are not so frequent. Some consider the effect of cement walks upon trees to be injurious. Careful observation leads to the conclusion that the injury, when there is any, is done by careless treatment of the roots of trees in preparing the ground for the pavement, and that the subsequent effect of the pavement upon the trees is appreciable.

Sidewalk brick may be had from makers of street-paving brick, many of whom make special forms of such brick for sidewalks. Every kiln of first-class building brick has a certain proportion of bricks which are burned hard enough to answer for ordinary brick pavements at less cost than the shale bricks, and with the saving of freight in most cases. Walks with large foot traffic should, however, have the harder paving brick.

Dangerous Municipal Drains Along Highways.

A drainage case which has excited a good deal of heated feeling between the townships concerned was heard by the Drainage Referee, Thos. Hodgins, Esq., at Sarnia recently. The case was an appeal filed by the Township of Euphemia, against the Township of Brooke, from the report, plans, etc., prepared by the Township of Brooke for the construction of a drain, on the townline between the townships of Brooke and Euphemia, and thence south through the township of Euphemia along the highway between the 2nd and 3rd concessions into Martin's creek.

Euphemia objected on the ground of the increased danger to the public which would be caused by the construction of the proposed drain, and also on the ground of its own liability as a township should accident occur. The referee sustained Euphemia's contention and set aside the scheme on the above amongst other grounds.

In giving judgment His Honor, in very emphatic terms laid it down that it was the first duty of a municipality to keep its highways as far as practicable free from danger to the travelling public ; that the right of the public to have the highway maintained in a safe condition was paramount to the right of a section of the community to use the highway for drainage purposes ; and that where the result of the construction of drainage works on the highway would be to create thereon a danger to travel and a probable source of danger to the municipality the drainage scheme should be condemned.

A New Jersey township board of health granted permission to a company to kill horses for food, but not to be used in this country. The question is asked whether the said board can guarantee that some of it will not be reshipped to America as "prime mess beef."

LEGAL DEPARTMENT.

JAMES MORRISON GLENN, LL. B.,
of Osgoode Hall, Barrister-at-Law,
Editor.

HIGHWAYS.

Repair—Trees and Overhanging Objects.

It is now well settled that the duty of a municipality to excerise reasonable care to keep highways in a safe condition for public travel extends to dangers overhead as well as those that relate to the way itself. In Embler vs Walkill 57 Hun., 348 a decision of the Supreme Court of the state of New York the plaintiff was pushed off a load of hay by a branch of a tree which obstructed travel and he was allowed recovery. In this case the tree in question stood upon the side of the highway, and its branches hung over the travelled portion of the road so low as to leave a space insufficient for the passage of a load of hay, and that condition had existed for more than ten years, and the learned judge who delivered the judgment of the court said: "Those facts presented a case of inexcusable negligence, and there is no principle which will exonorate the town from the liability therefrom."

Ferguson vs. Southwold, 27 O. R., 66, a case in our own courts, is precisely the same as the American case in its facts. There a branch of a tree growing by the side of a highway, to the knowledge of the defendants, extended over the line of travel at the height of about 11 feet. The plaintiff, in endeavoring to pass under the branch on the top of a load of hay was pushed off by it and injured. At page 70 Mr. Justice Ferguson, in delivering his judgment, says: "I am of opinion that the learned Chief Justice was quite right when in his charge he said that he was bound to tell the jury that want of repair may exist not only with regard to the surface of the highway, but with regard to something above the highway, because, although the surface of the highway may be in perfectly good repair, yet if something exists or is allowed to remain above the highway interfering with its ordinary and reasonable use this would constitute want of repair and a breach of duty on the part of the municipality." In both of these cases the trees stood in the highway, but the liability of municipalities caused by overhead obstructions is not confined to the case of trees on the highway, but extends to trees off the highway. This principle of law is discussed in 1 Hawkins, P. C., page 701. It is there said that it is a nuisance at common law, "To suffer the boughs of trees growing near the highway to hang over the road, in such a manner as thereby to incommode the passage." And there are other authorities which show that overhanging trees, ruinous houses, or anything projecting over the highway so as to be dangerous and cause immienent peril, is such negligence as amounts to a nuisance and renders the corporation liable to indictment. In a case in our own courts, Gilchrist vs the township of Carden, 26 U. C. C. P., page 1, this principle was discussed and applied. In that case the servants of the township, in getting material on land adjoining the road for its repair, felled a tree which in falling lodged against another tree near the road, and being left there afterwards fell and killed the plaintiff's wife while passing along the road and the jury awarded the plaintiff the handsome sum of $100 damages. The verdict was moved against, but the court held that the township was liable. At page 7 Hagarty J. says "I think on the evidence before us, the defendant would not be liable for the accident unless the fact of the tree being left in its dangerous state was by the act of their pathmaster." But it is not to be understood from this language that there could be no liability in a case of this kind unless the municipality itself, through its officers or servants, caused the danger. All that the judge meant was, that according to the evidence in the case the township would not have been liable if its own officer had not directed the tree to be cut and left it lodged in another tree. The learned judge attached some importance to section 441 of the Municipal Act which empowers the council to pass a by-law directing that the trees shall for a space of twenty-five feet on each side of the highway be cut and removed by the proprietor or on his default, by the overseer of highways, etc. He said at page 7, "This is apparently a recognition of the duty to preserve the highway from danger from falling trees." Section 441 now appears in sub-section 3 of section 658 of the Municipal Act, R. S. O., 1897, under the heading, "Trees obstructing highways." This heading bears out what the learned judge says in regard to the object of the Legislation in making this provision. But while municipalities are required to take this precaution which we have pointed out in regard to trees on the highway they must also take care to act reasonably. The Legislature passed an act known as "The Ontario Tree Planting Act," to encourage the planting of certain kinds of trees along the highways for the purposes of ornament and shade. Under this Act the owner of lands adjoining the highway has a special property in not only trees which have been planted but also in trees of natural growth. When it is found that the branches of such trees are so low as to interfere with public travel the council ought not to direct the tree to be cut down as has in some cases been done without the consent of the adjoining landowner or even notice to him. In most, if not all of these cases a little trimming will remove the danger and enable the tree to be spared. After the verdict in the case of Ferguson vs. Southwold above referred to, the council of the township or one of its officers directed a couple of fine maple trees standing on the side of the highway to be cut down instead of directing some low branches which were so low as to interfere with travel to be cut, and the land owner, in an action against the township, recovered $60 and costs. Another case of this kind is Douglas vs. Fox, 31, U. C., C. 9, 140 The head note of this case is as follows: "Held that the owner of land adjoining a highway has, under R. S. O., chapter 187 such a special property in the shade and ornamental trees growing on such highway opposite to his land as to entitle him to maintain an action against a wrong-doer to recover damages for the cutting down or destroying of such trees, and he is not restricted to the penalty given by section 5. Held, also, that the act refers to trees of natural growth as well as those planted. In this case the damage consisted in the cutting down of some ten or twelve of the trees for which the plaintiff was awarded $150. Held not excessive."

It is the duty of municipal councils to see that poles are not so placed in the highway as to be likely to cause injury to persons using the highway. If they do so and they occasion injury the municipality will be liable in damages, and if the poles have been so placed under the superintendence or direction of the municipality it will not have a remedy over against the company for whose benefit the poles have been placed on the highway. In a recent case, Atkinson vs. the City of Chatham, tried before Ferguson, J., we find the following report: "The learned judge finds that the street was out of repair by reason of a certain pole or post planted in it, and that the corporation had notice and knowledge of it, and that it was the cause of the upsetting of the sleigh. The municipality claimed relief over against the Bell Telephone Company who had placed the pole where it was, but the learned judge held they were not entitled to such indemnity because the pole was planted under the superintendence and with the sanction of the corporation." We intended some time ago to warn municipal councils of the necessity of seeing that farmers should not be allowed to erect milk stands on the highways. They have no right to do so, nor have municipal councils any power to grant any such right to farmers.

Recently a certain township was mulcted in $3,000 damages and costs in two actions brought against it in which the cause of the accident was a milk stand on the highway, and we understand that some councils have already, in consequence of the result of these cases, directed the removal of milk-stands from the highways.

Enthusiastic Chicago Man—In a few weeks we'll be able to show you the moon just exactly as it looks, at the Field museum!

Envious New Yorker—Are you going to annex the moon, too?

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 attention will be answered free by post, on receipt of a stamped addressed envelope. All questions answered will be published, unless $1 is enclosed with request for private reply.

Member of Council—Appointment as Clerk.

309.—R. A. P.—The clerk of our township died about two weeks ago. The reeve and one of the councilmen are applicants for the vacant position.

1. Must each of these members of council hand in their resignations to council before they can be appointed to the clerkship, or can one of them be appointed to the office and resign afterwards?

2. How long may office of reeve or councilman remain vacant?

3. Can clerk be legally appointed from one meeting until the next until the end of the year?

1. If a member of a council desires to apply for the position of clerk he should resign his seat in the council first. See section 210, chapter 223, R. S. O., 1897. Section 80 di-qualifies a clerk from being a member of the council, and section 282 requires every council to appoint a clerk. Reading these sections together we are of the opinion that the councillor who wants the office should resign, and then apply for the vacant position. Appointments of this kind are generally decided by the council before the resignation is accepted, and the by-law is passed afterwards.

2. See section 212, Municipal Act, which provides for holding an election forthwith to fill vacancies, except in the special case provided for by section 216.

3. Yes.

Telegraph Wires and Shade Trees—County Bridges and Sidewalks.

310.—N. M.—1. Has a municipality authority to compel telegraph and other companies to keep their wires clear from interfering with shade trees and prevent said companies from cutting limbs off such trees that grow above their wires?

2. The county built two iron bridges within our corporation and extended the needle beams on each side of the bridge for a sidewalk, and the corporation request the County Council to put a sidewalk on a bridge that is on the main street, which request was refused, and the village corporation built the said walk. That was three years ago. Now the County Council is building a sidewalk on the second bridge. Can the village corporation compel the County Council to reimburse what the said sidewalk cost and paid by the village corporation?

1. Chapter 192, R. S. O., 1897, and chapter 132, R. S. O., 1886, authorize telegraph companies to construct their lines along public highways, but we cannot find that the right to cut shade trees has been given to such companies. In regard to the Bell Telephone Company it is expressly prohibited from cutting down or mutila'ing any tree. See cap. 67, Statutes of Canada, 43 Vic., and cap. 71, Ontario Statutes, 45 Vic. You do not state whether the trees are growing upon the highway or upon private lands. Different questions may possibly arise according to whether the trees are or are not upon the highway, but we are inclined to think that companies receiving authority to erect poles and string wires along the highways must do so without mutilating or injuring trees unless their act of incorporation expressly confers that power upon them.

2. No.

Water Works Petition—Who Should Sign.

311.—J. S. B.—A petition, signed by 100 ratepayers, has been presented to the council of the village of Stirling, asking for the construction of water works by the village under powers conferred on municipal corporations, but half the signers are tenants, who, upon a vote being taken, have no voice in the matter. As my council think it should come from those directly interested, viz., freeholders, I am instructed to ask you if tenants have the power by petition to put the village to the expense of submitting a by-law, or must the petition be signed by 100 freeholders? The act says they must be qualified electors, and it strikes us that this refers to those who are qualified to vote on the by-law.

Under section 51 of the Municipal Waterworks Act, cap. 235, R. S. O., 1897, the petition must be signed by 100 qualified electors, in the case of a village. Sub-section 8 declares that the persons having a right to vote shall be the same as those who have the right to vote in the case of by-laws creating debts. Those who have the right to vote on such by-laws are defined in sections 353 and 354 of the Municipal Act, cap. 223, R. S. O., 1897. A voter who cannot bring himself within either of these two sections is not a qualified elector to be a petitioner, but there is this difficulty, when the time for voting arrives the question whether a person has the right to vote can be easily determined because it can then be ascertained whether his term (where he is a leaseholder) is to endure as long as the time within which the debt is to run, but at the time the petition is signed this is not known and we would advise you to regard every person as a qualified elector whose lease will run for at least the whole of 1899, provided such person is otherwise qualified within the meaning of section 354.

Pavements—Frontage Tax—Councillor—High School Trustee—Cellar Drain Outfit.

312.—J. L. E.—1. In case of a town laying granolithic pavement on the frontage tax system, and by petition from the ratepayers. A petition is presented for a walk in front of a certain block, in which Mr. Jones owns lot No. 1, Mr. Brown owns lot No. 2, and the first-named Mr. Jones owns lots No. 3 and 4. Mr. Brown signs the petition once and Mr. Jones signs three times. Is that a sufficient two-thirds majority of signatures for the council to act upon, Jones' property being of sufficient value under the statute?

2. A member of the town council wishes to be appointed high school trustee, a vacancy having occurred by the death of council's appointee. Must the resignation of the said councillor be actually accepted previous to his being appointed by the council?

3. A digs a drain from his cellar to the street and along the street until it comes to the surface. Can A be compelled to take the drain any further, or must the council then take the water along the street to the river or other outlet?

1. No.

2. Yes.

3. A has no right to dig a drain along the street and the council may stop it up. The council is not bound to carry the water to a proper outlet but if the water causes damage to any person the municipality may render itself liable by allowing this drain along the highway to exist.

Bicycle Traffic By-Laws.

313.—J. K. C.—According to section 540, sub-section 7, R. S. O. 97, by-laws can be passed by councils of cities having 100,000 inhabitants or more for regulating and governing, but not licensing persons using bicycles or other vehicles not drawn by horses. The view taken by Berlin's solicitor and others is that only places of 100,000 or more can compel bicyclists to carry lanterns. That Galt, in passing a lantern by-law, was exceeding her powers re this matter.

1. What is your opinion as to the legality?

2. Can the by-law be enforced?

3. How many places in Canada make carrying of lighted lanterns a necessity?

4. Do bicyclists and citizens generally object to the lantern, and why?

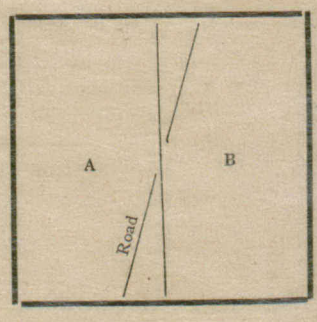
5. What are the advantages or disadvantages of lighted lanterns in well-lighted towns? The bicyclists here consider them a nuisance, and petitioned council to cancel clause, and threaten to appeal if fined.

1. We are of the same opinion as the Berlin solicitor, that councils have no power in cities of less than 100,000 inhabitants to pass such a by-law.

2. Such a by-law cannot be enforced. It may be quashed and a conviction on the strength of it would no doubt be quashed if a person were fined and he applied to the courts to have it quashed.

Fences—Change in Road.

314.—ALGOMA CLERK—Our council passed a by-law in December, 1897, changing a road which ran partly on one lot and partly on another, as per plan, placing the road on the line between the two lots. After the passing of the by-law the owners of the lots were notified to move their fences to a proper distance from said line, so that the road might be graded. One of the owners refuses to move his fence, and threatens to sue the council for trespass if they attempt to move it. Kindly let us know what are now the steps to be taken to have said fence moved. Five per cent. of land in Algoma is reserved by the Crown for roads.



We cannot express any opinion as to whether the by-law is legal or not because we have not seen it nor do we know whether the preliminary steps provided by law leading up to the passing of it were taken. If the by law is valid the land set apart by it is a public highway and if any person refuses to move his fence off it the council may direct the pathmaster to do so.

Sale of Minerals on Township Boundary Line.

315.—CLERK—1. There is a dispute of over $200 between the treasurer and collector. The collector appointed the clerk to take taxes. On the 15th of December the clerk paid the collector nearly $300 of taxes collected, of which amount $200 was in school orders and township orders, which the collector paid over to the treasurer with other taxes collected by himself. The treasurer gave him a receipt, which the collector took, thinking it was all right. In comparing his roll and payments a few days later he found there was over $200 for which the treasurer failed to give him credit, that being the orders as paid by the clerk to the collector. The treasurer maintains that he gave him credit for all the collector paid him. The collector, by his solicitor, served a notice on the council that the collector would claim the said sum of over $200 as money paid to the treasurer. What steps will the council have to take in the matter?

2. In 1897 the council of Marmora sold the minerals on the Marmora portion of the boundary line between Belmont and Marmora across three lots (it being also the boundary lines between the counties of Peterboro and Hastings) without consulting or notifying the council of Belmont. At the session of the Belmont Council on the 11th of June application was made to the council to purchase the minerals on the Belmont portion of said boundary across two of the lots as sold by the council of Marmora. The council of Belmont intend on the 15th of July to pass a by-law to sell minerals on the above lots.

(*a*) Have the counties any claim on said boundaries, the counties never having assumed them by by-law?

(*b*) Was it legal for the council of Marmora to sell the minerals without consulting or notifying the council of Belmont?

(*c*) Would the by-law to be passed by the council of Belmont on the 15th of July be legal?

(*d*) Or would there have to be joint action and sale?

1. The difficulty which has arisen is one between the collector and the treasurer. If the treasurer can prove that he has paid the amount of money in dispute the treasurer must account to the municipality. All that the council can do at present is to notify both the collector and the treasurer that they must settle the matter between them. If they do not do so the council will then have to determine which one to proceed against. The collector appears to have got the money and the onus rests with him to show that he has paid it over to the treasurer and if the treasurer denies that he ever received it the collector must fail or at all events ought to fail unless he has some evidence to corroborate his contention sufficiently to turn the scale against the treasurer.

2. (*a*) No.
(*b*) No.
(*c*) No.
(*d*) Yes.

Township Drains in New Village Corporations.

316.—GRAND VALLEY—Before we were incorporated as a village on 1st January last we formed part of a township against which there is yearly assessments under drain by-laws for the benefits derived to the roads by said drains within three or four miles of the village, and we derive no benefits from the drains.

1. Are we still liable for assessments made against the township under the by-laws until the debentures run out?

2. What is the law governing such a case?

1. Yes.

2. See sections 13, 32 and 57 of the Municipal Act, R. S. O., 1897.

Councillor's License to Sell Cigars.

317.—J. B. B.—We have a by-law charging a license fee for selling cigars and cigarettes. Would it be legal for a councillor to take out such license?

We do not think it is illegal, but it is improper. A member of the council should not place himself in such a position that his own personal interests may clash with his duties toward the public.

Arrears of Taxes—Collection—New Tenant.

318.—W. G.—In 1893 A was assessed for east half lot 3, concession 2, township. After the assessor went around A moved to Manitoba, leaving nothing on the land to pay the taxes, which were returned to the county treasurer unpaid. In 1897 the land became liable to be sold for arrears of taxes; the said lot was returned to the clerk by the assessor as occupied by A, he having returned. The county treasurer furnished a list of arrears and interest to be placed on the collector's roll against said land, which was done. The collector, when going around, found B on the said lot as tenant and collected arrears from him Now B has applied to the council for a refund of the arrears or he will take action against them.

1. Can B compel the council to return the arrears?

2. Who could B take action against, collector or corporation?

3. Can the arrears be placed on the collector's roll this year and be collected from A, he now residing on the property, or how can they be collected?

4. If the council should return said arrears to B can they hold the collector for the amount, he having returned his roll and received his salary, but bond still in the corporation?

1. If B can show that he paid the taxes under protest to prevent a seizure of his goods and that he was not liable to pay the taxes he can recover them back.

2. The collector having paid the taxes over to the corporation the action would be properly brought against the corporation.

3. No.

4. We do not think so. The council should leave B to bring his action and if he succeed let the corporation sue A under section 142. As A is the party who ought to have paid the taxes it would be wise for him to pay B and save trouble and expense.

Councillor or Bondsman—Change in Town Hall Site.

See No. 343.

319.—SUBSCRIBER—1. Can a member of municipal council lawfully act as bondsman for a collector of rates and taxes, both holding respective offices in the municipality?

2. Can a municipal council, in case of loss of town hall by fire, exchange old site for a new one in the same village without submitting by-law to the ratepayers, providing that there is no addtional expense incurred in procuring said new site?

3. Can the council rebuild on the same site without so submitting by-law?

1. Such a contract if not contrary to the strict letter of the law is certainly contrary to the spirit of the Municipal Act. It has been held that a surety to the corporation is disqualified from being elected a member of the council. See sections 80 and 83 of the Municipal Act, cap. 223, R. S. O., 1897.

2. Yes. See sub-section 1 of section 534 of the Municipal Act.

3. Yes, but if money has to be borrowed for building a new hall you must observe section 389.

Assessment House on Road Allowance—Poll or Statute Labor Tax.

320.—W. D. M.—1. I have the names of two parties on my assessment roll who live in a house on the road allowance. They are assessed as M. F. In putting them on the Voters' List how am I to designate their residence, as they do not reside on any township lot?

2. Should the assessor have assessed the house for its value on the roll?

3. In calling out men over 21 and under 60 years not on the township assessment roll for statute labor is the pathmaster justified by law to accept a certificate from another pathmaster that he has performed his work in another beat from the one he lives in?

1. All that you need do is to state the polling division in which they are entitled to vote under the circumstances.

2. Yes.

3. There does not appear to be any provision for the production of a certificate in a case of this kind, but we think that the pathmaster should accept it as evidence of the fact unless he has reason to suspect that it is not *bona fide*.

Cellar Drains to Street Ditch—Duty of Council—Sewers.

321.—W. F.—1. Can the property owners in a town drain their cellars into the street ditch and leave the water there to soak away?

2. Can the council compel them to carry it in a properly covered drain or sewer to a proper outlet?

3. If not, should the sewer be put down on the frontage tax system or paid out of the general funds of the corporation? On some of our streets there are sewers that were paid for by frontage tax, and it seems unfair to call upon these people to help pay for the sewers of the rest of the town.

1. No.

2. No, but the council can prevent them from casting water upon the highways to their injury or so as to cause a nuisance. The parties will then have to find some means for conducting water from their cellars to a proper outlet.

3. Those parties who have paid for their own sewers on the frontage plan cannot be called upon to contribute towards the cost of other sewers. If further sewers are required and it is proposed to have the work done under the frontage system it must be done under some of provisions contained in sections 668 and 669. See also section 680.

Statute Labor Lists—Date of Delivery.

322.—X. L.—1. By-law passed by council in May appointing pathmasters. Clerk notified

them, made out their respective lists and delivered them in June before court of revision was held (which was on 15th of June) work to be done between 15th of June and 15th of August, and lists to be returned not later than 20th of August. Reeve maintained that lists should not be made out and delivered until after court of revision sat. Was he right in his contention, seeing that the court might adjourn for ten days and that it might be closed by the last of June?

2. Is there a date set by statute for delivering of lists to pathmasters? Lists were always delivered in May or June in the municipality heretofore. No by-law to the contrary.

1. Until the roll is finally revised the number of days statute labor cannot be determined and therefore the lists ought not to be delivered until that time. But as only those cases in which notice of appeal has been given to the Court of Revision can be dealt with by the court, no difficulty can arise in the statute labor divisions in which there are no appeals by reason of the clerk having delivered the lists before the court closed.

2. We are not aware that the statute fixes any date for delivery of the lists.

Length of County Bridges.

323.—J. J.—Does the law require councils to build bridges not less than 16 feet in width, or would a bridge say 50 feet in length over a stream on an ordinary public road, having a width of 12 feet in the clear, fill the requirements of the law?

Municipalities other than counties are required to construct and maintain all bridges which may be required, whether large or small, to keep the public roads in a reasonably safe condition for public travel. The law makes no provision whatever in such cases for the sizes of bridges. Section 617 of the Municipal Act, chapter 223, R. S. O., 1897, requires the county to maintain bridges over rivers, streams, etc., in certain cases and under this section it is the duty of county to maintain all necessary bridges as distinguished from mere culverts.

When is a Road a Highway?

324.—B. I. M.—A bought a farm from B, which had a road on one side of it, which B, who run a saw-mill, opened for his own use. He also built a bridge on the road, which he kept in repair. The public used the road, while B owned it, as it was convenient to do so, for the public road had not been opened by the council. After A bought the farm he asked council to repair the bridge, as it was dangerous to travel over. The council refused to have anything to do with the road or bridge, saying they were going to open the public road, which they did. They also claim that they are not liable for any accidents which take place on said bridge. It can be proved that some of the pathmasters had allowed B to do part of his road work on the bridge, but without the council's consent. A wants to know:

1. Can he compel the council to keep up the road and bridge?
2. If not, can A close the road?
3. If so, what steps will he take to do so?
4. If any accidents happen on the bridge is A or council liable for damages, there being no notice up that it is a private road?

It is a principle of law that "once a highway always a highway," but from the information which you give we cannot express any positive opinion as to whether it has become a public highway or not. We ought to have a plan showing the position of the road and also of the public road, also the length of time the road in question was used and such other information as will enable us to say whether it has become a public highway or not. We may say, however, that we are inclined to think that it is not a public highway. It appears to have been used either for B's own private use or temporarily, the public road not having been opened for some reason, and if it is not a highway we have to answer the questions as follows:

1. No.
2. Yes.
3. Put a gate at the end of it.
4. No, but it would be well for the council to put a warning up that it is not a public road and that the municipality will not be liable for any damages.

Collector—No Property—When to Return Uncollectable.

325.—A. S. L.—There are taxes due on property for 1895, 1896 and 1897. The collector every year saw the ratepayer, and he always promised to pay said tax, but failed to do it. Part of the arrears were due from his brother, whom he bought out, agreeing to pay said tax. The ratepayer lived on the property in 1895 and part of 1896, when he moved away and let it out on shares, but now he claims it is rented for the year 1898. Ratepayer has now no property on the place. The property is mortgaged and the deed is in the wife's name, so far as I can learn, yet when the assessor was assessing he told him he was the owner. The ratepayer lives in next township about five miles distant. Can collector seize his property where he resides? If property is not rented but worked on shares, can collector seize his share of crop? Some say the collector can seize the crop on the land assessed, is this a fact or not? Can we return the property to County?

The collector ought to have made the taxes each year or if he could find no distress out of which to make them he should have made a return according to the facts. A statement of such unpaid taxes should then be made to the county treasurer under section 157 of the Assessment Act and the proceedings provided by section 152 and following sections would or could be taken. After the collector returned his roll he would have no right to distrain for taxes. You do not state whether he has any of the rolls still in his possession unreturned. If he has returned them all he cannot distrain. If he has last years roll still in his hands he can distrain for taxes unpaid on that roll under the circumstances stated in section 135. If you will examine that section you will find that the goods of the person actually assessed can be seized anywhere in the county. Also the interest of the person assessed in any goods on the premises, and also the goods of the owner of the lands on the premises whether the owner is assessed or not.

Drainage Court of Revision—Number Interested.

326.—Y. M. C.—1. Explain the meaning of the words "directly or indirectly interested" in section 27 of the Drainage Act 1894.

2. A is a member of a court of revision on a drainage works and is also a ratepayer on the same drain. B, another ratepayer on same drain enters an appeal against A, C, D, E & F. Now while B is giving his evidence against A's lands, should A have the chair? If so, has he a right to take the chair while B is giving evidence against C, D, E & F. The municipality has roads interested in the drainage works?

1. The intention of the Legislature was to preclude any person from acting as a member of the Court of Revision where he was directly or indirectly interested. If a person is assessed himself for the cost of the drainage work we think that he is indirectly interested in other lands assessed and, therefore, that he is incompetent to sit on an appeal in respect of such other lands because although he may not be directly interested he is indirectly interested. If the other assessments are cut down the deficiency must be made up by an increased assessment upon the remaining lands, and under those circumstances such a member of the court would not be expected to deal as fairly with the appeals as if he were not in any way interested in the result. A mortgagee of lands assessed would be indirectly interested and would be incompetent to act as a member of this court, and other illustrations of indirect interest might be furnished.

2. We do not think that A is entitled to sit as a member of this court in this case at all unless there is an appeal against the assessment in respect of roads or lands under the jurisdiction of the council and then only in regard to such assessment.

Who Supplies Statutes—Nominations.

327.—J. C. G.—1. Are village clerks or all municipal clerks entitled to a copy of the Ontario Statutes, and by whom supplied? Or do they have to buy them?

2. At nomination meeting is it necessary that the mover and seconder be present? Or can they send their nomination to the returning-officer without their personal appearance?

3. Should a nomination as below be accepted, all written by the same person and no signature at the bottom? Moved by Mr. ———, seconded by Mr. ———, that Mr. ——— be a councillor or reeve.

1. The Revised Statutes, 1897, were supplied direct by the Queen's printer to each clerk. The Ontario Statutes have been sent to the clerk of the peace for each county, from whom municipal clerks should receive a copy.

2. The nominations should be made by persons present at the meeting.

3. No. See sub-section 1, section 128, Municipal Act, R. S. O., 1897.

Non-Resident's Notice of Ownership and Assessment—Sales for Taxes.

328.—W. G. H.—Re question 297 in July number, liability for taxes concerning C and D, C has and is in possession of the said lot and cut and sold timber off lot, and further stated and promised to the collector that he (C) would come good for the total taxes if the timber was let go and not sold. It has long been the habit, and with legal belief, that a supposed owner notified the clerk that he has purchased such and such a lot, that he as the purchaser wished to be assessed as owner or resident of the said lot, that the resident was and is compelled to place him as such resident.

1. Is this legal or not? Please state.

2. Can a resident lot be sold for arrears of taxes each and every year?

It is the duty of the assessor to make enquiries and assess property according to the best information he can obtain. C, if we understand the facts has been in possession all along and therefore ought to have been assessed. See section 21 of the Assessment Act, which says: "If the owner of the land is not resident within the municipality, but is resident within this province, then if the land is occupied it shall be assessed in the name of and against the occupant and owner." The assessor is not compelled in every case to assess a man as owner because such owner has requested him to do so. If the land is unoccupied and the owner does not reside in the municipality, he must assess the land as non-resident unless the owner has given notice in the form and within the time mentioned in section 3 of the Assessment Act. As this land was occupied by C he ought to have been assessed even if D as a matter of fact owned the land. If the assessment had been made properly there would have been no difficulty. Why did the collector not distrain for the taxes each year? If there was no distress, was a statement of arrears returned in each year as required by section 157 of the Assessment Act? If this was done it would then be the duty of the county treasurer to furnish the clerk of the municipality with a list of the lands in arrears, was this done. If you will look at section 152 you will see that there is provisions for placing the three years arrears on the roll again. After this collectors roll is returned and statement furnished to the county treasurer, the collection of arrears belongs to the county treasurer alone, except when the three years arrears are returned by him to the clerk and they are placed upon the roll again, the lands in the meantime having become occupied. If you will look at the section of the Assessment Act to which we have referred, you will see that you have not given us such facts as will enable us to express an oppinion as to whether you have complied with the Act at all or not. The assessment was not right but if the subsequent proceedings were all regular we do not think the mistake in the assessment would be fatal. Except through the county treasurer you cannot put arrears on the present years roll.

Land for Road—Owner—Cutting Weeds on Highway.

329.—H. M.—1. A has a piece of land fenced in for over ten years, that on the line being run belonged to B. A sells his lot to C and a council wishing to purchase a road, is in doubt who to pay. Can A having possession for over ten years sell said piece of land to C, or does it revert again to B when A ceases to be owner of the land adjoining?

2. Can a council by passing a by-law compel land owners to cut weeds on the highway without remuneration, or should they allow the time in statute labor?

1. If A has the piece of land in question enclosed and in possession of it for over ten years he acquired a title to it as against B and can sell it to C.

2. The council cannot compel land owners to cut weeds in the highway. The pathmasters are required to see that weeds on the highways are cut down and they may have the work performed as part of the ordinary statute labor or if not done in that way it is the duty of the treasurer of the municipality to pay a reasonable rate therefor, but it is a matter for the council to direct in which manner the weeds are to be kept down The council should pass a by-law for that purpose and we are of the opinion that the council may direct that the work shall be done partly by statute labor and partly to be paid for by the treasurer. See section 8, chapter 279, R. S. O. 1897.

Assessors and Courts of Revision.

330.—L. P.—Can an Assessor who has been notified to appear at Court of Revision collect a days' pay for same.

We do not think so. There is no provision in the statute making it his duty to attend the sittings of the court and he might have insisted upon being supœnaed and paid like any other witness, but having attended upon notice simply, we are of the opinion that he cannot collect anything. We believe it is the practice for the assessor's to attend and assist members of the court of revision, as he is more conversant with the roll, and for so doing is usually paid by the council.

Assessor's Pay—Equalizing Union School Sections.

331.—H. S. M.—1. When there has been nothing said as to paying the assessors for their services in equalizing the union school sections, how much pay per diem are they entitled to?

2. Should they be paid from the general township fund, or have the council power to collect from the different school sections that have been equalized?

In 1896 Robert Park, School Inspector, Chatham, received a letter from the Education Department in reference to the payment of assessors for the equalization of union school sections. This was published in the April number of that year, and reads as follows:

Robert Park, Esq., School Inspector, Chatham:

DEAR SIR,—I am directed by the Minister of Education to state, in reply to your letter of the 17th inst., that the work of the assessors becomes that of referees or arbitrators when engaged in equalizing the union school sections' proportions, and their payment should be from the funds of the union section.

Your obedient servant,
JOHN MILLAR,
Deputy Minister.

Toronto, February 20 1896.

Village to Maintain Boundary Roads—Road By-Laws Not Confirmed by County Council.

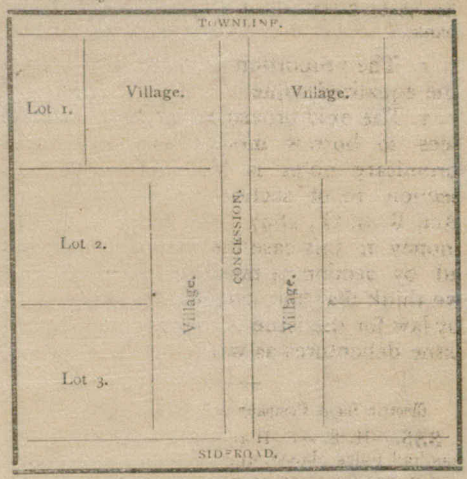
332.—TOWNSHIP CLERK.—An incorporated village is situated on both sides of a concession road, taking in the greater part of lot one on both concessions and ten acres on the front of lots two and three on both sides, which extends to a side road. On the concession road there are two culverts, one on each side of the side road.

1. Is the village liable for one-half of cost of building and maintaining said culverts?

2. Is the village liable for one-half cost of keeping side road in repair, as far as their lands extend?

3. A number of ratepayers petitioned the council to sell an unused side road and to open up another road in its place. The council passed by-laws and advertised, as required, but the county council did not ratify their by-laws within a year. Can the township council pass other by-laws on the original petition or would they require a new petition?

4. Can any of the parties signing the first petition withdraw their names from the petition at any time?



1. Yes. See section 622, Municipal Act, R. S. O., 1897.

2. Yes. See section 622, Municipal Act, R. S. O., 1897.

3. Yes. We are not aware of any provision requiring a petition. See section 658.

4. Yes, the petition not having been necessary in the first place.

Protestant and Colored Separate School Supporters' Assessment.

333.—J. B. P.—In addition to the question 303 in July number, please allow me to ask you the following: As a return was made since said question was written as required by said section 13 and the names of A and B referred to in said section are entered on said return as supporters of said protestant separate school, although their land is in said school section, but they are not residing on nor in the municipality or within three miles.

1. Is sub-section 2, section 2, chap. 294, R. S. O., applicable to Protestants as well as to colored people?

2. Shall the clerk not include said A and B or any non-residents although their name being in said return on the collector's roll for public school rates?

1. Yes.

2. The clerk is to be governed by section 14, but we do not understand why A and B were entered on the return, because section 3 applies to residents only, because it says, "No persons shall be a supporter of any separate school for colored people unless he resides within three miles in a direct line of the school-house for such separate school." And looking at the other sections we do not think that the lands of non-residents are intended to to be included in the case of other protestant schools; that is, those which are not colored separate schools.

Union School Section Debentures.

334.—A. C.—1. School debentures issued by a union school composed of an incorporated village and part of township running for a term of years is the proportion to be paid by township each year to be taken from the assessed value

as equalized every three years or on the equalization when the debentures were issued?

2. One of our school sections wishes to borrow from the township out of the school fund, and are issuing debentures which were printed at you office. Now these debentures purport to be issued by the municipality and will be made payable to the same. I cannot see any sense in issuing them. I think it would be better for the trustees to give their corporate notes for the amount required. The township has about $1800 school money invested and in bank.

1. The proportion is to be taken from the equalized value.

2. The only provisions authorizing trustees to borrow money and give their promisary notes is that given by subsection 10 of section 62 Public School Act, R. S. O., 1897. In order to borrow money in this case the formalities provided by section 74 must be observed, and we think that the council should pass a by-law for the issue of debentures and to issue debentures as well.

Electric Light Company's Franchise and Poles.

335.—H. F.—1. If an electric light company has had poles placed upon the streets of a town and in use for some years without objection on the part of town council, can the council now grant exclusive right to another company to place and use poles upon the streets terminating the right (if any) of the first company to the use of the streets for poles?

2. What is the utmost limit of control a town may exercise in reference to electric light company doing business in the town?

1. You do not state where or under what authority the company placed its poles in the streets. If you will look at section 3 of chapter 200, R. S. O., 1897, you will find authority for conducting light by any means along the streets, but subject to such agreement as shall be made between the company and the municipality. If there was no agreement the company must have placed its poles along the street without authority from the council and the municipality is not stopped merely because the council has not taken objection for a number of years to what the company has done from now denying its right to use the streets. We do not think, however, that the council has any right to grant an exclusive right to another company over the streets. Where poles are used to conduct light, such poles are subject to such regulations as the council of the municipalities may by by-law provide. See subsection 4 of section 559, chapter 223, R. S. O., 1897.

2. This question is too general to answer. If you desire to know whether the company can or cannot do a particular thing or not, particularize it and we shall endeavor to answer it. We may say, however, that unless the company has already secured certain rights from the municipality under an agreement, it appears, to be largely in the hands of the council by reason of section 3, of chapter 200, R. S. O., 1897.

Telegraph and Telephone Companies and Shade Trees.

336.—G. W. T.—What power have telegraph and telephone companies in the erection of their lines, to disfigure, cut down or entirely remove shade trees from sreets and private property? Upon looking up Municipal Act saw sections 570-1-2, chap. 223, R. S. O., 1897, referred to telephone companies but nothing is mentioned about telegraph companies.

Sub-section 4 of section 559, chapter 223, R. S. O., 1897, empowers councils to pass by-laws for regulating the erection and maintenance of electric light and telephone companies. Section 3 of chapter 132, R. S. O., empowers telegraph companies to construct their lines along highways so as not to incommode the public use of such highways. The Bell Telephone Company has the right, under cap. 71, Ontario Statutes, 1882, to erect poles along the public highways, provided that in so doing the company shall not cut down or mutilate any tree. Sub-section 2 of section 574, chapter 223, R. S. O., 1897, empowers councils to pass by-laws for causing any tree, etc., growing or planted in any public highway, under its control to be removed, if and when such removal is deemed necessary, for any purpose of public improvement. As to the rights of owners of land adjoining a public highway in trees growing or planted along the highways, see the Ontario Tree Planting Act, chapter 243, R. S. O., 1897. By reference to these various Acts it will be seen that councils have pretty large powers in regard to trees standing on the public highway, but private companies (either telephone or telegraph) do not appear to have any such rights. In the case of trees growing upon private property along the public highways municipal councils have the right to cut the branches overhanging the highway in so far as it is necessary to do so to abate a nuisance, but no farther. As to trees on private property that are not a nuisance to the highway neither council nor private companies have any right to interfere with them at all. See Hodgins vs. Toronto, 19 A. R., 537. See also the article on highways in the present number of THE MUNICIPAL WORLD.

Supplementary Rate—By-Law Defeated.

337.—C. F.—A council has decided to build a fire hall, in place of one burnt, and greater part of a bridge, carried away by the flood, and improvements, extensions, to town hall and have also decided to issue debentures to cover the cost of the same. The work has been gone on with in the meantime, and the rate of taxation has been struck, but the debenture by-law has not yet been put before the ratepayers. If this by-law should be defeated can the council issue a supplementary rate of taxation and collect it this year?

Yes. See section 405, chapter 223, R. S. O., 1897, but this should be done before the collector's roll is completed, so that the amount required may be put on the roll.

Bye-Election School Trustee.

338.—SUBSCRIBER.—There is a bye-election to fill vacancy in public school board. Town clerk received notice from board. Should he set day of nomination and election or must the council do it, and is the town clerk returning officer for same?

Section 59 of the Public Schools Act, chapter 292, R. S. O., 1897, provides that in the case of a vacancy in the office of trustee the remaining trustees shall forthwith hold a new election in the manner provided by the Act. Unless the trustees are to be elected by ballot under section 58 of the Act, the matter of the election is entirely in the hands of the trustees, under section 57. If you will look at these three sections we have no doubt but that you will be able to have the election conducted properly.

Sufficient Drainage Outlet—Repairs Townline Road—Expense Removing Fences Off Road.

339.—C. B.—A farmer having a low piece of land having a spring creek on the one side that crosses the road into another township, wishes to drain it. The creek does not give him fall as it is full of logs, etc., and requires deepening. The neighbor gives him the privilege of clearing and deepening the creek at his own expense, he to do no damage.

1. Is the creek a sufficient outlet if not being deep enough to drain the land?

2. If the creek is not a sufficient outlet would both owners and the municipality be liable for the expense of clearing and deepening creek.

3. The original surveyor's stakes on a boundary line between townships have decayed and the land owners dispute about where the stakes were, and in putting up straight fences have encroached on the travelled part of the road, making it dangerous for travel, and as the landowners are satisfied to retain what they have, leaving the dissatisfied to prove where the line is. What action should the township take to avoid being liable for damages for any injury caused by the obstruction placed on highway?

4. If one township notifies the other of the dangerous state of the road appointing an engineer to co-operate with the appointee of the other township, would they be liable for damages on the neglect or refusal of the other to co-operate with them?

5. Could the expenses be assessed to the parties having their fences on the road allowance? If so, how could the township collect, it being a joint affair?

1. No.

2. No. The landowner who suffers damages because he cannot drain his lands must suffer any loss which he may sustain, unless he can institute proceedings under the Ditches and Watercourses Act or the Drainage Act. Under these Acts the engineer may assess the lands benefited or affected, as provided by such Acts.

3. The council may take the proceedings provided by sections 14 and 15 of the Surveyors' Act, chap. 181, R.S.O., '97.

4. See section 622 and following sections, and section 648 and following sections, of chapter 123, R. S. O., 1897.

5. Sections 14 and 15 of the Surveyors' Act, show how the expenses of the survey are to be borne. When the true line is ascertained and it is found that fences are upon the highway which make the road dangerous the owners ought to be notified to remove them, and if they fail to remove them they may be indicted. Your township can only deal with its own boundary line, and cannot call upon the other township to take either joint or similar action so far as their survey is concerned, but the other township must do its share in maintaining the boundary road in a fit condition for public travel under the sections above referred to.

Quarantine Expenses—Statute Labor on Store and Stock.

340.—W. M.—In 1894 there was an outbreak of diptheria in this township and several places were quarantined, and during the quarantine the township Board of Health furnished the parties, which are all ratepayers and in fair circumstances for this country, with all the necessaries they required from the stores, which was charged to the Board of Health by the storekeepers, and the council paid the bills as rendered and kept an account against the parties who received the goods, and after about a year rendered an account to the parties in detail, and they one and all promised to pay up but have not done so, claiming now that the account should have been placed on the collector's roll and collected as taxes and some of them dispute the accounts on the ground that they did not get all the goods they were charged with. One party now claims he was kept under quarantine too long to his damage. The total amount in question is $76.

1. Can the council collect those bills?

2. If so, can they be put on collectors roll of 1898?

3. If not, can they be collected by division court that is, sued and collected?

4. A owns a store and stock in road division E and rents a farm in road division K. In computing for statute labor can the whole assessment be computed as one sum, it being computed separate on the roll by the collector?

1. If the parties are able to pay we think the council can recover. Where a party is from poverty unable to pay the expense must be borne by the municipality. See section 93 of the Public Health Act.

2. No.

3. Yes, if the parties are not persons who can be said to be unable to pay.

4. Yes.

Cattle on Highway—Herding Damages.

341.—R. H.—Will you kindly furnish what information you have,

1. Relative to the rights of individuals re herding of cattle, also what redress a property owner, having shade trees destroyed by cattle while nominally herded, has and to whom must he look for damages. For instance say fifty head of cattle are roaming over a piece of commons in charge of a small boy, some of these cattle do considerable damage to private property. Who is responsible? The ownership of those particular cattle doing the damage cannot easily be located. The by-laws of this municipality allow of cattle being herded; a number of people are suffering from laxity in herding.

2. Where can any information be obtained as to rights of individuals driving cattle along the public highway to pasturage? Is it a breach of any statute and if so which, and where may same be found, for an owner in leading a bull or entire horse well under control, to allow same to graze during its transit from owner's stable to or from said pasturage, and if there is any limit to the time of said grazing. There is nothing in the by-laws of this municipality covering these points.

3. Can you assist in getting at the saving to this municipality by withdrawing from the county which was voted on by the ratepayers at our last municipal election, but which does not take effect until January, 1899? Can we still remain connected with the county in face of this by-law at the wish of a minority?

1. The owner of the cattle which did the damage, and, therefore, in order to succeed, the person claiming damages must prove whose cattle did the damage.

2. Under sub-section 9 of section 559, cap. 223, R. S. O., 1897, councils of cities, towns and villages may pass by-laws for preventing the leading riding or driving of horses or cattle upon sidewalks or other places not proper therefor, and sub-section 2 of section 546 of the same Act empowers councils to pass by-laws for restraining and regulating the running at large of animals. At common law it was not unlawful for horses and cattle to be at large on the highway. The case which you put is not one of cattle being at large, and therefore we do not think there is any remedy to prevent what is being done.

3. We cannot say whether there will be any saving to your municipality by separation or not. Assuming that the by-law is valid, and as soon as the time at which it was to take effect arrives your municipality ceases to form part of the county, and we cannot see what the wish of the minority can have to do with it.

Wards Abolished—Polling Division—Election Trustees.

342.—SUBSCRIBER.—By new statute we have no wards for 1899 municipal elections.

1. Will we have three polling sub-divisions and deputy-returning officers?

2. How will the sub-divisions be designated?

3. How will the public school trustees be elected and how will a voters' list for each ward be prepared? Give full particulars.

1. There should be polling sub divisions as provided by sections 535 and 436, cap. 223, R. S. O., 1897.

2. By numbers 1, 2, etc.

3. See sections 57 and 58 of the Public Schools Act, chapter 292, R. S. O., 1897.

Changing Hall Site.

See No. 319.

343.—TOWNSHIP CLERK.—1. Council do not propose to exchange hall site but to purchase a new and sell old site. What is there to preclude their doing so? See section 534 and subsequent sections, chap. 223, R. S. O.

2. If council can build hall without assent of electors, surely they can pass by-law without assent to pay for hall when built. I infer from yours that they cannot, and you refer me to section 389, chap. 223. Does this section apply to others than county councils? Also would refer you to section 384 of same act and sub-sections.

3. Suppose council build and include costs in estimates for this year. I suppose they can do so, so long as rate struck does not exceed two cents on the dollar exclusive of school rates. See section 402.

1. We are of the opinion that the council can sell the old site and use the proceeds to buy a new one.

2. Section 389 is not at all confined to county councils. The intention of the legislature is not to be gathered by reading one section alone, but all sections bearing upon the subject in hand.

3. You did not state in your former question whether it was proposed to put the cost of the hall in this year's estimates. If that is the intention, the only question to be considered is whether the cost of a town hall can be regarded as ordinary expenditure within the meaning of section 389. To avoid any question about it, would it not be better to submit the matter to the electors? We considered all the sections to which you refer, and after giving them the best consideration we could we think that under sections 534 and other sections referred to the hall may be built and money provided out of this year's rates if it does not exceed two cents in the dollar.

Error in School Section By-Law.

344.—X. Y. Z.—1. A township council in the month of May passes a by-law forming a new school section. The councilman introducing the matter by a clerical error, acknowledged by all the members of the council at the next meeting in June when the by-law was up for signature, omitted several lots. Application was made for rectification and on ruling of clerk was disallowed. Was this in order?

2. By-law, as above, having been passed, signed, etc., new section want to go ahead and put up their school. Application was made for council to issue debentures to cover cost of same. This was denied. Was this in order?

1. Sub section 2 of section 38, Public Schools Act, empowers township councils to alter the boundaries of a school section, etc., and sub-section 3 provides that any such by-law shall not be passed later than the 1st day of June in any year, and shall not take effect before the 25th day of December next thereafter, etc. You do not state the date in June on which the council met. If it was after the first of June the by-law could not be altered by the council. It is too late now to rectify the error, and it is unnecessary to consider the question whether the council would have had power to rectify the error before the 2nd of June, though we are inclined to think it would have the power to rectify the purely clerical error because the parties interested or affected would not be in a position to complain upon the ground that they had no notice of the intention of the council to make the change finally made.

2. As the by-law does not take effect until the 25th of December next, we cannot see how the council can be compelled to issue debentures at present.

Wards Abolished in Townships.

345.—Our township is divided into wards, how will council for 1899 be elected. See sec. 73 of chap. 223, R. S. O., 1897, as amended by 61 Vic., chap. 23, section 4. See also section 101, R. S. O., chap. 223, not repealed.

All township councils will be elected by general vote.

Pathmaster.

346.—SUBSCRIBER—A was appointed pathmaster under by-law, and has not acted. No statute labor done in his division. What action should council take?

The council should appoint some one else in his place, and have such other person instructed to see that the statute labor is performed and a proper return made. We would suggest that your council shall pass a by-law that persons appointed to any office and refusing to act should pay a certain fine, and then prosecute such officers so refusing to act under the by-law.

Wards Abolished in Townships, Villages and Towns Under 5,000 Population.

The amendments to the Municipal Act passed at last session, sections 3 and 4 of chapter 23, 61 Vic., refer to election of township and village councils. These sections contain but few words, and their importance cannot be understood until sections 72 and 73 of chap. 223, R. S. O., are referred to and read with the amendments. Section 73 reads as follows:

TOWNSHIPS AND VILLAGES.

The council of every township shall consist of one reeve, who shall be the head thereof, and four councillors who shall be elected by a general vote.

And precisely the same words apply to villages under section 72:

Every village is to have its reeve, and the election of its four councillors is to be by "a general vote"—which means no wards.

TOWNS.

The council of every town having a population of not more than 5000 by the last Canadian census, shall consist of a mayor, who shall be the head thereof, and of six councillors to be elected by a general vote. 61 Vic., chap. 23, section 2.

The council of any town having a population of more than 5,000, and of any city having a population of 15,000 or less, may by a by-law provide that the council of such town or city shall be composed of a mayor and of one alderman for each 1,000 of population, to be elected by general vote; but such by-law must be submitted to a vote of the electors before it can come into force. 61 Vic., chap. 23, section 2.

In Peterboro and Chatham the ratepayers have already decided to abolish the ward system, and other towns and cities are considering the matter. This system has been the great bane of municipal government in the past. There is no inducement to the ward member to interest himself in the general affairs of his municipality. The idea of a council elected irrespective of ward divisions is the correct one. It enlarges the constituency of the councillor and calls for a wider application of his influence.

The *Citizen and Country*, published in Toronto, in a recent issue refers to this question and states:

> Whilst the abolition of the wards is a large step towards a reasonable and proper system of voting, yet it is only a step. Those who earnestly desire really good municipal government will be bitterly dissapointed if they rely on the mere abolition of the wards to bring about that result.

The article then recommends the Hare system of voting as a desirable improvement. We may have occasion to refer to this in some future issue if a change in our present voting laws is found to be desirable.

In abolishing wards the Legislature have taken a wise course, and the result will be better municipal government. A further improvement would be to extend the term for which municipal councillors are elected. Under the present system councillors do not have an opportunity of becoming thoroughly acquainted with their duties as municipal officers, which is necessary to the proper performance of the same in an economical manner. This could easily be remedied by election for a term of years. School trustees are kept in office for three years, and retire in rotation, the result being that experienced men always form the majority. In townships and villages if a reeve and one councillor were elected each year, the councillors retiring in rotation, experienced men would always be found at the council board. Municipal office would then be accepted by some of our most capable citizens who object to the necessity for annual re-election. A new member would have men of experience to advise him, and an economical management of every department of the municipal service would be the result.

Street pavements need to be something more than hard and durable. They should be smooth, noiseless and easily cleaned and repaired.

Water should not be allowed to stand along the roadside. Ditches should be kept clear and open in order to carry it off quickly, as it is liable otherwise to find its way under the roadbed.

He Was a Heavyweight.

A certain official of a Georgia county interviewd one of his colored constituents and solicited his vote and influence.

"Well, boss," said the voter, "you knows enough ter know dat wotes mean money, en I can't get dem niggers ter vote fer you, des so dry."

"I recognize that fact," replied the official, "and am willing to come to time. I have only $9 to my name, but here's the money."

The voter took it, rattled the silver in his pocket, but still seemed to hesitate.

"What's the matter now?" inquired the official.

"Well, boss, ter tell de truth, I doan think I kin 'lect you fer dis much. Hit'll take $9 75 ter 'lect a man like you.—*Atlanta Constitution.*

Looking into the Future.

"Yes," said the man who had been looking at some apartments in the big building, "it's very nice, but I don't see how I can take the place."

"What's the matter?" asked the janitor.

"I observe by your printed rules that you don't keep the elevator running all night, and I must say I don't like the idea of walking up and down five or six flights of stairs every time my wife wants to know whether a burglar is trying to get into the cellar."—*Washington Star.*

Good Old Times.

"Going to County Council is not what it used to be," sorrowfully remarked one of the members who returned from the June session on Saturday.

"How is that?" remarked *The Dominion.*

"Why there is only fourteen of us there now and half of them go home every night. Those that remain are divided between the hotels, and Chatham is a pretty dull place in the evenings. In the old days when the members numbered from thirty to thirty-six we used to divide up principally between two hotels, and in the evenings the reading-rooms and the corridors were always filled with councillors, friends and visitors discussing council matters, county and general politics. Many old hot political arguments occurred, interrupted only when we adjourned to the bar for a cigar or a little something else.

"Yes, most of the old timers took a glass, but scarcely ever too much. They drank or took a smoke merely to be sociable, but were always ready for business either at the council board or on committee. The new men as a rule are quieter and more retiring—the old-timers had more of the 'hail fellow,' jovial style about them, ready with joke, song or story, as to the occasion seemed fit How we did enjoy the occasional tilts between one and another, especially about election time. Kent County Council has contained a great deal of good timber, many of its members fit to take a place either at Toronto or Ottawa. The present men are clever enough and do the business all right, but somehow, they are not like the old fellows who used to meet three times a year at Chatham, before the change in the law."—*Ridgetown Dominion.*

A Lady's Vote.

There is generally a little humor to be got out of an election, wherever held, and the London county council election recently was no exception. At a West End polling-station a lady voter entered and requested to be instructed how to vote. "Make a cross opposite the names you wish to vote for," said the polling clerk; "but you must not vote for more than two." "Which two shall I vote for?" she inquired. "Ah," replied the clerk, "as to that I must not advise you." "Well, then, I shall vote for the first two names." So she gave one vote to a Progressive and another to a Moderate, and went away satisfied.—*Glasgow Herald.*

Publications Received.

Voters' List, 1898, *Village of Exeter.*

Voters' List, 1898, *Village of Woodville.*

Voters' List, 1898, *Village of Port Colborne.*

Voters' List, 1898, *Village of Streetsville.*

Voters' List, 1898, *Township of Bruce.*

Voters' List, 1898, *Township of Woolwich.*