

# The Municipal World

PUBLISHED MONTHLY IN THE INTERESTS OF EVERY DEPARTMENT OF THE MUNICIPAL INSTITUTIONS OF ONTARIO.

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ST. THOMAS, ONTARIO, JUNE, 1904.

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## Calendar for June and July, 1904.

### Legal, Educational, Municipal and Other Appointments.

#### June—

1. Public and Separate School Boards to appoint representatives on the High School Entrance Examination Board of Examiners. High Schools Act, section 41 (2.)  
By-law to alter school boundaries, last day for passing.—Public Schools Act, section 41 (3.)
5. Make returns of deaths by contagious diseases registered during May.—R. S. O., 1897, chapter 44, section 11.
16. Kindergarten examinations at Hamilton, London, Ottawa and Toronto begin.
20. Earliest date upon which statute labor is to be performed in unincorporated townships.—Assessment Act, section 122.
28. High School Entrance Examinations begin.
30. High, Public and Separate Schools close.—P. S. Act, section 96 ; H. S. Act, section 45 ; S. S. Act, section 81 (1.)  
Protestant Separate Schools to transmit to County Inspector names and attendance during last preceding six months.—S. S. Act, section 12.  
Trustees' report to Truant Officer due.—Truancy Act, section 11.  
Last day for completion of duties of Court of Revision, except where assessment taken between 1st of July and the 30th of September.—Assessment Act, section 71 (19.)  
Balance of License Fund to be paid to treasurer of municipality.—Liquor License Act, section 45.

#### July—

1. Dominion Day (Friday.)  
All wells to be cleaned out on or before this date.—Section 122, Public Health Act, and section 13 of By-law, Schedule B.  
Last day for County Council to pass by-law that nominations of members of Township Councils shall be on third Monday preceding the day for polling.—Municipal Act, section 125.  
Before or after this date Court of Revision may, in certain cases, remit or reduce taxes—Assessment Act, section 74.  
Last day for revision of rolls by County Council with a view to equalization.—Assessment Act, section 87.  
Last day for establishing new High Schools by County Councils—High Schools Act, section 9.

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# The Municipal World

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of the Municipal Institutions of Ontario

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ST. THOMAS, ONTARIO, JUNE 1, 1904.

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We are in receipt of a number of questions from anonymous correspondents. We again draw attention to the fact, that we must decline to answer any question that is not accompanied by the name of the sender.

\* \* \*

One result of the investigation of election irregularities in Toronto is a suggestion that poll clerks should be appointed by the council the same as deputy-returning officers.

\* \* \*

A feature of the recent municipal elections in Milwaukee was the use of patent voting machines, and all reports agree that they are a distinct success. Only one got out of order and it was quickly repaired. The voting was without confusion, the average time consumed being less than a minute. The polls closed at 7 o'clock, the first returns were made seven minutes later and the general results were known throughout the city before eight.

\* \* \*

The agitation for tax reform has resulted in the adoption of the most modern ideas in reference to municipal taxation. The legislature did its best in disposing of a complicated question. The administration of the law may reveal defects in some minor details, these can be considered as they arise.

The more important new features are: (1) The business assessment. (2) The reduction of income exemption in the case of those who are not householders, and (3) the introduction of specific values for telegraph and telephone companies in townships, and an assessment based on gross receipts in urban municipalities and police villages.

\* \* \*

The taxation of railways will be considered by a commission consisting of H. J. Pettypiece, M. P. P., Judge Bell, of Chatham, and Prof. Shortt, of Queen's University. They will visit a number of the States of the Union and make particular inquiry into local railway rates and taxation.

## COMPETITION FOR THE LOCATION OF MANUFACTURING INDUSTRIES.

The value of manufacturing industries to the business of a municipality has induced sharp competition between cities for their location. This has led to the creation of organizations to promise local encouragement to secure new factories. Naturally those cities most deficient in real advantages, are most profuse in their offer of artificial inducements. All sagacious business men know that such inducements are not of an enduring nature, and cannot fill the place of the fundamental requirements for economical manufacturing and distribution.

Offers of free sites and bonuses prevailed for a time and created something akin to a fever among manufacturers for moving to new localities. This came near creating a class of tramp manufacturers who sought to make money out of bonuses when they could not make it out of their business. A business that is not prosperous is not a desirable acquisition for any city. Free sites and bonuses have lost their power to divert solid, well-managed enterprises away from locations offering natural advantages and permanently developed facilities. In the close competition of to-day, economic production and distribution are the winning conditions for the manufacturer and the location offering them.—*Public Policy.*

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The Assessment Law of Ontario is worthy of attention wherever an equitable system of municipal taxation is desired.

\* \* \*

An interesting school case was disposed of in Port Hope recently, when two trustees of school section No. 9, of the Township of Hope, were fined twenty dollars and costs for neglecting to have the school house cleaned and kept in proper repair and for failing to furnish the premises with a suitable supply of water.—[Ex.

\* \* \*

Mr. M. A. Ball has been appointed clerk of the township of Loth, to succeed Mr. Clark Snure.

\* \* \*

The council of the township of Essa, at a recent meeting, passed a by-law, commuting statute labor at the rate of sixty cents per day.

\* \* \*

Mr. J. H. Burgar has been appointed Police Magistrate for the Town of Welland to succeed the late Mr. E. R. Hellems.

\* \* \*

In the recent case of Sellars v. The Village of Dutton, a point of considerable interest to township councils and local boards of health was decided by the Ontario Court of Appeal. The plaintiff brought an action against the village council and the local board of health to recover damages for injuries sustained by him by being quarantined in a tent after supposed exposure to small-pox. The Judge at the trial dismissed the action on the ground that an action for tort was not maintainable against a local board of health, and that the municipal corporation was not liable. The Court of Appeal dismissed the appeal and confirmed the judgment of the trial Judge.



LIEUT. COL. HON. JOHN MORISON GIBSON, K.C., LL. B.,  
ATTORNEY GENERAL, ONTARIO.

Mr. Gibson was born in the Township of Toronto in 1842, and was educated at the Central School, Hamilton, and University College, Toronto. Took degree of B. A. in 1863, carrying off the Prince of Wales' prize and silver medal in Classics and Modern Languages. Was called to the bar in 1867, and received the degree of LL. B. and gold medal in 1869. He practised his profession in Hamilton, where he took an active interest in public affairs and the educational institutions of the city. Was chairman of the Board of Education for two years and was instrumental in organizing the Art School in that city. He has been an active member of the volunteer force since 1860 and commanded the 13th battalion for several years. He is now Hon. Col. Was with his regiment as lieutenant in 1866 at Ridgeway. He has a very high reputation as a marksman and has been on the Wimbledon team several times. In 1881 he commanded the Canadian team which defeated the British in the rifle contest for the Kolapore cup. He was president of the Ontario Rifle Association for three years, and is now president of the Dominion Rifle Association. He is also honorary

president of the Veterans '66 Association. He is a prominent member of the Masonic Grand Lodge of Canada, of which he was Grand Master from July, 1892, to July, 1894.

Mr. Gibson was first returned to the Legislative Assembly at general elections, 1879, and continued to represent Hamilton until 1898, when he was defeated at the general elections, and afterwards elected for East Wellington, which constituency he at present represents. He has been chairman of the Private Bills Committee of the Legislature since 1883. He entered the Government as Provincial Secretary in 1889. Was appointed Commissioner of Crown Lands in 1896 and succeeded the late Hon. A. S. Hardy as Attorney-General in 1899. He is one of the most active members of the Government and takes a special interest in municipal legislation. The adoption of the new Assessment Law without opposition was largely due to the able manner in which, as chairman, he directed the work of the Special Legislative Committee appointed to consider the report of the Royal Commission.

## The New Assessment Act

The result of the labors of the Royal Commission appointed in 1900 and Special Legislative Committee to which the report of the Commission was referred in 1903, is contained in The Assessment Act passed at the recent session of the Legislature.

The chairman of the Special Committee, the Hon. J. M. Gibson, Attorney General, was untiring in his efforts to produce a practical piece of legislation that would remove the many defects in the present Act and provide an equitable basis of municipal revenue without disturbing present conditions to too great an extent. In this he was ably assisted by the members of his committee and of the Legislature.

The Act, which comes into force on the 1st January, 1905, makes some important changes in the law, and determines the basis of municipal taxation subject to necessary exemptions to be :

- I. The actual value of land and improvements, together with specific values for telephone and telegraph companies.
- II. Business assessment.
- III. Income.

### Exemptions.

The principal exemptions are :

- I. The interest of the Crown in any property.
- II. Churches and burying grounds.
- III. Public educational institutions and incorporated Seminaries of learning.
- IV. Municipal and other public halls, gaols, lockups and hospitals, receiving aid under "The Charity Aid Act."
- V. Every public road, way or square.
- VI. Municipal property, but not when occupied by a tenant or lessee.
- VII. Public parks.
- VIII. Penitentiaries and prisons.
- IX. Poor houses, charitable institutions, public lunatic asylums and property belonging to companies for the reformation of offenders.
- X. The property used by Immigration Aid Societies or a Children's Aid Society.
- XI. The income from surplus funds of a registered friendly society.
- XI. The property of libraries and literary and scientific, agricultural or horticultural societies, etc.
- XII. The official incomes of the Governor-General and the Lieutenant-Governor.
- XIII. The full or half pay of His Majesty's Naval or Military officers.
- XIV. The income of a farmer derived from his farm.
- XV. All fixed machinery used for manufacturing or farming, but not including machinery for the production of gas, electric and other motors, nor to machinery owned, operated or used by a railway company, or by transportation or transmission companies using the streets, etc.
- XVI. The dividends or income from stock held by any person in a company, the income of which is liable to assessment in the Province.
- XVII. The dividends from stock or shares in a toll road.
- XVIII. Income—  
Personal earnings, pensions, gratuities or retiring allowances in respect of personal services to the amount of \$1,000 in cities and towns having a population of 10,000 or over, or to the amount of \$700 in other municipalities, provided that such person is a householder and is assessed as such in the municipality and the personal earnings, etc., of every person who is not a householder and assessed as such in the municipality to the amount of \$400.
- XIX. Rent or other income derived from real estate, except interest on mortgages.

The exemptions are subject to the provisions of The Municipal Act, sections 683 and 684, providing for the assessment of property for local improvements.

### Assessment of Land.

Land is defined to include :

- a. Land covered with water.

- b. All trees and underwood growing on land.
- c. Mines, minerals, gas, oil, salt, quarries and fossils in and under land.
- d. All buildings or any part of any building and all structures, machinery and fixtures erected or placed upon, in, over, under or affixed to land.
- e. All structures and fixtures erected or placed upon, in, over, under, or affixed to any highway, road, street, lane or public place or water, but not the rolling stock of any railway, electric railway, tramway or street railway.

*Land* is to be assessed at its actual value. In assessing land having any buildings thereon the value of the land and buildings is to be ascertained separately.

*Mineral lands* are to be valued the same as other lands in the neighborhood, but the income derived from any mine or mineral work is to be subject to taxation the same as other incomes.

*Toll Roads* are to be assessed the same as formerly as real estate.

*Farm Lands in Towns and Villages*, held and used as farm lands only and in blocks of not less than five acres, are to be assessed as farm lands.

In towns and villages, councils are authorized to pass by-laws to exempt or partly exempt farm lands from taxation for waterworks, sidewalks, sewers, lighting and watering streets. Special provision is also made for valuing vacant ground, used as a farm, garden or nursery, and not in demand for building purposes in cities, towns or villages.

*Companies using the streets.* The property, by clause (e) declared to be land, is to be assessed at its actual cash value as the same would be appraised upon a sale to another company with similar rights and powers.

*International and Intermunicipal Bridges* liable to assessment are to be assessed at actual cash value.

*Railways* are to be assessed the same as formerly, except in case of structures, rails, etc., on streets that are not merely crossed by the railway.

Real property, other than roadway and vacant land in actual use and occupation by the company, is to be assessed at its actual cash value to another company.

A railway assessment, when completed, is to stand for four years, except as to changes which are to be considered yearly.

### TELEPHONE COMPANIES—

In cities, towns, villages and police villages telephone companies are to be assessed for 60 per cent. of the gross receipts belonging to the company in the city, town, village, or police village, from the business of the company for the year ending the 31st December next preceding the assessment. In cities of over 100,000, such companies are to be assessed for 75 per cent. of gross receipts.

In townships, telephone companies are to be assessed at the rate of \$135 per mile for one ground circuit (being a single wire for carrying a message) or metallic circuit (being two wires for carrying a message) and in case any line of poles carry more than one circuit of wire they are to be assessed \$7.50 per mile for each additional circuit.

In computing wire mileage, branch or party lines, which do not exceed 25 miles in length, are not to be included.

### TELEGRAPH COMPANIES—

In cities, towns, villages and police villages, telegraph companies are to be assessed for 50 per cent. of the

gross receipts belonging to the company in each city, town, village and police village. In townships, telegraph companies are to be assessed for a sum equal to \$40 for every mile of one wire, and \$5 per mile for each additional wire.

In computing wire mileage, all branch lines which do not exceed 25 miles in length, are not to be included.

Every telephone and telegraph company is to be exempt from assessment in any other manner or on any other property for municipal purposes.

When poles and wires are on a boundary line road between two townships, each township is entitled to one-half the assessed value.

The companies will make returns of gross receipts and wire mileage to the Provincial Secretary, who will forward the necessary information to the municipalities.

#### Business Assessment.

In all municipalities, every person occupying or using land for the purpose of business is to be assessed for a sum to be called "Business Assessment," to be computed by reference to the assessed value of the land so occupied or used by him. The rate of business assessment varies from 25 to 150 per cent., and for this purpose businesses have been classified as follows :

- a. Distillers, 150 per cent.
- b. Brewers, 75 per cent.  
Malt house, 60 per cent.
- c. Wholesale merchant.  
Insurance, Loan, or Trust Company.  
Express Company.  
A bank or banker, or any other financial business, 75 per cent.
- cc. Manufacturers, whether they wholesale goods of their own manufacture or not, 60 per cent.
- d. Departmental stores or retail merchants dealing in more than five branches of retail trade or business in the same premises with an assessed value of over \$20,000.  
Coal, wood or lumber dealer.  
Lithographer, printer or publisher.  
A club in which liquors or meals are furnished.  
Shops with liquor license, 50 per cent.  
*In cities having over 100,000 population* coal dealers are to be assessed 30 per cent.
- e. Lawyers.  
Conveyancers.  
Physicians, surgeons, etc.  
Dentists.  
Veterinarians.  
Civil engineers, etc.  
Architects and every person carrying on a financial or commercial business as agent only, 50 per cent.  
When a residence is used partly for business purposes, 25 per cent.
- ee. Retail merchants.  
In cities with population over 50,000, 25 per cent.  
In cities with population over 10,000, 30 per cent.  
All other municipalities, 35 per cent.
- f. Photographer.  
Theatre or concert hall.  
Skating rink or other place of amusement.  
Boarding or livery stable.  
Restaurant, hotel or other house of entertainment, etc., 25 per cent.
- g. Every person carrying on the business of telegraph, telephone company and electric or street railway, or the transmission of oil, water, steam, heat, gas, or electricity, 25 per cent. of the assessed value of land (not being a highway, road, street, lane or public place or water or private right of way) occupied or used, exclusive of the value of any machinery, plant or appliances.

Where any person carries on more than one of the kinds of business mentioned on the same premises, he is to be assessed by reference to the assessed value of the whole of the premises for the business which is the chief or preponderating business carried on by him on the premises.

When a residence is occupied partly for the purpose of business, the part so used is to be assessed separately. This does not apply to class (e).

Where the amount of business assessment of any person is less than \$250 he is to be assessed for \$250.

Financial and commercial business does not include a business operating steamboats, sailing or other vessels, tow barges, or tugs, nor the business of a steam railway, nor the business of a broker or financial agent, of a manufacturer's agent or other agent, or intermediary in the business of the sale of goods.

#### Taxation of Income.

Subject to the exemptions before mentioned the following persons are to be assessed for income in the municipality in which they reside :

- a. Every person not liable to business assessment.
- b. Every person although liable to business assessment, for income not derived from the business.
- c. Every person liable to business assessment under clause (e) to the extent to which such income exceeds the amount of such business assessment.

Agents or trustees in receipt of income for a non-resident are to be assessed therefor at their place of business.

*Assessment Returns.*—Employers will be required to give information as to name, residence and wages paid employees.

*Assessment Rolls.*—The assessors' rolls will be about the same size as formerly in townships; in cities, towns and villages they may not require so many columns.

*School Census.*—The taking of a school census in townships will not be compulsory unless requested in time by the trustees of a section.

*Non-Resident Land.*—In cities, towns and villages, non-resident lands are to be assessed the same as those of residents.

In townships, the present system is continued—the clerk will be required to keep in a book a record of notices received from non-residents desirous of being assessed as resident.

*Notice of Assessment.*—Assessment notices are to be as usual, but the form may be shorter, omitting all statistics.

*Correction of Errors.*—Provision is made for correction of errors in assessment rolls by assessors before roll is returned.

Clerks are required to report errors or omissions to the Court of Revision and other officers are required to report omissions to the clerk at any time.

*Courts of Revision.*—The proceedings for hearing appeals will be the same as under the present law. Clerks will be required to keep a special book in which to keep a record of all appeals and decisions of the court.

All persons complaining, as well as those complained against, are to be notified of date of meeting of the court, and before an appeal can be considered the clerk must certify that the notices have been completed.

The court may correct palpable errors that do not affect assessed values, and may instruct the assessor to enter an appeal where the alteration of assessed values is necessary.

*The Collection of Taxes.*—Collectors' rolls are to be prepared in the usual form and the duties of collectors will be much the same. In cities, towns and villages tax notices may with the consent of the council be forwarded by mail.

The provisions for distress for the recovery of taxes have been improved and simplified.

All taxes will be collectable, notwithstanding errors or omissions on the part of officers of the municipality.

*Arrears of Taxes.*—The provisions for the collection of arrears of taxes are the same as formerly. Improvements have been made in many of the sections which will be appreciated by treasurers having to do with these accounts.

# Engineering Department

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

## CONCRETE ABUTMENTS.

The use of concrete in the construction of bridge abutments is growing in popularity throughout the Province. Timber for this purpose is temporary, decays rapidly, and is expensive after a term of years, when the outlay for repairs and renewal is added to the original cost. Concrete is more satisfactory than stone masonry, in that it is cheaper, is more easily repaired, and does not fail so rapidly if undermined by the stream. Care must be taken, however, in using concrete, to see that the cement is sound and that the gravel or stone, and sand, are of a good quality.

Concrete is formed by mixing in proper proportions Portland cement, sand, and broken stone; or Portland cement and gravel, the latter being a natural mixture of sand and small stones.

A concrete can best be regarded as a mixture of mortar and broken stone, the mortar being formed from a mixture of sand and cement. Given a sample of broken stone in a vessel, the requisite quantity of mortar can be gauged by pouring water into the vessel until the stone is submerged. The quantity of water used will indicate the amount of mortar required to completely fill the voids in the stone. The proportionate amount of cement needed to fill the voids in the sand can be gauged in the same way. The proportions of cement, sand and broken stone obtained in this way would provide, with perfect mixing, a mortar in which the voids in the sand are filled with cement, and each particle of sand coated with cement; it would provide a concrete in which the interstices of the stone are filled with this mortar, and each stone coated with mortar. This would be the case with perfect mixing, and would provide a theoretically perfect concrete. Perfect mixing is not possible, however, and it is necessary to provide an amount of cement in excess of the voids in the sand, and an amount of mortar in excess of the voids in the stone.

With proper mixing and good materials, a satisfactory concrete for bridge abutments can be formed from cement, sand and broken stone in the proportions of one, three and six. It is recognized that the greatest strength in concrete can be obtained by making the mortar rich in cement, rather than lessening the quantity of stone, but beyond providing for a strong adhesion of mortar and stone, little is gained by making the mortar materially stronger than the stone.

The cost of the abutments may be lessened, where they are of sufficient thickness, by the use of rubble concrete. The casing or curbing must be built up as the laying of the concrete proceeds. Within the casing and firmly tamped against it, there should be placed fine concrete to a thickness of about six inches. This will form a shell for the abutment, inside of which large stones may be placed in rack-and-pinion order, ends up. There should be a space of at least two inches between the stones, filled with fine concrete, and all firmly rammed. The outer shell of fine concrete should always be kept built up six inches or so in advance of the rubble work. The rubble should be laid in layers and each layer well flushed with a layer of fine concrete.

The lumber used in making the curbing or casing should be dressed, tightly fitted and firmly braced, so that the concrete may be well rammed into place. The frame-

work should be closely boarded up against the work as it proceeds. The exterior of the culvert when finished should have a smooth face, free from holes, and a surface grouting, which is of little use, should not be necessary.

There is some difference of opinion as to the relative strengths of gravel and broken stone in concrete. The natural inference is to suppose that a rough, irregular surface will secure greater adhesion than one that is smooth. However that may be, there is little reason to doubt that gravel will make a good concrete, but there is a right and wrong way of using gravel. It is not uncommon to find cement and gravel, just as it is taken from the pit, mixed to form concrete. Remembering the proper composition of a concrete, and placing beside this the fact that gravel usually contains sand, but not in any definite proportions, and that some pockets of "gravel" may be almost completely sand, while in the layers adjoining there may be little if any sand, and that many gravel beds contain much clay or earthy material, it will be readily understood why it is that, in some cases, concrete mixed in this way may be successful, yet it is apt to be uncertain and hazardous. The only safe method is to separate the stone and sand composing the gravel by screening, then to mix cement, sand and clean stone uniformly and in their right proportions.

A cause of poor cement is the excessive amount of water used when mixing. The tendency very often is to bring concrete to the same consistency as common mortar. Concrete, when ready to be placed in the work, should have the appearance of freshly dug earth. Where an excessive amount of water is used, the hardened concrete will have an open, spongy texture.

The concrete should be mixed at a point convenient to the work in a box which is sometimes specified as water-tight, but the concrete will quickly make it so. It should be mixed in just such quantity as is required, and a constant stream kept passing to the work. It should be laid in layers, and each layer thoroughly rammed until moisture appears on the surface.

It is very necessary to see that the sand and stone used in making the concrete are clean, that it is free from clay, loam, vegetable or other matter which will act as an adulterant, and result in a weak and friable concrete. If such matter is intermixed with the stone it is well to flush it away with a good stream of water. Large stone used in rubble concrete should be also treated in this way. It is well, particularly in hot weather, to dampen the stone before mixing it with the mortar. The heat of the stone in hot weather causes the moisture of the mortar to evaporate, causes it to set too quickly, and at all times there is more or less absorption from the mortar in immediate contact with the stone, unless the stone, as intimated, has been dampened.

When the work ceases for the day, or is for other reasons interrupted, the surface of concrete should be kept damp until work is resumed. When work is in progress in hot weather, any exposed surfaces should be kept damp and protected from the rays of the sun; otherwise the surface will, in setting too rapidly, be interlaced with hairlike cracks which, filling with water in winter, and freezing, will cause the surface to scale off. The same scaling sometimes results from laying concrete in frosty weather.

**NARROWER ROADWAYS.**

It has heretofore been so commonly the practice in towns, villages and cities, to grade into roadways the greater portion of the street, that the suggestion of a narrow roadway, from twenty to twenty-five feet in width, on residential streets is apt to be looked upon at first with considerable distrust. Modern practice, however, tends towards this plan on residential, but of course, not on business streets. On business streets it is generally advisable to place the sidewalks next the street line, then the curb, then the roadway in the entire central portion of the streets. For smaller municipalities a roadway of gravel or broken stone is serviceable, if properly made and maintained. For larger towns and cities vitrified brick will usually take a place next to broken stone, while the more important cities will usually select asphalt. Concrete curbs and concrete walks are available, in point of cost, for all, although stone curbs are used to a great extent by cities. With these materials a roadway forty feet wide, and walks from twelve to thirteen feet in width on each side, is the common practice for business streets.

On residential streets, however, convenience is served fully as well by narrower walks and narrower roadways, while in most towns and villages gravel on broken stone is preferable in most respects for the roadway. The sidewalk is generally taken away from the street line and placed nearer or immediately beside the roadway, the latter occupying from twenty to thirty feet in the centre of the street.

The roadway should be well graded and metalled, well underdrained and curbed. This means the entire reconstruction of many or all of those streets which have grown up on the township plan of deep open drains, a mound of earth or gravel for the roadway, and wooden walks.

By narrowing the roadway, placing the walk near or beside it, the space formerly occupied by the walks may be levelled, sodded, and in effect added to the depth of the private lawns. Streets treated in this way, with narrow roadways, walks placed between the roadway and the row of trees, are cheaper in first cost than wide roadways, are more sanitary, have a better appearance, are more cheaply maintained, more effectually lighted and improve very much the private property fronting on them.

**MUNICIPAL UNDERTAKINGS IN GUELPH.**

The City of Guelph has made exceptional advancement in the matter of "municipal ownership of public utilities." The waterworks system was constructed by the city in 1879-80, and last year the municipality took over the street railway, gas works and electric plant. The city is practically owner of, and derives a revenue from the steam railway from Guelph to Guelph Junction, fifteen miles in length, over which the C. P. R. has running rights; a system of sewers is under construction with septic tank treatment; for street improvement, a steam roller and stone crusher has recently been purchased; and a new public library is being erected. The Winter Fair Building, used as a market, is well known throughout the Province. As the county town of Wellington, the city has the County Court House, while the Agricultural College, just outside the city limits, is a Provincial institution. With so favorable a record in public matters, the city impresses one as being equally progressive industrially and in other respects. The population is 11,500.

**Waterworks.**

The public water supply is drawn from a reservoir excavated in gravel adjacent to a branch of the River

Speed. The reservoir is itself fed directly by springs, while the river is largely spring water. Between the river and the reservoir is a sand filter, through which the water from the river passes in reaching the reservoir. The pumping station is a substantial stone building, the power plant consisting of four boilers, 75 h. p. each; and two pairs of single cylinder non-condensing pumping engines, capacity 750,000 gallons each in 24 hours. The pumping engines are used alternately, one pair being kept in reserve, except in a very dry time when street and lawn watering have to be fully supplied, the two pairs being then required. The total amount of water pumped in 1903 was 194,661,900 gallons, and the coal consumed 615 tons, 525 pounds. The suction lift is from ten to twelve feet, and the highest street elevation to which water is forced, 132 feet above the waterworks station. A pressure of from 80 to 90 pounds is ordinarily kept at the pumps with a fire pressure of 120 to 130 pounds. There is not an elevated reservoir or standpipe, the system is one of direct pressure—the pumps being in operation continuously. There are nearly 20 miles of street mains, about 1,650 services, and 130 hydrants, for which the city is charged \$20 each annually. The annual water rates for private dwellings are:

Not exceeding three rooms.....	\$4 00
Each additional room.....	60
Bath .....	3 50
Closet .....	3 50

The waterworks are under the management of a committee of the council, one engineer and two firemen are employed at the pumping station, the city engineer has charge of outside work, and the city clerk and treasurer attend to the office work.

**Electric Railway**

The electric street railway, purchased in October last, retains the name of the original company—The Guelph Radial Electric Railway Co. The railway is single track, between six and seven miles in length, constructed with T rails of 56 and 60 pounds, fish-plate fastenings and channel pin bond. The power station and car barns are substantial stone buildings. The power plant consists of one dynamo 110 k. w., constant voltage, a 150 h. p. cross-compound engine, and two horizontal tubular boilers of 100 h. p. each. Five passenger motor cars, one freight motor, and four trailers, compose the car equipment. Regular tickets are sold at the rate of six for \$1; limited or workmen's tickets, eight for \$1; children's tickets, two for five cents; a book of tickets, 100 for \$3.

The railway is managed by a commission appointed by the council, composed of the mayor (ex-officio), one alderman and three business men. The direct supervision is in charge of a superintendent.

The price paid for the railway was \$78,000, composed of a debt assumed by the city of \$48,000, and \$30,000 paid in cash. This included among other assets a park of 80 acres.

As the railway has been operated by the city since last October only, the results cannot yet be estimated. The principal passenger traffic is in the summer from visitors to the Agricultural College, around which a loop has been constructed. A considerable revenue is derived from freight rates, a number of factories having private switches, and coal and other freight cars are in this way taken from the steam railway directly to the factory yards. All coal and other freight is delivered to the Agricultural College in this way. It is expected that the revenue obtainable from freight traffic can be much increased.

**Electric Lighting and Gas.**

The electric lighting and gas plants were taken over by the city on July 1st, 1903, the company receiving

\$155,000 for the two works, the price being fixed by agreement. These, with the waterworks and fire protection are under the one committee of the council, but the electric light and gas works have a manager distinct from the water department.

The electric light plant was constructed in 1888. The electric machinery consists of :

**FOR POWER :**

One 500 volt, constant voltage generator 75 k. w.

**FOR INCANDESCENT LIGHTING :**

Two single phase alternating current generators, 125 cycle, of 120 and 60 k. w. respectively.

**FOR ARC LIGHTING :**

Four constant current dynamos, 9.6 amperes, total capacity 190 lamps of 450 watts.

One cross compound engine of 150 h. p.

One single cylinder engine of 100 h. p.

Two water wheels, Little Giant turbines of 100 h. p.

Three boilers, horizontal tubular, total capacity 300 h. p.

The water power is limited to a short time in the spring, during the period of high water. There are wired 4,500 incandescent lamps of from 8 to 32 c. p. ; twelve commercial arcs, and for street lighting 91 open arc lamps. The city is charged \$65 per annum for each arc lamp, standard moonlight schedule.

Electric current is all metered, the rate for residences being 20 cents per 1,000 watts, with a discount of 40% for prompt payment ; and for stores and other commercial lighting, 20 cents per 1,000 volts, with a discount of 25% for account of \$20 and under, and 30% for accounts over \$20.

The gas works were started in 1871, and the apparatus then installed for manufacturing water gas is retained. The plant consists of :

One holder, capacity 31,000 c. f.

“ “ “ 7,000 “

Generators	} In duplicate
Superheaters	
Washers	
Scrubbers	
Condenser	
Purifier	

Lime, with oxide of iron, is used in the purifying process. There are 900 meters, and it is estimated that about 20,000,000 c. f. of gas is consumed annually. Gas mains vary from 8 inches to 2 inches in diameter.

The standard rate is \$2 per 1,000 feet, with the following discount : On quarterly consumption of 100 feet to 9,900 feet, 10% ; on 10,000 feet to 24,000 feet, 15% ; on 25,000 feet to 50,000 feet, 20% ; over 50,000 feet, 25% ; for cooking and heating, 50%.

The results of operation for the gas and electric plants during the nine months ending April 1st, show a surplus of revenue over operating expenses (including interest on \$155,000) of \$8,224.23. Of this amount \$5,039.23 has been applied to new construction and extension.

**Sewerage**

A separate system of sewerage was commenced in 1902, in which year the main outlet sewer, chargeable to the general funds, was constructed at a cost of \$34,612.75. This sewer, nearly three miles in length, is of vitrified sewer tile of from 9-inch to 20-inch diameter. Last year street sewers, aggregating nearly three miles, of 12-inch, 9-inch and 8-inch pipe, chargeable to frontage, were laid at a cost of \$31,873.93. At the outlet septic tanks have been constructed for treating the sewage prior to discharge into the river Speed. The tanks are two in number, covered by one roof, each 100 feet by 16 feet, and 10 feet deep with an available depth of seven feet.

**Municipal Ownership.**

The citizens of Guelph, in their recent extension of municipal ownership, have no doubt acted largely in the light of nearly a quarter century's operation of the waterworks system. Nine months experience with the electric light and gas works has been very encouraging. As to the street railway, operated for a less period and at the most unfavorable season, it is not to be expected that the results will, in that time, be such as to serve as a basis upon which to form an opinion. The city could scarcely afford to allow the railway to cease operation. If not at the present time profitable, that it will ultimately become so, there is little reason to doubt, and in the meantime the city can afford to do what a company could not, operate, if necessary, at a loss.

**STREET CLEANING.**

No class of street will respond more readily or more satisfactorily to constant care and attention than will a macadam roadway. Unfortunately the reverse policy is the one followed by the majority of towns. It is generally considered that only asphalt or vitrified brick require daily cleaning, and that a broken stone or gravel roadway, if scraped two or three times a year, has had all the attention it requires.

A macadam roadway, if it receives the attention commonly given to an asphalt pavement, will resemble asphalt in many respects. It will not be dusty, it will not be rutted, it will have a smooth, attractive appearance. The town of Galt is one of the few that has followed the practice of keeping its main and other macadam streets in proper repair. A man with a broom and cart is in constant attendance to remove dirt, fill depressions and keep the surface drainage unobstructed. This is the only manner in which a town can derive complete satisfaction from a macadam roadway. In the end the cost is less, or at least no greater, than if the street is neglected until extensive repairs are necessary. The method of constant attendance, in point of cost, merely means that small amounts are paid out annually instead of in a lump sum, while the results are much more satisfactory.

The amount of mud and dirt that accumulates on any pavement is very great. How great this is can best be understood by observing the amount removed from an asphalt pavement. It is largely brought from side streets by the wheels of vehicles. The amount is no less for a macadam than for an asphalt street, and if allowed to remain on macadam does much more harm than it would in the case of asphalt. Mud on macadam or gravel roadways assists wear, retards surface drainage, and for permanently improved streets in towns there should be a system for its constant removal.

**AN OBJECT LESSON.**

During the past spring residents of some parts of the county of Wentworth were treated to a practical demonstration of the benefit of good roads. Two teams of horses drawing a load of farm produce over or rather "through" muddy sideroads ; the wheels are axle deep in mud ; the horses travel slowly and laboriously ; the temper of the driver is worn out by repeated sloughs and pitch-holes ; then a well-built road is reached, standing high and dry in spite of the thaws of early spring. Here one team is unhitched, is sent home, and the other trots off to market along a good stone road drawing the load with comparative ease. The picture is not an imaginary one, nor is it overdrawn. On the other hand, words cannot do justice to the remarkable object lesson on the value of good roads.

## QUESTION DRAWER

Subscribers are entitled to answers to all Questions submitted if they pertain to Municipal Matters. It is 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 will be published unless One Dollar is enclosed with request for private reply.

### Council Not Required to Construct Drainage for Cellars.

358—W. D.—1. Parties having their cellar drains running in the open ditches and the ditch becoming blocked by ground and other material so as to back the water into the cellars, can they compel the council to open the ditch to let off the water, which runs in open ditches, or has the party to follow the water to get an outlet?

2. The reeve claims that the council has to take the water away from the outlet of their cellar drains providing same is caused by the filling up of the street ditch. Is the reeve right?

3. Our council is thinking of getting our village under The Drainage Act. Would you give some idea of what it would cost and how we would require to start. Also under The Local Improvement Act? Please give cost and how to start same.

1. If these ditches along the road are drains that were caused to be dug by the council for the purpose of draining the highway, owners of premises located along the courses of these drains cannot compel the council to keep them open for the purpose of affording cellar drainage.

2. We cannot agree with the reeve, if the drains were constructed as above.

3. If a system of drainage is required in the village, we are of opinion that it should be undertaken under the local improvement clauses of The Consolidated Municipal Act, 1903. (See section 664 and following sections of the Act). These drainage works may be initiated in any of the three ways mentioned in section 668 of the Act.

### Seizure of Timber for Taxes.

359—W. J. S.—A. owns one hundred acres of land timbered. He sells the timber to B. A. is in arrears for taxes. B. is cutting the timber. Can the council seize the timber for taxes?

We are of the opinion that the collector cannot seize this timber when severed from the land to satisfy the taxes chargeable against it. B. is not the person who was actually assessed for the premises, and whose name appears upon the collector's roll for the year as liable for the taxes, and at the time he purchased the timber from A. it was attached to and growing upon the land and not seizable for taxes. So that clause (b) of paragraph 4 of sub-section 1 of section 135 of The Assessment Act has no application to this case.

### Councillor Must Live Within Two Miles of Municipality.

360—R. W.—A town councillor lives two miles from the town. Does this disqualify him?

Section 76 of The Consolidated Municipal Act enacts that a councillor must live in the municipality or within two miles thereof.

### Ascertaining Correct Line of Road.

361—G. K.—About eight years ago the 11th concession line in our township was run along the fronts of lots 20 to 26. This runs mostly through a rough country where it was hard to make a road. It was found that the roadbed in front of lot 24 was very near one side of road allowance, and A., the owner of lot 24, agreed with the council to build his fence twenty feet back from the line if the council would give him (A.) the use of the 12th concession line at rear of his lot until such times as it was required for public travel. A motion was passed in the council to this effect, and A. built his

fence seven years ago, leaving the twenty feet on the road allowance. A year ago A. sold his lot to B. and now B. wants to move the fence out to the line. It would cost a great deal to move roadbed to centre of allowance.

1. Can the council prevent B. from moving out his fence to the line under the circumstances?

2. If they can, what steps should they take to do so?

1 and 2. We are of opinion that, under the circumstances stated, the council cannot prevent the moving by B. of his fence to the correct line between his land and that belonging to the municipality, at any time he may see fit to do so.

### Collection of Arrears of Taxes.

362—X. Y. Z.—Three years' taxes are allowed to accumulate against a house and lot in the village, the assessed owner of which has all the time been drawing a salary of \$50 and \$60 per month (monthly) which could have been made available in suit and garnishee for the taxes, but they were allowed to go unpaid, and 1901 and 1902 taxes returned to the sheriff in December, 1903. Who is legally responsible for said taxes, the council, collector or recent purchaser of the property?

If during the three years these taxes were unpaid, the owner of the land had no goods and chattels in the municipality (it being located in one of the Districts of Ontario) out of which the amount could be made by distress and sale, they were properly returned to the sheriff (this being one of the Districts to which section 56 of chapter 225, R. S. O., 1897, applies) and should be sold by him to realize the amount. The fact that the owner was earning a fair salary monthly does not affect the case at its present stage, as he could not be sued for the amount of the taxes, or his wages garnished until all other means provided by law to collect the taxes, had been exhausted. (See section 142 of The Assessment Act).

### Qualification of Councillor.

363—A. MCD.—One of our councillors disposed of his real estate last week and is offering his live stock and implements for sale by public auction next week. He is removing to an incorporated village, which is partly in our township. Will this disqualify him, or will it affect his position as councillor in any manner?

No.

### Early Closing By-Law Does Not Apply to Blacksmith Shops.

364—B. J.—An incorporated village passes a by-law under The Ontario Shop Closing Regulation Act, requiring that all shops, booths, stalls or places where goods are exposed for sale by retail shall be closed from 7 p. m. until 5 a. m.

Has the point been determined whether a blacksmith shop is within that statute? If not, have you considered the point, and what do you think of it?

It would seem strange if the village "smithy" is within the purview of the statute.

We are not aware of any decided case in which this particular point has been determined, but we are of opinion that a blacksmith shop is not a building or portion of a building, booth, stall, or place where GOODS ARE *exposed or offered for sale* by retail, and that it does not come within the definition of "shop" contained in clause (a) of sub-section 1 of sec. 44 of chap. 257, R. S. O., 1897.

**Assessment of Owners and Occupants.**

365—O. K.—A., B. and C. are three men, of whom A. is the father, B. and C. his two sons.

These three men have different properties in town and municipality. Some of their property, such as town dwellings, are rented.

Very seldom that a family stay a full year in any one of them. The tenant who is in the dwelling at the time the assessor goes around wants to have the place assessed to him, for which he intends paying taxes. But perhaps when the time the taxes should be paid he will be going out of the building as usual and therefore will not pay the taxes.

And in consequence the owner has to pay the taxes so as not to leave arrears in his taxes.

The owner wants to have the premises assessed to him, having for his reason that it belongs to him and he has the right to pay the taxes, also that the people who are in at the time of assessment are generally away when the time of taxes comes.

The assessor assesses the tenant and refuses to assess the owner.

1. Who should be assessed and should pay the taxes according to law?
2. Can the tenant be assessed as occupant, and proprietor as owner of same property?
3. In this case who should pay the taxes?
4. Explain how this should be arranged legally.

1, 2, 3 and 4. The owner and tenant should both be assessed for these premises. Section 20 of The Assessment Act provides that "land not occupied by the owner, but of which the owner is known and, at the time of the assessment being made, resides or has a legal domicile or place of business in the municipality, or has given the notice mentioned in section 3, shall be assessed against the owner alone, if the land is unoccupied, or against the owner and occupant, if the occupant is any person other than the owner." So far as the municipality is concerned, the persons who should pay the taxes are those who are actually assessed for the premises, and whose names appear upon the collector's roll for the year as liable therefor. (See clause 1 of sub-section 1 of section 135 of The Assessment Act). The liability of the landlord and tenant respectively must be determined by agreement between them.

**Correction of Mistake in School Levy—Proceedings to Open Street.**

366—CLERK.—Through an error, lands in S. S. No. 3 have been assessed and rated in S. S. No. 5 for the past three years. School rates in S. S. No. 5 have been higher than in S. S. No. 3.

1. How can the matter be adjusted in order that the party in S. S. No. 3 may obtain the rebate of taxes overpaid?
2. Can the council of this township legally remit the amount overpaid by the party in S. S. No. 3, or will he apply to the trustees of S. S. No. 5 for rebate?

Application has been made to this council for the opening of a street contained in a certain plan of this township known as the Thompson survey. Plan has been duly registered in registry office for the county.

3. Is any other notice necessary to be given to the party in possession of said street, except those contained in sections 642 and 643, chapter 19, 3 Edw. 7th, 1903, before said street may be opened for public use?

1. Sub-section 3 of section 71 of The Public Schools Act, 1901, provides that "every municipal council shall have power, and it shall be their duty, to correct any errors or omissions that may have been made within the three years next preceding such correction in the collection of any school rate duly imposed or intended so to be, to the end that no property shall escape from its proper proportion of the rate, and that no property shall be compelled to pay more than its proper proportion of such rate."

2. In making the school levy this year the council should add to the levy to be made in school section No. 5 the excess which the owners of the lands in school section number 3 have paid within the previous three years, and allow or credit it on the amount to be paid by such owners as school taxes the present year.

3. This street does not appear to be a "Government allowance for road," but one laid out on a private plan registered under the provisions of The Registry Act. If this is so, the notice mentioned in sections 642 and 643 is not necessary. The council is not bound to open up this street, nor is the owner of the land who caused the plan to be prepared and registered compelled to remove his fences therefrom, unless lots thereon have been sold according to the plan. If he has sold any lots fronting on the street according to the plan he cannot as against the owners of the lots sold encroach upon or encumber the street.

**Duties of Pathmaster as to Keeping Roads Open in Winter.**

367—J. H. R.—A. was appointed pathmaster, duties commencing April 1st, 1903, and terminating April 1st, 1904. A. looked after all labor due according to statute for year 1903.

In January, 1904, A. came to the council and asked them if he would do as was done the previous winter—have the road kept open in his fields a distance of about one mile for the sum of five dollars, and he would put down the fence and put them up and keep that part of the road open for the money.

The reply the council gave A. was to keep the road open, as we might have a fine winter and not much drifts.

The winter was bad for drifts. A. notified the rest of the men in his division to come out and open the road, but they refused. A. then notified the reeve in writing to make them come out, but nothing was done.

A. employed men and had the road opened and paid them.

1. Can A. compel the council to pay him in money?
2. Can the council compel A. to let it stand for labor, 1904?

1 and 2. A. does not appear to have been appointed pursuant to sub-section 3 of section 537 of The Consolidated Municipal Act, 1903, as pathmaster to perform the duty of making and keeping open the roads in the township during the season of sleighing in 1903-1904. He appears to have agreed with the council to keep this portion of road open during the winter for the sum of \$5, and this is all the council can be called upon to pay him. We do not see that the council can pay this sum by allowing it as statute labor.

**Borrowing Money for Installing Electric Light and Waterworks System—Purchase of Plant from Private Party.**

368—W. J. C.—1. Our council are considering the advisability of putting in a waterworks system, purchasing electric plant and laying the balance of sidewalks required, this season. Can they pass a by-law and borrow money for a number of years upon the vote of a majority of ratepayers for the whole three purposes?

2. If so, what is the limit of time on each?
3. Can we borrow money on debentures for granolithic sidewalks otherwise than through a local improvement system?
4. If a council should decide to buy an electric plant from a private citizen, and he did not care to sell, what steps then should be taken?

1. Since one of these purposes for which this money is to be raised is to CONSTRUCT a waterworks system, and another to PURCHASE an electric plant, sub-section 3 of section 567 of The Consolidated Municipal Act, 1903, will not apply and separate by-laws must be submitted to the electors and passed for each of these purposes. The debentures to secure repayment of the money raised for both the above purposes must be made repayable within thirty years from their date, and those issued to secure repayment of the money raised for the purpose of constructing granolithic walks must be made repayable within twenty years from their date. (See sub-section 4 of section 384 of the Act). Therefore a separate by-law must be passed for the latter purpose.

2. Thirty years for debentures issued for waterworks and electric light purposes, and twenty years for those issued for the purpose of constructing granolithic walks.

3. Yes.
4. The procedure in a case of this kind is contained

in clause (a) and following clauses of sub-sec. 4 of section 566 of The Consolidated Municipal Act 1903. (See sub-section (a8) which makes all the provisions of the section applicable to a private individual).

#### Appointment of Treasurer—Responsibility of Sureties.

369—SUBSCRIBER.—1. The council appoints a treasurer by by-law and he (the treasurer) furnishes two securities and the council accepts the same. If the following council appoints the same treasurer with the same bond, by-law and securities, and the council continues to do so from year to year, will the same by-law and bond be valid and hold good, the bondsmen being satisfied to do so?

2. Would it be legal to re-appoint the treasurer by resolution and not by by-law, holding that the one that is first by-law and bonds still holds good and binding, and as it is only a retention in office of the same treasurer, that his securities were not discharged, etc., and that appointing by resolution was all that was necessary until a new appointment was made and until the bondsmen objected to become security for the treasurer, and that the date of the bond being previous, does not affect it?

3. Do the first by-law bonds and securities still remain in force, and can the bondsmen be held good and responsible in case they were required so to do?

4. Is it necessary for the council to take new bonds under above circumstances?

5. Is appointment by resolution under above circumstances legal, or would it require a by-law?

1, 2, 3, 4 and 5. The council should appoint the treasurer by by-law, either generally for an indefinite term, or from year to year. In the latter case a new by-law appointing the treasurer must be passed each year. A resolution of the council is not sufficient for the purpose. In the case of the Township of Adjala v. McElroy (9 O. R. 280) it was held that where a treasurer was re-appointed annually for several years, that the re-appointments were not equivalent to removals and re-appointments, but were rather a retention in office of the same treasurer, and that his sureties were not discharged in consequence thereof.

#### Levy of General School Rate—Prohibition of Diseased Cattle Running at Large.

370—D. C. McF.—1. A school was closed all 1903, no children to go to school. Should the clerk levy general rate in this section?

2. Has a municipal council any authority to pass a by-law to prohibit cattle that have ringworm from running at large?

1. The general school rate is not levied against the ratepayers of any particular school section, but against the taxable property of the whole municipality. (See sub-section 1 of section 70 of The Public Schools Act, 1901). The levy for the school mentioned should not have been made in 1903, as it is only public schools that have been kept open for a whole year, or for six months or over, which are entitled to be paid the amount mentioned in sub-section 1 of section 70 of the Act, or a proportionate part thereof.

2. A township council may, under the authority of section 546 of The Consolidated Municipal Act, 1903, restrain and regulate the running at large of any animals, but the restriction against running at large cannot be confined to those afflicted with ringworm. If this disease is one of those referred to in sub-section 3 of section 108 of The Public Health Act (R. S. O., 1897, chapter 248), as to which it would be well to consult a veterinary surgeon, the matter may be dealt with as provided in that section.

#### Payment of Cost of Conveyance of Road—Collection of Taxes.

371—H. G. T.—In consequence of the road becoming worn away by the action of a run of water in the ditch it was necessary for the township council to purchase a strip of land from the adjoining farm to make the road safe for the travelling public. The owner of the land did not want to sell it, but the township council expropriated the strip of land they wanted. They then disagreed on the price, but that was settled by arbitration, the farmer getting twice as much for his land as the council offered him.

1. Who should pay for the deed conveying this strip of land?
2. Has a township collector of taxes the right by himself or his bailiff to collect taxes after the 8th day of April, or should the taxes be paid to the county treasurer?
3. Would it be legal for him to seize or sell the property of the party liable for the taxes after that date (April 8th) for the taxes?

1. In the absence of any special agreement to the contrary, the general rule is that the vendee or purchaser must pay for preparing the deed of the land conveyed, and the vendee the cost of its registration.

2 and 3. So long as the collector has the collector's roll in his hands, and has not returned it to the treasurer of the municipality with the statement mentioned in section 147 of The Assessment Act, he has legal authority either by himself or his bailiff to collect any unpaid taxes thereon, by distress and sale of the delinquent's goods, if such a course be necessary.

#### Sale of Timber, etc., on Government Reservation.

372—I. H.—1. Is it legal for our council to sell timber, stone, or gravel off the 66 feet reserved by the Government along the lake shore commonly known as the tow path in front of any man's property without first paying him for said timber or stone? If so, state what clause.

2. If the owner of the land running to the lake shore cuts any timber on said reserve, can the council make him pay for same?

1 and 2. We do not infer from the statement of the facts that this is a road allowance, but that the reservation is a strip of land along the shore of the lake belonging to the Government. If this is so, neither the council nor any owners of adjoining lands has any authority to sell or remove any timber, stone, or gravel, on or from this strip of land, without having first obtained the consent of the Government.

#### Compelling Repair of Bridge.

373—J. A. G.—We have had a large bridge washed away this spring in a short road, which is very seldom used, as there is another road not far from this one which answers the same purpose as this road, only it is not such a short cut. Can any ratepayer, or ratepayers, compel us to put up this bridge again?

No, but if the council considers it inadvisable to rebuild the bridge it should take the proper steps to close the road by by-law passed in accordance with the provisions of sections 632 and 637 of The Consolidated Municipal Act, 1903. In doing this the council should take care that it does not transgress the provisions of section 629 of the Act, and, if the road to be closed is an original road allowance, the by-law closing it cannot have any force until it has been confirmed by a by-law of the county council. Until the road can be effectually closed the township council should protect the public from danger by erecting and maintaining sufficient barriers in the locality in the day time, and lights at night.

#### Duty of Clerk as to Statute Labor Lists—Township's Right to Part of Government Grant for Improvement of Roads—Payment of Drainage Assessment.

374—H. S.—In the Township of D. statute labor is commuted at 50 cents per day. There are four wards. The councillors are appointed commissioners, each one having a ward to superintend work and payments in the wards allotted to him.

1. Is it the clerk's duty to furnish the commissioner with a list of the names of the ratepayers and the amount each has to pay, or is it the duty of the commissioner to go to the assessor, go over the roll with him, write down the names and number of days each one has to perform as we are asked to do in our township?

2. The council of the Township of D. wish to improve the roads by spending \$100 a year for four years. Could they be entitled to any of the funds the Government set apart for the encouragement of building good roads. If so, how much would we be entitled to for each \$100 expended.

3. About the year 1887, in a township in an adjoining county, the council employed an engineer to estimate a drain. The council of the township who initiated the work neglected to notify the council of the adjoining township that their share of the work

was \$50, the mistake being noticed lately. Could the council, whose share of the work was \$50, legally pay the amount after the lapse of so many years?

1. The by-law commuting statute labor in the municipality should, and probably does, designate the duties of the clerk in this regard, and before definitely answering this question, we must see this by-law or a correct copy of it. We do not see, however, that the ward commissioners have anything to do with the assessor in the matter.

2. Assuming that reference is made to the sum set apart for the improvement of highways by chapter 32 of The Ontario Statutes, 1901, after the question "are you in favor of a county road system?" has been submitted to and failed to receive the assent of a majority of the ratepayers of the whole county voting on the question, the council of any local municipality may, under the authority of section 4 of the Act (as amended by section 2 of chapter 26 of The Ontario Statutes, 1903) on or before the first day of January, 1906, pass a by-law, designating the roads within such local municipality to be improved, but before such by-law can take effect it must be approved by a majority of the ratepayers of the municipality in the manner provided by The Municipal Act with respect to by-laws for the creation of debts. The amount that the municipality will be entitled to out of this fund after all the above preliminaries have been observed, will be one-third of the cost of the work, but not to exceed the proportion of the appropriation to which such municipality is entitled. (See the latter part of section 8).

3. No.

#### Powers of Police Trustees as to Local Improvements.

375—F. H.—The police village of Z. requires a system of drainage in certain parts of the village. The work should be done under a special assessment against the property benefited.

The village is not incorporated under the Act of 1903, but under the old Act. Now which will be the proper way to proceed in the matter? Will a petition the same as under The Drainage Act have to be presented to the council of the Township of H., in which township the village is situated, and proceed the same as in a municipal drain, and the council to pass by-law, etc., after an engineer's report is obtained?

The police trustees, it seems, have not power to construct works of this kind and make a special or frontage assessment for such work unless incorporated under the new Act, 1903.

The trustees of a police village have no power to pass by-laws for this purpose until they have become incorporated, as provided in section 751 of The Consolidated Municipal Act, 1903. (See section 752 of the Act). The council of the township, however, in which the police village is located may pass a by-law or by-laws for the construction of the necessary drainage works in the police village either under the provisions of The Municipal Drainage Act (R.S.O., 1897, chapter 226), or the local improvement clauses of The Consolidated Municipal Act, 1903 (section 664 and following sections of the Act).

#### Time for Equalization of Union School Assessments—Assessment of Telephone Companies.

376—G. B.—Re equalization of union schools: In 1901 we equalized our union schools. Of course then the law was for three years, which would bring it on again this year, but the law was amended in 1903 so as to read five years.

1. Do we equalize this year or two years hence?

2. If telephone lines, that is the posts and lines, pass through a municipality, are they to be assessed at so much per mile, and if so about how much?

1. The assessors of the several townships of portions of which this union school section is composed should meet this year, and equalize the assessment of the union school sections previous to the 1st of June, as provided in section 54 of The Public Schools Act, 1901. This

equalization will remain in force for five years, in accordance with the amendments made last year to section 54.

2. Sub-section 3 of section 18 of The Assessment Act (as enacted by sub-section 1 of section 1 of chapter 31 of The Ontario Statutes, 1902), provides that the rails, ties, poles, wires, etc., upon the streets, roads, highways, lanes and other public places of the municipality belonging to such companies (which includes a telephone company) shall be "land" within the meaning of The Assessment Act, and shall when and so long as in actual use be assessed at their actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights and franchises in and from the municipality and subject to similar conditions and burdens, regard being had to all circumstances adversely affecting their value, including the non-user of any such property, etc. (See also sub-section 3a of this section (as enacted by section 7 of chapter 21 of The Ontario Statutes, 1903) as to the assessment of this property when not located upon any street, road, highway, lane, or other public place in the municipality).

#### Assessment of Telephone Companies.

377—W. D. Mc.—Is there any clause in The Assessment Act which fixes the rate per mile at which telegraph and telephone companies are to be assessed? If so, is there a certain rate for the poles and wires and an additional rate for each extra wire?

The present law as to the assessment of telephone and telegraph companies is contained in sub-section 3 of section 18 of The Assessment Act, as enacted by section 1 of chapter 31 of The Ontario Statutes, 1902. This sub-section provides that the rails, ties, poles, wires, etc., upon the streets, roads, highways, lanes and other public places of the municipality belonging to such companies shall be "land" within the meaning of The Assessment Act, and shall when and so long as in actual use be assessed at their actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights, and franchises in and from the municipality and subject to similar conditions and burdens, regard being had to all circumstances adversely affecting their value, including the non-user of any such property, etc. (See also sub-section (3a) of this section as enacted by section 7 of chapter 21 of The Ontario Statutes, 1903, as to the assessment of this property when not located upon any street, road, highway, lane or other public place in the municipality.) The new Assessment Act, which provides for the assessment of these companies upon a mileage basis, will not come into force until the 1st day of January, 1905.

#### Qualification of Voters.

378—R.—1. What are the qualifications necessary for voters to be entitled in each of the three parts of the voters' list?

2. In which Act or Acts may these qualifications be found?

1 and 2. Part I. of the voters' list is to contain the names of all persons entitled to vote in the municipality at both municipal and legislative elections; Part II. of all persons entitled to vote at municipal elections only; and Part III. of all persons entitled to vote at elections for members of the Legislative Assembly only. (See section 6 of chapter 7, R. S. O., 1897). The qualification of a person entitled to vote at municipal elections will be found in section 86 and following sections of The Consolidated Municipal Act, 1903. Of persons qualified to vote at elections of members of the Legislative Assembly in section 8 and following sections of chapter 9, R. S. O., 1897. The qualification of voters at elections of members of the Dominion House of Commons is the same as that of voters at elections of members of the Legislative Assembly in each Province, as is provided in clause (a) of section 5 of The Franchise Act (Dominion) 1898.

**Collection of Taxes from Tenant—Sale of Lands.**

379—W. R.—1. (a) If assessed tenant ('03) has removed and another tenant is in possession when collector calls for taxes, what must the collector do to get said taxes?

(b) If, after the roll and list of arrears have been handed to the treasurer, and the latter contains properties marked "change of tenant," as in (a), can the treasurer collect, and how, there being goods?

2. Can the treasurer legally collect the rents from the tenant after May 1st for arrears on list of 1903?

1. (a) The collector may require the tenant in possession to pay rent to him until the taxes are satisfied, as provided by section 143 of The Assessment Act, and he may also distrain the goods of the persons assessed, and whose names appear upon the collector's roll for the year as liable therefor, wherever found within the municipality (it being a town located in one of the Districts of Ontario having no county organization). In case the amount of the taxes cannot be realized in either or both of the above ways, the lands should be sold, as provided in section 173 of the Act, to realize the amount or balance remaining unpaid.

(b) The treasurer cannot distrain the goods to satisfy these taxes, as section 171 of the Act applies to the lands of non-residents only. The only way for the treasurer to collect these taxes is to sell the lands, but he may be restrained from selling if it can be shown that there were goods on the lands while the roll was in the collector's hands, out of which the taxes might have been made.

2. No.

**Operation of Private in Opposition to Public Plant—Right of Private Parties to Use of Streets.**

380—H. S. A.—1. When a municipality owns electric light, water and power plant, can any individual sell any or all of these commodities within the corporation without the sanction of the council?

2. Can private parties cross streets with their power or light lines without permission from the council?

1. Yes.

2. No.

**Security by Clerk for Proper Handling of Market Fees.**

381—W. S.—In a town under 2,000 population, where the town clerk has charge of the market money, what is the law regarding security, or is security not required?

The council of the town may require the clerk to furnish such security as it deems sufficient for the proper handling of and accounting for these fees. (See sub-section 2 of section 537 and section 323 of The Consolidated Municipal Act, 1903).

**Payment of Cost of Removing Snow from Highway.**

382—A. W. W.—This is a very rough township with eight schools, a population of less than 600, an assessment of about \$36,000, a general school rate of 55 mills, with trustee rates varying from 5 mills to 23 mills, the township and county rate combined averaging 20 mills on the dollar. A few losses, caused once by fire at the township treasurer's and two visitations of diphtheria and some uncollectable taxes, put us so far back that twice we had to levy a special rate of 10 and 15 mills over the statutory 2 cents on the dollar for county and municipal purposes. We are now out of the debt, and less than 2 cents on the dollar may be required this year.

The past winter the snow was overwhelming, and our roads got blocked right up. Parties with teams and shovels would fight through one day, and perhaps get through, and the next day drifts would fill right up. Some men claim to have put in from 10 days to 20 days shovelling snow. Some pathmasters put in four times as much statute labor as their whole beat was entitled to, leaving no statute labor for this year or roads badly needing statute labor. Pathmasters were not always with the shovellers, and but little work was done systematically or properly timed.

What in your opinion should the council do to recover these claims?

It is not stated whether the council passed a by-law, pursuant to sub-section 3 of section 537 of The Consoli-

dated Municipal Act, 1903, appointing pathmasters to keep the roads of the township open during the sleighing season. If such officers were not appointed, and the parties who shovelled snow did the work voluntarily, without being instructed, ordered or employed to do so by a pathmaster so appointed, or the council, we do not see that they have any claim on the council for doing the work or to be allowed the time devoted to it, on their statute labor this year.

**Preparation of Statute Labor Lists.**

383—W. C. H.—Where statute labor is commuted at a fixed rate, whose duty do you think it is to prepare a list for the road commissioner? Last year was the first year for D., and it was arranged by the commissioner and the assessor. Whether that is proper or not I am at a loss to know. However, it worked very satisfactorily.

The by-law commuting statute labor in the municipality should, and probably does, designate the duties of the clerk and other officials in this regard. Before definitely answering this question, we must see this by-law or a correct copy of it. We do not see, however, that the ward commissioners have anything to do with the assessor in the matter.

**Assessment of Railway Lands.**

384—W. J. B.—A new line of steam railway runs through this municipality. The roadbed of same is graded and fenced in by the company, and they are now laying ties and rails.

Is the assessor of the municipality justified in assessing the roadway of the company at any higher valuation per acre than the farms are assessed at per acre through which the road runs?

No. In the case of *The Great Western Railway Co. v. Ferman* (8 U. C. C. P. 221) it was held that the assessment of the land of a railway company must be according to the average value of land in the locality. And in *Great Western Railway Co. v. Rouse* (15 U. C. Q. B. 168) it was held that it is only the land occupied by the road (not the superstructure) that is liable to assessment.

**Amalgamation of Polling Sub-Divisions for Voting Machine Purposes.**

385—G. M. P.—In towns where there are 14 polling sub-divisions, is there anything to prevent one booth being used for two or more sub-divisions?

It is provided by sub-section 1 of section 536 of The Consolidated Municipal Act, 1903, that the number of electors in any polling sub-division in a town shall not exceed 300 at any time. Sub-section 1 of section 106, clause (d) provides that the council of every local municipality shall, from time to time, by by-law, appoint the deputy-returning officers, who shall preside at the respective polling places. We are of opinion that under the present law two or more polling sub-divisions cannot be amalgamated for election purposes, as the law makes no provision applicable to towns, similar to that contained in sub-section 13 of section 536, which is applicable only to cities having a population of 100,000 or over.

**Fee of Justice of the Peace for Taking Affidavits.**

386—C. B.—Is a Justice of the Peace entitled to a fee of 50c. for his trouble in taking affidavits of assessors to oath required as to completion of assessment roll, or is he supposed to do the swearing of assessor free?

I, as clerk, have never been charged any fee when making affidavits to official returns, and would like to know whether any J. P. is entitled to a fee for taking affidavit?

Twenty cents is the fee payable to a commissioner for taking an oath and the like fee to a Justice of the Peace is all that he is entitled to.

**Manufacturers of Drain Tile in Montreal.**

387—A. T. S.—As one of your subscribers I take the liberty of asking you if you can give me the names of some manufacturers of

drain tile? The purpose I want it for principally is cellar drains and drains of low places on farms, etc.

I live in the County of Stormont, and Wales, on the G. T. R., is my station. If I could get it at Montreal there would be a saving of freight, I imagine, besides getting it in Toronto or some of these western cities or towns.

For cellar drains, if connected with sewers, vitrified sewer pipe should be used. Otherwise, the cheaper "farm" or "agricultural" tile can be used for cellar and field drainage. Farm tile are commonly made at brick yards. Montreal dealers in all kinds of tile are: W. McNally & Co., Montreal; and W. & F. P. Currie & Co., 345 St. James Street, Montreal, and F. Hyde & Co., Montreal. Farm tile are so necessary for drainage that local brick layers should supply them.

#### Requisites of Dog Tax By-Law.

388—X. Y. Z.—The town of ——— imposes by by-law a tax on dogs and bitches and appoints a dog tax collector to collect said tax. The by-law at present provides for 14 days' notice to be given to the owners and harborers of dogs to pay the taxes imposed by the by-law, and if not paid within that time the collector proceeds in the same manner as other taxes, etc., are collected. The next clause then provided that in case where the owners or harborers of dogs have no goods or chattels to distrain the collector shall, by the notice hereinbefore mentioned, or by a subsequent one, notify the said owner that unless payment is made within the time specified (and the time of said second notice is given shall be five days) a summons will be issued out of the police court of the town of O. requiring the owner to show cause why said dog tax and costs of court, etc.

This second notice has led to a great deal of trouble and loss of time, and what we want to know is:

1. Can we pass a by-law and collect the taxes by action in the police court, whether the owners or harborers of dogs have goods that can, or could be distrained or not?

2. What length of notice is it necessary to give before action can be taken to collect?

3. What is the proper procedure to take to collect dog taxes?

1, 2 and 3. We presume that the council has passed a by-law pursuant to section 2 of chapter 271, R. S. O., 1897, and that the by-law referred to was subsequently passed under the authority of sub-section 3 of section 540 of The Municipal Act. If this is so, we know of no authority enabling the council to provide for enforcing the payment of dog tax by summary proceedings before the Police Magistrate of the town. The extent of the authority of the council in this regard is to provide by the by-law for the imposition of a tax on dogs and bitches, and for the appointment of some person to collect the tax, and if the tax is not paid by the owner or harbinger of the dog or bitch after such notice as the by-law requires to be given, provision should be made for the imposition of a fine on the defaulter, under the authority of clause (b) of sub-section 1 of section 702 of The Consolidated Municipal Act, 1903, to be collected as provided in sub-sections 2 and 3 of this section.

#### Liability of Council to Build Sidewalks and Ditches—And for Accident on Sideroad.

389—G. J. S.—1. A sidewalk running out of the County Town of S., in the Township of W., has gone down. Is the township compelled to build a new sidewalk at a cost of about \$4.00, or can the council take the said walk away altogether?

2. Is the municipality compelled to clean ditches along the road to drain farms, said ditches formerly made by the municipality running the water off its natural course?

3. A stream running across the road, a good bridge and good road. There is a side track through the stream, which is dangerous in the spring. Is the municipality liable for damages caused by driving through the stream?

4. We have a road running through our township granted by the Government to a company, which is now kept up by the municipality. There seems to be no boundary to ascertain the width of the road. It is now from 45 to 50 feet wide; the roadbed is 30 feet wide, not leaving room to clean the ditches in places. How will I proceed to make room for ditches?

1. As long as this sidewalk is allowed to remain on a highway in the township, the council must keep it in repair. If the council does not want to go to the expense of maintaining the sidewalk in a condition of safety, it may remove it altogether.

2. No.

3. No.

4. If the council desires its road commissioner to dig or clean out ditches along the road allowance, it should ascertain the limits of the road. This information can, in all probability, be obtained by communicating with the Commissioner of Crown Lands, or the Commissioner of Public Works, Parliament Buildings, Toronto.

#### Failure of Engineer to Provide for Bridge Over Drain—Power of Owner to Obstruct Drain.

390—Y. R. H.—1. In making his report to the council on drainage works the engineer allowed for only one bridge across the drain on a certain farm. At the date of the report this farm actually belonged to two persons, each owning a separate part of it. The report was made and by-law passed about a year ago, and the drain has been constructed and paid for. Can the owner of the portion of the farm left without a bridge now successfully put in a claim for it?

2. This farm has been injured by the construction of this drain, which rapidly takes away water that formerly gradually and continuously flowed through it in a natural watercourse. Is the owner entitled to compensation?

3. Can the owner place a dam in the drain on his land to hold back water running through it, so long as he occasions no injury to the drain or adjoining lands?

1 and 2. If these lands have been injured by the construction of these drainage works beyond the benefit derived from it, the owner is entitled to such compensation as the drainage referee, on appeal to him, may determine, and we think that the owner, in claiming damages, can very well ask to be allowed the value of a bridge as part of his damages. The notice of application to the referee must be filed and served within two years from the time the cause of complaint arose. (See section 93 of chapter 226, R. S. O., 1897, as enacted by section 4 of chapter 30 of The Ontario Statutes, 1901).

3. We do not think the owner of the lands has any right to construct anything in the drain so as to form a dam. (See section 79 of the Drainage Act).

#### Effect of Error in Description in Tax Deed—Sale of Non-Resident Lands for Taxes—Payment of Levy to Union School Section.

391—T. F. B.—1. Twenty years since A. bought at county tax sale 10 acres of lot 1, concession 2, for arrears of taxes. When county treasurer issued deed he entered wrong description. Four years since A. had lot surveyed according to county treasurer's deed and sold to C. ten green pine trees growing thereon. After the trees were removed B., who owns the balance of lot, discovered same and, on investigation, found that county treasurer had made a deed that was wrong in description. He at once entered action against the county and township. Who is liable, the county through their treasurer making the mistake in the deed, or the township, or A., who in good faith bought the land?

B., on whose portion of said lot said ten pine trees grew, has paid the taxes for 25 years on said lot owned by him.

2. D., who lives in Toronto, owns 50 acres of lot 3, concession 4. He has asked that said lot be assessed to him on the resident assessment roll, which has been done for the last six years. He has neglected to pay the taxes for three years, and this year it is liable to be sold for taxes, and the assessor has notified D. of said arrears and on the list of "Lands liable to be sold for taxes" has entered the words "notified, but not occupied, the property of a non-resident."

2. Should county treasurer offer said lot at tax sale this autumn, if arrears are unpaid, or should it go on the resident collector's roll as back taxes?

3. There is a union school section in this and the next township; school house in adjoining township. Should our treasurer pay our share of said union school moneys to the trustees of said union school section, or should he forward it to the treasurer of township adjoining where school house is situated?

1. We do not see that B. has any right of action either against the county or the local municipality under these circumstances. Neither municipality is responsible for mistakes made by the county treasurer in performing the duties imposed on him by The Assessment Act relating to the sale of lands for arrears of taxes. The deed from the treasurer to A. could not pass the title to him of any part of B.'s land, unless this was the land in respect of which the arrears were payable, which does not appear to have been the case. A. did not apparently acquire a possessory title to the portion of B.'s land described in the treasurer's deed to him, as he did nothing towards entering into possession of it until four years ago. If B. can show that the pine trees were cut upon and removed from his land by C., he should look to the latter for compensation.

2. Since these lands have been assessed on the resident roll of the municipality by request of the owner, these lands should be dealt with as provided in sections 152, 153, 154 and 155 of The Assessment Act, and if the arrears of taxes are not paid the lands may be sold to satisfy the amount, as provided in section 173 of the Act.

3. Sub-section 9 of section 65 of The Public Schools Act, 1901, provides that the trustees shall submit to the municipal council on or before the 1st day of August, or at such time as may be required by the municipal council, an estimate of the expenses of the schools under their charge for the current year. This estimate should be submitted by the trustees to the councils of each of the townships of portions of which a union school section is composed. The respective councils should then levy their proportions, as fixed by the assessors in equalizing the union school section assessment, against the ratepayers in their municipalities. (See sections 71 and 54 of the Act). Section 49 of the Act requires the collectors of the municipalities interested to collect these amounts and pay them to the treasurers of their respective municipalities, to be paid by the latter to the trustees of the union school section on or before the 15th December. (See also sub-section 1 of section 71).

#### Power of Council to Compel Removal of Stallion Stand.

392—X.—A stallion stand, with fence 12 feet high, has been constructed by a hotel man on private property within 12 feet of a dwelling house. It is a nuisance and objected to by the tenant, who threatens to move out at once. Can village council take any action in the matter, or has owner of property any redress?

Sub-section 1 of section 586 of The Consolidated Municipal Act, 1903, empowers councils of villages to pass by-laws "for preventing and abating public nuisances." It must be shown, however, that the matter complained of is a nuisance of which the law will take cognizance, that is, as has been judicially stated, that it is an inconvenience materially interfering with the ordinary comfort, PHYSICALLY, of human existence. Unless this stand, owing to accumulations of filth or otherwise, is productive of foul odors, or emanations, or noises injurious to the health or PHYSICAL comfort of residents in its vicinity (and this is a question of evidence) we do not see that persons subjected to mere annoyance have any legal remedy.

#### Requisites of Valid By-Law.

393—C. E. L.—1. Would a by-law that has not been signed by the reeve be valid and binding? A by-law to establish a new road was passed on the 23rd of January, 1851. It appears that it was impracticable to build a highway upon the road allowance, and this by-law was passed for the purpose of purchasing land from private parties to make the said road. The by-law was never signed by the reeve.

2. On the 4th day of May, 1852, the first named by-law, being number 31, was extended by by-law number 45, and provides for payment for the land to establish the new road. This by-law is

properly signed by the reeve and clerk. Both by-laws have the corporate seal attached and are signed and certified by the clerk. Would by-law number 31 be valid and in force at the present time?

1. We are of opinion that this is not a valid by-law. Section 333 of The Consolidated Municipal Act, 1903, provides that "every by-law shall be under the seal of the corporation, and shall be signed by the head of the corporation, or by the person presiding at the meeting at which the by-law was passed, and by the clerk of the corporation." The signatures mentioned in the above section are essential to the validity of a by-law, and it was so decided in the cases of *Canada Atlantic Railway Co. v. City of Ottawa* (12 S. C. R. 365, 379), and *Wise v. Village of Kingsville* (28 O. R. 378).

2. No. The passing of by-law number 45 in no way affected the validity of by-law number 31. As to whether the road intended to be established as a public highway by by-law number 31 is, under the circumstances, now such a highway, is another question.

#### Proceedings on Application to Change School Boundaries—Dimensions of Culvert on Highway.

394—D. McC.—1. About two months ago the trustees and ratepayers of S. S. No. A petitioned the township council to take certain lots from S. S. No. B and add to No. A. The council took no action. Now the trustees of No. A have appealed against the decision of the township council, and have asked the county council to appoint an arbitration. Is the county council compelled to appoint arbitrators, or is it optional?

2. The trustees of No. B. wrote to the trustees of No. A, stating that they would have no objection to giving them half what they (the trustees of No. A) asked for, providing that they could legally do so. If the trustees of No. A refuse to adopt this and go to arbitration and the arbitrators allow them only what the trustees of No. B offered, then who should pay the expense?

3. The lands affected have been in section B for thirty-four years, or ever since the sections in this township have been formed. Would that length of time bar the trustees of A from taking any action?

4. Is the township council compelled to pass a by-law giving these lands to A if the arbitration awards them so much land?

5. Is the township council compelled to put a culvert over the road deep enough to underdrain a man's property, or only deep enough to take off the surface water, and who would have to dig on either side of culvert to get the water away from an underdrain?

1. The meeting of the council at which it refused to entertain the application for a change of the boundaries of these school sections appears to have been held two months ago. If this is so, it is now too late to appeal to the county council for the appointment of arbitrators. This appeal must be taken within 20 days from the date of the meeting at which the council refused to pass a by-law making the desired alterations in the boundaries of these school sections. (See sub-sections 1 and 2 of section 42 of The Public Schools Act, 1901). In any event the county council is not BOUND to appoint the arbitrators on being appealed to to do so—it can exercise its discretion in the matter. (See sub-section 3 of section 42).

2. Our answer to question number 1 renders it unnecessary to reply to this. We may observe, however, that the costs of the arbitration are wholly within the discretion of the arbitrators. (See section 88 of the Act).

3. No.

4. If the matter goes to arbitration the township council has nothing further to do with it. It is the award of the arbitrators that will thereafter determine the limits and boundaries of the school sections concerned for the period of five years, unless it is set aside or amended on appeal, and in the latter case the amended award will determine such boundaries.

5. A council need build a culvert only of sufficient dimensions to drain the road. If adjoining owners desire to drain their lands, advantage should be taken of The Ditches and Watercourses Act. (R. S. O., 1897, chapter 285).

Granolithic the Same as Cement Sidewalks.

395—D. G.—Re granolithic sidewalks, page 120, 307 May number.

Are the terms granolithic and cement as applied to sidewalks the same, and do the same conditions govern ?

A granolithic sidewalk is one made of a preparation of cement, and is what is usually termed a cement walk. The same law relating to their construction applies to both these kinds of sidewalks.

Payment of Taxes on Timber Sold.

396—J. D.—1. A sold the timber standing on his property to B and gave three years for removal of same. Is A liable for taxes of said property, or should B pay taxes to the proportion of the value of the timber ? They have a written agreement registered, but nothing was mentioned respecting the payment of the taxes. A is assessed for the full value of the property, including the timber ?

2. If A is not legally bound to pay the taxes, how should he proceed to compel B to pay taxes for the timber. If B fails to pay would A have a lien on the timber ?

3. Are logs in a mill yard assessable if they are covered by debt ?

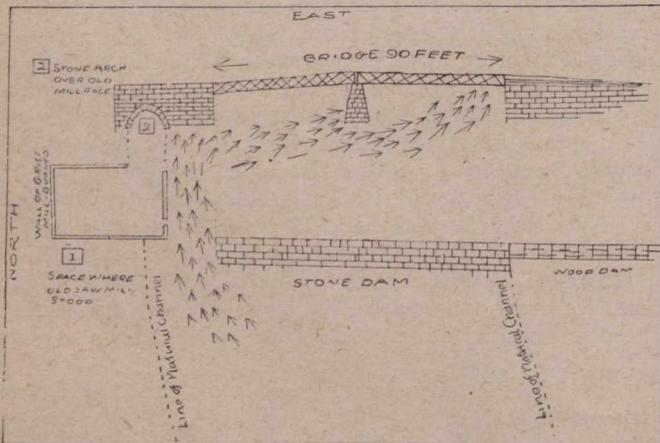
1. Since A is assessed for the land on which the timber stands, if his name appears upon the collector's roll for the year as liable for these taxes, he must pay them. The municipality has nothing to do with the terms of any bargain that A may have entered into for the sale of the timber. This is a matter for settlement between him and the purchaser.

2. Our answer to question number 1 renders it unnecessary to reply to this.

3. These logs are assessable at their actual cash value, less such a sum as is equal to the just debts owed by the owner on account of such property. (See subsection 24 of section 7 of The Assessment Act).

Liability of Owner of Defective Drain for Injury to Township Bridge.

397—S. K.—Enclosed I send you a diagram of bridge over the Twenty-Mile Creek at St. Ann's, and the old mill dam about one hundred feet above it. The mill has been here about one hundred years. All went well until the mills were gone. Now the water strikes the stone abutment at the north end of the bridge, and has



damaged it a great deal; then turning south across the stream nearly destroyed the centre abutment of the bridge this spring. It is considered by competent men that so long as the current of water is turned from its proper course it will be impossible to make a bridge stand.

1. Can the owner of the mill site be compelled to fill up the open space in the dam or take down the stone dam and let the water flow in the natural channel of the stream ?

If the short space between the stone dam and the old grist mill wall were closed up, the current would go straight for the bridge as it always did.

2. Is the owner of the mill site liable for the damage now done ?

1 and 2. If the present defective state of the dam is, by the diversion of the current in this stream, damaging the bridge belonging to the municipality, he can be

restrained from continuing the dam in such a condition as to cause injury to the bridge in question, and is liable for the cost of making good any injury that the break in the dam has already done to the bridge.

By-Laws Commuting and Reducing the Ratio of Statute Labor —Clerk May Also be Treasurer.

398—RATEPAYER.—1. The council of the year 1902 of E. township submitted the question of commuting statute labor to 50 cents per day to a vote of the electors of the township at the municipal elections in January, 1903, and it was carried by a fair majority that the statute labor would be commuted at 50 cents per day. And the council of the year 1903, by resolution or by-law passed, confirming the wishes of the electors, commuting statute labor at 50 cents per day, which was enforced and the money collected in the taxes of the year, 1903. Is this by-law passed by the council of the year 1903 still in force until revoked ?

2. The council of the year 1904 of E. township passed a by-law abolishing the statute labor scale of the number of days' statute labor in the township according to the assessment laws of The Statutes of Ontario. Is this by-law of the council of 1904 legal or illegal ? Where do they find their authority to pass it when the by-law of the year 1903 was not repealed ?

3. Is it legal for a clerk to hold the office of treasurer of a township ?

1. Assuming that this by-law simply enacts generally that statute labor in the municipality shall be commuted to a money payment of fifty cents per day, it will remain in force until repealed or amended by the council of the municipality.

2. This question is somewhat difficult to understand, but the council is given authority by section 101 of The Assessment Act to entirely abolish statute labor in the municipality, in which event no ratepayer could be required to perform any statute labor or pay commutation therefor pursuant to the by-law passed in 1903. Or, the council may pass a by-law under the authority of section 101 REDUCING the scale of statute labor prescribed by section 102 of the Act. In the latter event, the commutation money must be calculated on the basis of the new ratio of statute labor, introduced by the by-law.

3. Yes.

Duties of Collector—Of Treasurer as to Sale of Land for Taxes.

399—J. B. L.—1. Can a collector collect any quantity of taxes if the ratepayer only pays him half the amount ?

2. By him doing so, does it leave the balance uncollectable ?

3. If the collector neglects to collect taxes of a tenant that has a place rented and the tenant leaves the place with his moveable property and the taxes cannot be got from him, can the township council collect it from him or his sureties ?

4. If the treasurer of the township neglects to make a land sale, and any taxes are lost by his neglect, can the council recover it from him ?

5. Can the improvements on Crown lands be sold for taxes when a man has no payment made to the Crown.

1 and 2. A collector should not accept payment of part of a ratepayer's taxes, but if he does so, this does not render the balance uncollectable.

3. If the tenant was assessed for the premises in respect of which the taxes are payable, and his name appears on the collector's roll for the year as liable therefor, and during the time the roll was in his hands, there were goods and chattels on the premises liable to seizure for taxes and the collector neglected to distrain them, so that owing to his negligence the amount was lost to the township, the municipality can hold the collector and his sureties responsible.

4. Yes, assuming that he has been guilty of negligence.

5. In this case, the treasurer can sell only the interest in the land of the lessee, licensee, or locatee, whatever that may be. (See section 188 of The Assessment Act).

**Duties of Poundkeeper.**

400—J. K. C.—1. Can a poundkeeper legally impound cattle trespassing on his own land in his own pound?

2. Can a poundkeeper legally impound cattle that are running at large on the public road in his own pound?

1. Yes, provided he makes no claim for damages done by the cattle distrained and kept in his possession. (See section 7 of chapter 272, R. S. O., 1897).

2. No. Section 3 of the above Act authorizes a poundkeeper to impound the animals therein mentioned, distrained for unlawfully running at large, or for trespassing and doing damage, *delivered to him for that purpose by any person resident within his division who has distrained the same.*

**Qualification of Councillor—Liability of Township for Defective Bridge—For Diverting Natural Water Course.**

401—C. N. Mc.—1. Is a secretary-treasurer of a public school section, who is engaged by the trustees as secretary-treasurer for them, and receiving a salary, qualified as a member of a township council?

2. Is a township council liable for damages when notified that a bridge is unsafe for the travelling public owing to some of the logs in the covering being broken and dangerous holes in the covering? The council had 30 days' notice of this defective bridge, and they have done nothing towards repairing said bridge yet.

3. A certain road in the Township of E. was graded and ditched on each side of main road for travelling to the top of a steep hill on said concession line, and the hill cut down with side ditches to carry the water down. This never was the watercourse before the road was graded and the hill cut down. The water is now diverted from the natural watercourse and the ditches below the hill are not large and deep enough to carry all the water diverted down the hill, and the result is that the water overflows the banks of the ditches below the hill on to the adjoining farm and floods it over and damages this farmer's crops in those fields. The owner of this farm has already notified the council to carry the water down to a proper outlet along the road to a culvert over a large ditch crossing the road. Can this farmer compel the council to take this diverted water to the proper outlet?

4. Can he come on the council for damages to his crops by the water diverted from its natural course?

5. Is a member of a township council qualified who was a school trustee at the time he was nominated for councillor, but resigned the trusteeship at the school meeting afterwards?

1. Unless this secretary-treasurer of the Board of Public School Trustees is a member of the board he is not disqualified as a member of the township council.

2. It is not stated that any accident has happened by reason of the unsafe condition of this bridge. If no accident has happened, no one has been injured, and consequently there is no liability on the part of the municipality to anyone for damages. The council might be compelled by mandamus to put this bridge in a proper state of repair, if the safety of the travelling public demands it.

3 and 4. If the council has diverted water from its natural course, and deposited it upon the lands of private owners, thereby occasioning injury to such owners, it can be restrained by injunction from further offending, and is responsible in damages to the owners, whose lands have sustained injury.

5. No. See the case of *Rex ex rel Zimmerman v. Steele*, particulars of which are given on page 63 of THE MUNICIPAL WORLD for 1903 (April issue), but proceedings to unseat a disqualified councillor must be instituted within the time mentioned in section 220 of The Consolidated Municipal Act, 1903.

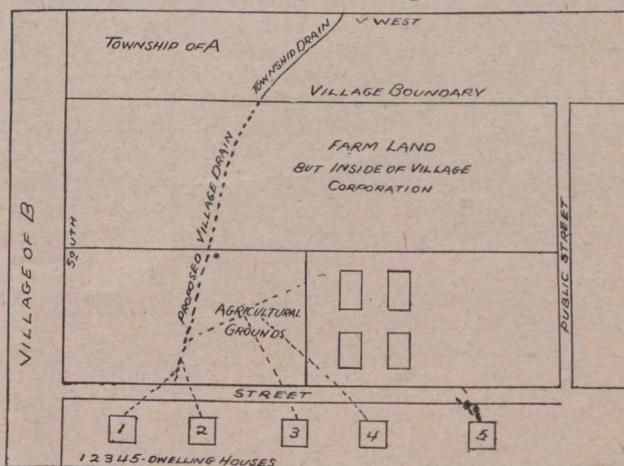
**Width of Road in Districts.**

402—J. A. L.—There is a road along the railway line that has to be bought by the corporation. It is thought that 40 feet would be wide enough, there being but little traffic on that road since it is a dangerous place (along R. R. line). If any accident happened, would the council be responsible for such accident, the road not having proper width? If so, the council would prefer buying the width necessary to avoid all responsibility in that way.

The general law as to the width of roads in Ontario is contained in section 630 of The Consolidated Municipal Act, 1903, and this section provides that no township council shall lay out a road more than 100 or less than 60 feet in width. Since, however, this particular municipality is located in one of the Districts referred to in section 35 of chapter 225, R. S. O., 1897, the latter section is applicable. and the council may establish a road therein less than 66 (or 40 feet) in width, if it deems this sufficient. The mere fact that the road when established will not be more than 40 feet in width will not affect the municipality's responsibility for any accident that may happen by reason of this road's being out of repair, etc.

**Assessment of Lands of Agricultural Society for Drainage Works.**

403—J. T.—The Agricultural Society of the Township of A. has its show grounds situated in the incorporated Village of B., said grounds for their own local improvement requiring draining. The village property adjacent to the grounds have no outlet for their cellar water only through the Agricultural grounds. The Township



of A. has now a municipal drain under way, which comes to village boundary 60 rods west of Agricultural Society grounds, as shown by the accompanying diagram. The engineer has assessed all village property, with exception of Agricultural grounds, the water of which finds outlet in the township drain, \$400 towards construction of said drain.

The villagers are now petitioning the council for the construction of a drain to connect with the township drain, which, of course, must pass through the Agricultural grounds.

1. For what portion of the cost of such drain is the Agricultural Society liable, it being exempt from ordinary taxes?

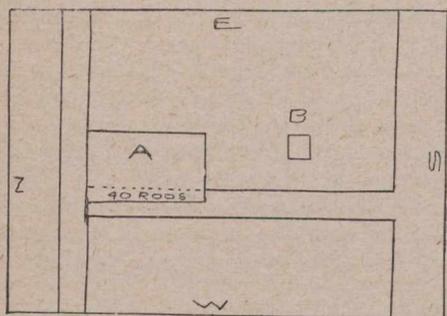
2. Is the Agricultural Society not liable for a share of the \$400, which has to be paid by the village for construction of township drain?

1 and 2. By sub-section 11 of section 7 of The Assessment Act, the lands of Agricultural Societies are exempted from TAXATION. Section 7 (a) of the Act (added by section 5 of chapter 21 of The Ontario Statutes, 1903), provides that "the exemptions provided for by section 7 of this Act, shall be subject to the provisions of *The Municipal Act* with respect to the assessment of property for *local improvements*." The drain referred to appears to have been constructed under the provisions of The Drainage Act (R. S. O., 1897, chapter 226), and not as a local improvement under section 664 and following sections of The Municipal Act. We are therefore of opinion that the Agricultural Society through whose lands this drain will pass, is not liable for any portion of the cost of its construction, nor should it have been assessed for any portion of the cost of construction of the original drain, into which the new drain will have its outlet.

**Disputed Ownership of Road.**

404—CLERK—A certain road marked B. across lot 8, in the 10th concession, has been in existence for the last 60 years or more as a given road. It has never been established as part of a road beat. Some claim that some pathmasters have done road work on it, others say not. The road now is in shape, marked A. The

fence along a 40-acre farm having been moved out about 20 years ago, and later, two feet or a little less about ten years ago. Jones lives on east side marked, and wishes road widened and wants the



council to do it. B. will not move the fence back, nor at present will sell the land or strip marked on A. I presume he says that the strip belongs to him and is included in 40-acre lot. I might say that Jones had no other egress or ingress but through that lane.

1. Who owns the road?

2. If the township owns it, what steps are to be taken to make it a township road?

3. What is the least width required for the road?

1. We gather from the statement of the facts that Brown has been in the peaceable possession of the strip of land in dispute, except two feet of its width, for 20 years, and of the remaining two feet for 10 years, and that he has had these lands fenced in during these periods. If this is so, we are of opinion that Brown has acquired a possessory title to all, except the two feet, and cannot now be compelled to give it up. From the diagram, we take it that Jones has a way of getting to the road to the south over the remaining portion of the road, off which the strip is taken.

2. Our answer to question number one renders it unnecessary to reply to this.

3. Section 630 of The Consolidated Municipal Act, 1903, prohibits the laying out or establishing of a new road by a municipal council more than 100 or less than 66 feet in width, but in this instance the council cannot be compelled to purchase the land necessary to make this road the statutory width.

#### Enforcement of Maintenance of Boundary Line.

405—D. M. V.—The Townships of A. and B. touch each other. A. for two or three years paid for all (or nearly all) boundary work done between the two townships. Now A. files an account with B. for half the costs of boundary work, and B. refuses to pay any part of that account.

Is there any way by which B. could be made to pay its share? If so, how?

A. has not always notified B. when work had to be done.

Before doing any work on the boundary line between them these townships should have endeavored to come to an agreement as to the share of the cost of its maintenance to be borne by each. If B. neglected or refused to enter into any arrangement with A. in this regard, the council of A. should have applied to the council of the county to enforce joint action on the part of both townships interested, as is provided in section 648 of The Consolidated Municipal Act, 1903. On receipt of such an application section 651 provides that "the county council may determine the amount which each township council interested shall be required to apply for the opening or repairing of such lines of road, or may direct the expenditure of a certain portion of the statute labor, or both, as may seem necessary to make the said lines of road equal to other roads." If Township A. has seen fit to do all the work on this boundary line, voluntarily, for two or three years and paid the cost of the work, without making any arrangements with or enforcing township B. to pay its share, we do not see that Township A. has now any remedy against Township B. for the amount of that share.

#### Power to File General Appeal Against Assessment Roll.

406—ENQUIRER.—A. B. Reeve made an appeal on the whole

assessment roll. Will the clerk of the municipality have to notify all the parties assessed, or will the advertisement be sufficient?

A general appeal against an assessment roll cannot be legally entered and filed, nor should the Court of Revision entertain such an appeal. Section 71 of The Assessment Act requires the filing of a notice of appeal with the clerk, when a party complains of an overcharge or undercharge on property assessed. This notice must describe the particular property appealed against in each case, and a notice to attend the Court of Revision must be served on each owner of property appealed against. This would involve a large amount of trouble and expense, if appeals are filed in respect of each parcel of property in the municipality. Any elector may, however, appeal against the assessment of all persons on the assessment roll upon the ground that they are all assessed too low or too high, etc., and if the appellant has done this, the Court of Revision will have to deal with the appeals, and it is the duty of the clerk to give the notices required by the Act in the same manner as in an appeal against the person.

#### Right to Recover Taxes Paid on Excessive Acreage.

407—J. S. G.—Owing to an error some years ago in the computation of the number of acres in a certain lot, the owner has for a number of years been paying taxes for 236 acres, when there is only 182 acres in the lot. The error was only discovered this spring, and according to the registered map of the township the lot contains 182 acres.

1. Can the owner recover the amount of taxes from the township that he has been paying for some years on the 54 acres that he was unjustly assessed for?

2. Can the council by by-law or otherwise repay the amount claimed?

1. No. Not having appealed, the roll became binding and conclusive after the time for appealing elapsed, and he was bound to pay the tax.

2. No.

#### Power to Prevent Storing of Explosives.

408—J. C. R.—Inflammable and explosive materials, the property of merchants in the Town of A. were stored in Township B., adjoining said town and in close proximity to dwelling houses in said township. The owners of said dwellings feel their lives and properties are endangered by said storage and have requested said township council to prohibit in the locality such storage, intimating any damage done after such notice in event of said township council taking no action they would hold the township liable.

1. Has the township council power to regulate and prohibit such storage, and how should it proceed?

2. In event of the council taking no action, would there be any liability?

1. Sub-section 17 of section 542 of The Consolidated Municipal Act, 1903, authorizes the councils of townships to pass by-laws "for regulating the keeping and transporting of gunpowder and other combustible or dangerous materials," and sub-section 17a "for limiting the quantity of gunpowder or of any other explosive substance to be kept in any place other than a powder magazine, and to regulate the manner in which such gunpowder or other explosive substance must be stored." It is optional with the council as to whether it passes a by-law under the authority of either of these sub-sections or not, and in neither case is it authorized to prohibit the storing of these materials in the municipality. But before we can express an opinion upon the case in hand it will be necessary to know the nature of the explosives referred to in order to say whether the above provision applies or not.

2. No.

#### Liability for Damages Caused by Ditches Dug on Highway.

409—S. B.—The pathmaster, in performing statute labor about 15 years ago, dug a ditch along the roadside and took the water out of its natural course, as it was cheaper than putting in culverts. This spring the water undermined the side of the ditch and let the farmer's wire fence fall into the ditch.

1. Is the council liable for damages ?
2. How long has water to run in a ditch before it becomes a natural water course ?
3. Are councils liable to owner of private property where water runs along the road in its natural course and undermines the bank and damages the said property ?

1. If the council or its officer (the pathmaster), by digging a ditch along the roadside, collected water therein that did not flow in that course naturally and thereby occasioned injury to the lands or fences of adjoining owners, the corporation is liable to such owners for the damage done.

2. Time will not convert an artificial drain into a natural water course in the legal sense of a natural water course, but a person who constructs a drain through which he discharges water will acquire a right to continue to discharge water through it after a 20 years' use.

3. No. The owners suffering injury have their remedy either under The Ditches and Watercourses Act (R. S. O., 1897, chapter 285), or the Municipal Drainage Act (R. S. O., 1897, chap. 226.)

#### Proceedings to Enforce Ditches and Watercourses Award—Who May File Declaration of Ownership.

410—A. M. Z.—In October, 1903, the engineer made out an award in which A., B., C., D. and F. were interested. The surface water on A.'s land runs across the land of B. C. and D., which is underdrained. The engineer ordered an underdrain across the road allowance, and then through F.'s land for about 150 feet. A., B., C., D. were to do equal proportions and to bear its cost equally. A. and F. were dissatisfied with the award, but did not appeal. I took out the requisition. F. scared D., who is a widow, from going on with the work, but afterwards gave her privilege to go on his farm, when it was too late to do the work. The drain was to have been completed about the 31st October.

1. Can the engineer make the same award hold good by extending the time for the completion of the drain some time this summer ?

2. Providing the drain should never be completed, can the council collect the engineer's fees and other expenses from the said parties, as the council has already paid the engineer ?

3. What would be the best course for D. to pursue ?

4. Would it be possible for anyone who is only a tenant to take out a requisition in accordance with The Ditches and Watercourses Act since he cannot take the declaration of ownership ?

1. The completion of this drain can be enforced under the award made in October, 1903. Since the time limited for the construction of the drain has expired, the engineer should inspect it, and if he finds any portion or portions of it, uncompleted, he should let the doing of the work as provided in section 28 of the Ditches and Watercourses Act. Sub-section 2 of this section empowers the engineer, if he is satisfied of the good faith of the person failing in the performance of the award, and there is good reason for the non-performance thereof to, in his discretion, extend the time for the performance of the work, upon payment of his fees and charges.

2. The council can collect these fees and expenses. It is no concern of the council's, if the parties after incurring the expense, fail to perform the work in accordance with the award made.

3. To construct her portion of the drain, in accordance with the award, at the earliest possible date. If her portion is located on F.'s farm, he has no power to prevent her or her employees from doing the work thereon.

4. A lessee for a term of years not less than ten or for a term of not less than five years, with an option to purchase, may file a declaration of ownership under section 7 of The Ditches and Watercourses Act (R. S. O., 1897, chapter 285). See also the definition of "owner" in section 3 of the Act.

#### Liability for Cattle Trespassing.

411—J. G. P.—Our council has passed a by-law by which milch cows, yearling heifers (but not other stock) are allowed to run at large, for the purpose of pasturage, by wearing a township tag.

Some contend that parties having road fences are not bound to keep same up or at least not to lawful height.

Our by-law (I enclose one) regulates the height of fences. Would not that include road fences as well ?

Owners of land along the highways should erect fences to keep out cattle, but if any cattle legally running at large or pasturing on the highways, break into the lands of any such owner, and do damage thereon, the owners of the cattle are not liable for the amount of the damage done, unless the fences enclosing the premises are of the height and description prescribed by the by-law.

#### Proceedings at Court of Revision.

412—J. E. H.—Can a Court of Revision increase a man's acreage on his assessment without some one appealing, as it is assessed four acres below registered deed, or must some person appeal against it ?

No. Sub-section 4 of section 41 of The Assessment Act provides that no alteration shall be made in the roll unless under a complaint formally made according to the provisions of the preceding part of that section. This is not such a "palpable error" as would enable the council to take advantage of the provisions of sub-section 18 of this section.

#### Liability for Death of Horse.

413—J. Y.—A ratepayer and pathmaster of this township, while trying to plough out a road in his division, one of his horses got down in the snow drifts and plunged forward and died on the spot. He thinks the cause of death was due to a strain going through said drifts, and wants compensation from the council.

He was not ordered out by the council or any one else. He went of his own accord.

Do you think the council would be justified in paying this claim ?

No.

#### When Copy of Assessment Roll is to be Sent to County Clerk.

414—A. R.—A few years ago an Act was passed giving county councils power to allow a copy of The assessment rolls of township to be sent to county clerk once in three years, a synopsis to be sent the intervening years. Please give us the chapter and section where to find it.

Section 7 of chapter 27 of The Ontario Statutes, 1899.

#### PUBLICATIONS RECEIVED

"MUNICIPAL TRADING IN GREAT BRITAIN," BY WILLIAM RICHMOND SMITH, PUBLISHED BY WILLIAM BRIGGS, TORONTO.

This is a valuable contribution to the literature on a subject which is being prominently considered in many towns and cities.

Mr. Smith's description of the Governmental and local and municipal conditions under which municipal trading has developed in Great Britain, will assist municipal authorities to a better understanding of the results achieved.

The English municipal system favors continuity of persons and municipal policy. These are the first essentials to the successful management of a commercial undertaking whether in the hands of a private company or an elective municipal council. The reference to the constitution and powers of the English local government board which exercises a wise measure of control over the acts and financial undertaking of municipalities are especially interesting in view of the fact that the formation of a board with similar powers has been suggested for Ontario.

## Municipal Legislation, 1904

### THE MUNICIPAL AMENDMENT ACT, 1904.

This Act contains a number of important amendments to *The Consolidated Municipal Act, 1903*. We draw attention to those particularly worthy of consideration. Section 2 makes provision for the re-arrangement of county council divisions when territory has been annexed to a city or separated town in the county. In case the councils of a majority of the local municipalities within a county by resolution passed and filed with the county clerk on or before the 1st day of October in any year preceding a year in which a general election of county councillors is to be held, shall so require, section 3 renders it the duty of the council of the county to submit to the vote of the municipal electors of the county a by-law declaring that thereafter the council of such county shall be composed of the Reeves of townships and villages and the mayors of towns not separated from the county, instead of representatives of the county council divisions as formerly. Section 4 requires all candidates for office in cities, towns and incorporated villages to file a declaration of qualification in the office of the clerk of the municipality on the day of nomination or at any time before 9 o'clock in the afternoon of the following day, or when such last named day is a holiday, then before 12 o'clock (noon) of the following day. Section 6 authorizes the councils of cities to grant rights to maintain waste paper boxes on the streets. Section 10 makes provision for the issuing of debentures after the expiry of two years when proceedings have been taken to attack a by-law. Section 15 empowers the council of any municipality to borrow a sum not exceeding ninety per cent. of the estimates for the current year, for current expenditure, instead of eighty per cent. of the amount collected as taxes, as formerly. Section 17 prohibits any member of a council from voting on any by-law appointing him to any office in the gift of the council, or fixing or providing any remuneration for his services. Section 24 empowers a constable or other police officer to arrest without a warrant a person who fails to produce his peddler's license on demand. Section 26 makes provision for the closing up of streets by the council of any municipality and conveying the same to manufacturers. Section 35 provides for the submission by the township council to the ratepayers of a police village of a by-law providing for the issue of debentures to pay the cost of constructing sidewalks of cement, concrete, brick or other permanent material within the limits of the police village. Section 37 removes the disqualification from sitting in councils of newspaper proprietors who insert municipal advertisements, etc., in their newspapers. The following is the full text of the Act :

**HIS MAJESTY**, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :

#### Amendment of Proclamation Extending a City or Town.

1. Section 24 of *The Consolidated Municipal Act, 1903*, is amended by adding thereto the following proviso :

Provided that any proclamation issued hereunder may at any time where the council of such city or town and any other parties interested agree that the said proclamation does not correctly set forth the terms and conditions as to taxation, assessment, improvements, or otherwise agreed upon, be amended to carry out such agreement.

#### Re-arrangement of County Council Divisions on Annexation of Territory to City or Separated Town.

2. Section 68 of *The Consolidated Municipal Act, 1903*, is amended by adding thereto the following sub-section :

(2) Where an incorporated village or a portion of a township has been since the report of the said commissioners referred to in section 67 annexed to a city or to a town separated from the county, the council of the county in which the territory comprised within such village or township is situate may by resolution require the board provided for in this section to consider what re-arrangement should be made in the county council divisions ; and the board may by their order constitute the remaining portion of the county council division in which such territory was situate a separate county council division or may make such re-arrangement of the county council divisions as they may deem necessary, but only in so far as the altered circumstances may require.

#### Submission of By-Law for Constituting County Councils of Reeves and Mayors.

3. Sub-sections 1 and 2 of section 68a of *The Consolidated Municipal Act, 1903*, are repealed and the following substituted therefor :

(1) In case the councils of a majority of the local municipalities within a county by resolution to be passed and filed with the county clerk on or before the first day of October in any year preceding a year in which a general election of county councillors would take place under this Act, shall so require, the county council shall submit to the vote of the municipal electors of such county a by-law declaring that thereafter the council of such county shall be composed of the Reeves of townships and villages and the mayors of towns not separated from the county instead of representatives of the county council divisions constituted under this Act.

(a) The persons qualified to vote on such by-law shall be the persons qualified to vote at municipal elections in such local municipality.

(b) The by-law shall be submitted to the electors at the time fixed by law for holding a poll at the election of the council of each local municipality for the year next preceding the year in which polling for a general election of county councillors would take place under this Act.

(2) In case such by-law receives the assent of a majority of the electors voting thereon the county clerk shall certify the facts to the county council and shall within six weeks after the polling publish a notice declaring the number of votes given by the electors for and against the by-law in each of the local municipalities in the county.

(a) The notice shall be inserted in a newspaper published in the county town and in one other newspaper published in the county.

(b) After the publication of such notice it shall not be necessary to hold an election of county councillors in such county or to appoint nominating officers therefor, but the county council for the following year and thereafter shall be composed of the Reeves of all townships and villages in the county and the mayors of all towns not separated from the county for municipal purposes and the following sub-sections of this section shall apply to such county.

#### Candidates in Cities, Towns and Incorporated Villages to File Declaration of Qualification.

4. Sub-section (3a) of section 129 of *The Consolidated Municipal Act, 1903*, is amended by striking out the words "having a population of more than 30,000" in the first line of the said sub-section, and insert in lieu thereof the words "towns and incorporated villages," and by inserting after the word "candidate" in the second line the words "for the office of mayor, reeve, controller, alderman, councillor, water commissioner and street railway commissioner," as the case may be, and by striking out the words "five o'clock in the afternoon" in the fourth and fifth lines and inserting in lieu thereof the words "twelve o'clock noon."

#### Number of Votes Where Less Than Four Controllers to be Elected.

5. Section 276b of *The Consolidated Municipal Act, 1903*, is amended by adding thereto the following sub-section :

(6a) Where on any such election less than four controllers are to be elected the foregoing direction shall be changed so as to give to each voter the right to vote only for as many candidates as are to be elected, or to give as many votes to one or more as there are candidates to be elected. If only one candidate is to be elected, then each voter shall have only one vote,

**Granting Right to Maintain Waste Paper Boxes on Street.**

6. *The Consolidated Municipal Act, 1903*, is amended by inserting therein the following section :

332a. The council of any city may grant to any person or company the exclusive right to place and maintain for a period not exceeding ten years iron waste paper boxes on the street corners or elsewhere throughout the city under and subject to the direction of the city engineer and the approval of the city council, the location thereof to be subject to change from time to time at the expense of the grantee, such boxes to be kept clean by him and painted as often as required by the city engineer and the collections therein to be removed at his expense regularly to the satisfaction of the city engineer and as often as he may from time to time direct.

**Certificate as to Due Application for By-Law.**

7. Section 337a of *The Consolidated Municipal Act, 1903*, is amended by inserting after the word "clerk" in the fourth line the words "or assessment commissioner."

**Notice of Polling, etc., on By-Law to be Voted on at Municipal Elections.**

8. Section 338a of *The Consolidated Municipal Act, 1903*, is amended by adding the following paragraph :

4. Where the proposed by-law is being submitted to the electors on the same day as the annual election for the municipal council is being held it shall be sufficient to state with respect to the hour, day and place or places of polling, that the polls will be held at the same hour, on the same day, at the same place or places and by the same deputy-returning officers as for the said municipal election.

**Term of Debentures for School Houses.**

9. Sub-section 4 of section 384 of *The Consolidated Municipal Act, 1903*, is amended by inserting therein after the word "houses" in the fourth line of the said sub-section the words "or high school houses."

**Issuing Debentures After Expiry of Two Years When Proceedings Have Been Taken to Attack By-Law.**

10. Section 384 of *The Consolidated Municipal Act, 1903*, is amended by adding thereto the following sub-section :

(11) In the event of an action or proceeding being instituted to set aside the by-law or question its validity or to enforce the payment of any bonus or the issue of debentures thereunder, the debentures by the by-law directed to be issued may be issued and dated within six months after the final termination of such action or proceeding notwithstanding that two years may have elapsed after the passing of the by-law ; and the annual rate directed to be levied by sub-section 5 of section 384 and sub-section 2 of section 386 may begin from the date when the debentures are issued notwithstanding that the by-law may have fixed a different date. This sub-section shall apply to by-laws passed after the 15th day of April, 1901.

**When By-Law for Issue of Debentures May be Amended by Increasing the Rate of Interest.**

11. *The Consolidated Municipal Act, 1903*, is amended by adding thereto the following section :

388b. Where owing to an advance in the rate of interest for money between the time of the passing of any by-law heretofore or hereafter passed creating a debt and the sale or other like disposal of the debentures authorized thereby, it is made apparent to the Lieutenant-Governor in Council that the debentures cannot be sold or disposed of except at a discount involving a substantial reduction in the amount required to be provided for, the municipal council may pass a by-law without submitting the same to the consent of the electors, but subject to the approval thereof by the Lieutenant-Governor in Council, to amend the by-law first herein mentioned for the purpose of providing for the payment of an increased rate of interest on the debenture debt, and for levying amounts or rates necessary to pay such increased rate of interest in lieu of the rate of interest and the amounts or rates to pay the same provided for in the original by-law ; and thereupon the debentures bearing such increased rate of interest shall be as valid and binding on the municipality and the ratepayers thereof as if the original by-law had provided for such increased rate of interest and the levying of the amounts or rates necessary to pay the same.

**Limit of Annual Rates.**

12. Sub-section 2 of section 402 of *The Consolidated Municipal Act, 1903*, is amended by inserting after the word "municipality" in the 4th line the words "prior to the 27th day of June, 1903."

**Certain By-Laws for Fixing Assessments Validated.**

13. Where by any by-law passed by a municipal council under the provisions of section 411 of *The Municipal Act*, being chapter 223 of *The Revised Statutes of Ontario, 1897*, prior to the repeal of the said section, the amount of the assessment of any manufacturing establishment or any building for the storage of ice for commercial purposes or any water works or water company was fixed at a stated amount for a term of years unexpired at the time of the passing of this Act and such by-law has been acted upon, and no proceedings have been taken to set aside or quash the same within two years after the passing thereof such by-law shall be and shall be deemed to have been valid and binding and the assessment so fixed shall be the assessment upon which taxes shall be levied during the unexpired portion of such term of years for municipal or school purposes or both according to the tenor of such by-law.

**Borrowing by Hypothecation of Debentures.**

14. *The Consolidated Municipal Act, 1903*, is amended by inserting therein the following section :

434a.—(1) The council of any municipality pending the sale of any debentures issued under a by-law, or in lieu of selling and disposing of the same, may by resolution or by-law authorize the head or acting head and treasurer of the municipality to raise money by way of loan on such debentures and to hypothecate the same for any such loan. Provided that the proceeds of every such loan shall be applied to the purposes for which such debentures were issued and should such debentures be subsequently sold and disposed of the proceeds thereof shall first be applied in repayment of such loan, but the lender shall not be bound to see to the application of the proceeds of any such loan.

**Loans Heretofore Made Validated.**

(2) Every resolution or by-law heretofore passed by the council of any municipality for the purposes mentioned in sub-section 1 of this section and every debt so incurred are declared to be and to have been legal, valid and binding upon the municipality and the ratepayers thereof.

**Borrowing for Current Expenditure Pending Collection of Taxes.**

15. Sub-section 2 of section 435 of *The Consolidated Municipal Act, 1903*, is amended by striking out the words "eighty per cent. of the amount collected as taxes to pay the ordinary current expenditure of the municipality in the preceding municipal year" in the 3rd, 4th and 5th lines and substituting therefor the words "ninety per cent. of the estimates for the current year."

**Provisions of Section 448 Extended to Townships, Incorporated Villages, Counties and Unions of Counties.**

16.—(1) Sub-section 1 of section 448 of *The Consolidated Municipal Act, 1903*, is amended by striking out the word "or" before the word "town" in the fifth line, and by inserting after the said word "town" the words "township, incorporated village, county or union of counties."

(2) The amendment made by sub-section 1 of this section shall apply to all arbitration proceedings hereafter commenced, although the claim which is the subject of the arbitration may have arisen before the passing of this Act.

**Members Not to Vote on By-Laws Appointing Them to Office.**

17. Section 537 of *The Consolidated Municipal Act, 1903*, is amended by adding at the end thereof the following words : "Provided that no member of a municipal council shall vote on any by-law or resolution to appoint himself to any office in the gift of the council, nor shall any member of a municipal council vote on any resolution or by-law to fix or provide any remuneration for any services he may have rendered to the corporation ; but this shall not apply to allowances for attendance at meetings of the council or committees thereof."

**Regulating the Means of Egress, etc., from Public Buildings.**

18. Sub-section 3 of section 541 of *The Consolidated Municipal Act, 1903*, is amended by inserting after the word "obstruction" in the first line the words "by persons or things" and by adding to clause (a) of the said sub-section the words "or of any persons who may be standing, sitting or otherwise occupying the same except for passage to and fro therein."

**Cities and Towns Authorized to Pass By-Laws to Regulate Location of Laundries, Butcher Shops, etc.**

19. *The Consolidated Municipal Act, 1903*, is amended by inserting therein the following as section 541a :

541a. The councils of cities and towns are authorized and empowered by a vote of two-thirds of the whole council to pass and enforce such by-laws as they may deem expedient ;

(a) To regulate and limit the distance from the line of the street in front thereof at which buildings on residential streets may be built ; such distance may be varied upon different streets or in different parts of the same street.

(b) And in the case of cities only, to prevent, regulate and control the location, erection and use of buildings for laundries, butcher shops, stores and manufactories.

The location, erection, construction or use of any buildings in contravention to any such by-law may, in addition to any other remedy provided by law, be restrained by action at the instance of the municipality passing such by-law ;

Provided that this section shall not apply to any buildings now erected or used for any of the purposes aforesaid so long as they continue to be used as at present.

#### Injunction to Restrain Breach of By-Law as to Fire Limits

20. The corporation or any ratepayer may by suit or motion or both apply to the High Court of Justice to restrain the breach by anyone of any by-law passed by any municipal council under clauses (a), (b), (c) and (d) of paragraph numbered 1 in section 542 of *The Consolidated Municipal Act, 1903*, or any amendment thereof ; and such Court shall thereupon restrain any threatened breach thus complained of or committed but not fully executed, and may in the said proceeding or in an action brought by any ratepayer for the purpose direct the pulling down or removal at the expense of the owner thereof of any building or erection which may have been constructed, repaired or placed in contravention of any such by-law.

#### Arbitration to Determine Site of Sewage Disposal Works.

21. Sub-section 2 of section 555 of the said Act is amended by inserting after the word "made" in the eighth line the words "and shall also determine the location of the sewage farm, filtering plant or other place at which any artificial means of sewage disposal may be provided."

#### County Telephone System.

22. Section 570 of *The Consolidated Municipal Act, 1903*, is amended by inserting after the word "every" in the first line the word "county."

#### Trimming Trees.

23. The paragraph numbered 4 of section 574 of *The Consolidated Municipal Act, 1903*, is amended by striking out the words "in case there is no board of park management" in the third and fourth lines of the said sub-section.

#### Arrest Without Warrant for Non-Production of Peddler's License

24. The paragraph numbered 16 of section 583 of *The Consolidated Municipal Act, 1903*, amended by adding at the end thereof the following : "In case a constable or other police officer demands the production of a license by any person to whom the by-law passed under this paragraph or paragraph 14 of this section applies and such demand is not complied with, it shall be the duty of such constable or other police officer and he shall have power to arrest such person without a warrant and, upon his failure to produce a license, to take him before the nearest Justice of the Peace there to be dealt with according to the by-law."

#### Aid to Establishment, etc., of Hospitals.

25. Section 588 of *The Consolidated Municipal Act, 1903*, is amended by inserting therein the following paragraph :

2a. For granting aid to any incorporated society or any association of individuals for the erection, establishment and equipment of public hospitals for the treatment of persons suffering from disease or from injuries caused by accident or violence.

#### Closing Up Streets and Conveying to Manufacturers.

26. Section 591a of *The Consolidated Municipal Act, 1903*, is amended by adding at the end thereof the following :

Notwithstanding anything contained in this section or in section 591 of this Act the council of any municipality may pass by-laws for closing up any road, street, alley, lane or other public communication or any portion thereof and for conveying the same to any person for the particular use or benefit of a manufacturing industry, and it shall not be necessary to submit such by-law to the electors or to obtain their assent thereto where the passing of such by-law does not involve expense to the municipality ; provided that the council passing such by-law shall comply with the general provisions of this Act as to notice, compensation to persons affected and other matters with respect to by-laws for the closing up of any public road or highway. And provided further that any person injured by reason of the closing up of such road, street, alley, lane or other public

communication or any portion thereof shall be entitled to such compensation from the municipal corporation as may be agreed upon, or in case of disagreement may be determined by arbitration in the manner provided by this Act, and the amount of the compensation so agreed upon or awarded and the costs of arbitration proceedings shall be paid by the owner of the manufacturing industry for whose use or benefit the by-law was passed.

#### Bridges Between Municipalities.

27.—(1) Sub-section 3 of section 617 of *The Consolidated Municipal Act, 1903*, is amended by adding at the end thereof the following words : "or of such width less than 80 feet as may be specified in such by-law."

(2) Sub-section 4 of the said section 617 is amended by striking out the words "of a less width than 80 feet" in the fifth line thereof and by adding at the end thereof the words "of a less width than 80 feet or such other reduced number of feet specified in the by-law as the case may be."

#### Arbitration as to Maintenance of Boundary Lines.

28. Section 654 of *The Consolidated Municipal Act, 1903*, is amended by inserting after the word "thereof" in the fifth line the words "or of making a deviation where in the opinion of any of the said councils it is impracticable to construct a road along the said county boundary line."

29. Section 656 of *The Consolidated Municipal Act, 1903*, is amended by inserting after the word "both" in the fourth line the words "whether by way of deviation or otherwise."

30.—(1) Sub-section 1 of section 657 of *The Consolidated Municipal Act, 1903*, is amended by inserting after the word "township" in the first line the words "in that part of the Province lying south of the French river, Lake Nipissing and the River Mattawan."

#### Sale or Lease of Minerals on or Under Roads.

(2) The said section is further amended by adding thereto the following sub-sections :

(4) In the remaining portions of the Province the mines, minerals and mining rights in, on or under all common and public highways and road allowances shall be and are hereby vested in His Majesty, His Heirs and Successors, and may be sold, leased or otherwise disposed of under *The Mines Act*. Where any mining location or mining lands adjoin a common and public highway or road allowance, and the mineral vein or deposit thereon extends into or under the said highway or road allowance, the owner or owners thereof shall have the right to purchase or lease the mines, minerals and mining rights in, on or under the same, subject to the provisions of *The Mines Act* ; or where there are mining locations or mining lands on both sides of such highway or road allowance the said rights shall accrue to the owner or owners on both sides thereof as respects the half of the said highway or road allowance adjoining his or their lands. This sub-section shall not apply to highways on lands heretofore granted by the Crown under *The Mines Act*, or in the grant whereof the mines and minerals were not reserved to the Crown.

(5) The patent or lease of such mines, minerals and mining rights shall contain a proviso protecting the road for public travel and preventing any uses of the granted rights which would interfere with public travel unless and until a road in lieu thereof has been provided and accepted by the municipality or municipalities having control of the said road.

(3) This section shall come into effect on and after 1st May, 1904, and shall in no wise affect any rights acquired from or any agreement made or entered into with any municipality under the section hereby amended prior to the said date.

#### Keeping in Repair of Works Constructed as Local Improvements.

31. Sub-section 1 of section 666 of *The Consolidated Municipal Act, 1903*, is amended by inserting after the word "thereafter" in the fourth line the words "during the estimated lifetime of such work or improvement but no longer ;" and the said sub-section is further amended by adding at the end thereof the words :

"Provided however that nothing in this sub-section contained shall diminish or affect the responsibility of any municipal corporation for damages sustained by any person by reason of neglect to keep any public road, street, bridge or highway in repair as provided by section 606 and following sections of this Act."

#### Railway Bonuses, Construction of Line by Another Company.

32. Section 694 of *The Consolidated Municipal Act, 1903*, is amended by adding thereto the following paragraph :

7. Where a bonus has been or shall be granted by a municipality to a railway company to aid in the construction of a railway,

the company shall be entitled to such bonus on performance of the conditions, if any, attached to the grant of such bonus whether the railway is constructed by the company itself or by another company, by its procurement or with its consent.

33. Sub-section 1 of section 696 of *The Consolidated Municipal Act, 1903*, is amended by inserting after the words "by way of loan to such railway" in the sixth line thereof the following words "or by way of payment for shares of stock in such railway."

#### Power to Grant Aid to Beet Sugar Factory.

34. Section 700 of *The Consolidated Municipal Act, 1903*, is amended by adding in the third line thereof after the word "smelting works" the words, "or a beet sugar factory."

#### Sidewalks in Police Villages.

35. Sub-section 1 of section 744 of *The Consolidated Municipal Act, 1903*, is amended by inserting after the word "debentures" in the second line the words "for the construction of sidewalks of cement, concrete, brick or other permanent material."

36. Sub-section 1 of section 758 of *The Consolidated Municipal Act, 1903*, is amended by striking out the words "57th year of the reign of Her late Majesty Queen Victoria" in the eighth line of the said section and inserting in lieu thereof the words "62nd year of the reign of Her late Majesty Queen Victoria" and the said section shall be read as if originally enacted as hereby amended.

#### Newspaper Proprietors Not Disqualified from Sitting in Councils by Insertion of Advertisements, etc.

37. No person shall be or shall be deemed to have been disqualified from being elected a member of the council of any municipal corporation or from sitting and voting in such council by reason only of his being proprietor of or otherwise interested in a newspaper or other periodical publication in which from time to time official advertisements are inserted by the council which appear in other newspapers or publications in the municipality, or which is subscribed for by the council or by any of the departments or offices of the municipality, although such advertisements or subscriptions are paid for at the usual rate out of the moneys of the municipal corporation, but this shall not apply to any person who has entered into an agreement or contract with a municipal corporation to do at a specified rate all or the greater part of the printing required by such corporation during the term of such agreement or contract, and no such member of council shall vote where his own account is in question.

#### Sections of Consolidated Municipal Act Relating to Controverted Elections to Apply to Controllers

38. It is declared that sections 219 to 244a, inclusive, of *The Consolidated Municipal Act, 1903*, apply and have always applied to any person elected or claiming to have been elected as controller in any city in which controllers are or may hereafter be elected, in the same manner and to the same extent as if the office of controller had been mentioned expressly in the said sections with the offices of mayor, warden, reeve, alderman, county councillor, and all proceedings heretofore had or taken to contest the validity of the election of any person as controller shall be deemed to have been duly taken and may be proceeded with after the passing of this Act, notwithstanding any judgment or order by way of prohibition heretofore rendered or made upon the ground that the said sections were not applicable to the officer of controller.

#### AN ACT TO AMEND THE LAW RESPECTING THE DESTRUCTION OF NOXIOUS WEEDS.

Chapter 279 of The Revised Statutes of Ontario, 1897, is amended as follows by this Act :

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :

##### Time for Giving Notice as to the Cutting of Noxious Weeds.

1. Sub-section 1 of section 4, of *The Act to prevent the Spread of Noxious Weeds and Diseases affecting Fruit Trees* is amended by striking out all the words therein after the word "notice" at the end of the eighth line of the said subsection, and inserting in lieu thereof the words following "and it shall be the duty of the inspector to give or cause to be given such notice for the first time not later than such date or dates in each year as may be fixed by by-law of the municipality."

##### Owner or Occupant to Cut Down Weeds to Centre of Highway.

2. Section 8 of the said Act is repealed and the following substituted therefor :

8. (1.) It shall be the duty of every owner or occupant of land in a municipality to cut down and destroy or cause to be cut down and destroyed, at the proper time to prevent the ripening of their seed; all the noxious weeds growing on any highway adjoining such land, not being a toll road, from the boundary of such land to the

centre line of such road, and in case of default after notice from the inspector or overseer of highways, or where no inspector or overseer is appointed from the clerk of the municipality, the council of such municipality may do the work, and may add the cost thereof to the taxes against the land in the collector's roll and collect such cost in the same manner as other taxes.

##### Non-Resident Lands.

(2) In the case of lands assessed as non-resident lands in townships the council of the township shall direct the work mentioned in sub-section 1 of this section to be done and may add the cost thereof to the taxes against the lands and may collect the same in the same manner as other taxes.

##### In Unorganized Townships.

(3) In unorganized townships where road commissioners have been appointed under the provisions of *The Assessment Act*, or under any Act relating to statute labor in unorganized townships, it shall be the duty of every owner or occupant to cut down and destroy or cause to be cut down and destroyed, at the proper time to prevent the ripening of their seed, all the noxious weeds growing on any highway adjoining such land, not being a toll road, from the boundary of such land to the centre line of such road, and in case of default after notice from the road commissioners requiring such work to be done on or before a day named in the notice, such owner or occupant shall incur a penalty of \$5 for each lot or parcel in respect of which default is made, and upon conviction thereof before a Justice of the Peace having jurisdiction in the township such Justice shall order the penalty, together with the costs of prosecution and distress, to be levied by distress of the offender's goods and chattels, and every penalty so recovered shall be paid the road commissioners and be expended in improving the roads in such township.

##### Road Commissioners May do the Work and Recover Expenses.

(4) In case of such default as mentioned in the preceding subsection the road commissioners may perform the work in place of such owner or occupant, and the cost thereof to the extent of \$1.25 for each day's labor involved shall be recoverable as a debt due by such owner or occupant to the road commissioners in any court of competent jurisdiction.

#### AN ACT TO AMEND THE PUBLIC SCHOOLS' ACT.

A number of amendments of considerable interest are made by this Act to The Public Schools' Act, 1901. By section 1 the provisions of sections 21 of The Public Schools' Act, 1901, are extended to school sections in rural municipalities. Section 2 enlarges the powers of arbitrators in making their award as to school sites, and provides that the consent of a majority of the rate-payers must be obtained before an action at law can be instituted under the Act to set aside any award. By section 3 power is conferred on municipal councils to limit the number of trustees when all the school sections in a township have been consolidated. Section 5 authorizes the arbitrators or a majority of them to make and publish an award as to the formation, etc., of a union school section. Section 6 renders it lawful to take the proceedings mentioned in sub-section 1 of section 46, at any time after the expiration of three years after the making of an award by the arbitrators forming or refusing to form a new union school section, when such award has not been acted upon, or has been adjudged illegal or void by the court or judge. Section 7 gives the member of a school board in cities, towns and incorporated villages, who is assessed for the largest sum, a casting vote in case of a tie on any question other than the election of a chairman. Sections 11, 12, 13 and 14 relate to the remuneration of county inspectors. Section 16 makes provision for the assessment of lands in the portion of a union school section in unorganized territory, and section 17 gives authority to township councils to establish a second school in any school section under the conditions mentioned therein. The following is the full text of the Act :

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :

##### Admission of Pupils of Rural Sections to Urban and Rural Schools.

1. Section 21 of *The Public Schools Act*, as amended by section 1 of the Act passed in the second year of His Majesty's reign and

chaptered 40, is further amended by adding after the words "urban municipality" wherever they occur in the said section the words "or school section" and by striking out the word "the" in the thirteenth line and inserting in lieu thereof the word "such."

#### Award of Arbitrators as to Rural School Site.

2. (1) Sub-section 2 of section 34 of *The Public Schools Act* is amended by striking out all the words therein after the word "meeting" in the seventh line of the said sub-section and inserting in lieu thereof the words "shall make and publish their award, and may in and by the said award approve of the site so selected by the said trustees or may change the boundaries of the same or may select such other site as the said arbitrators or the majority of them present as aforesaid may deem more suitable for the purpose."

#### Consent of Majority of Ratepayers to Action to Set Aside Award.

(2) Section 34 of *The Public Schools Act* is amended by adding the following as sub-section (4) :

(4) No action at law to set aside any award made under this Act shall be undertaken by, or at the instance of, the trustees of any rural school section without the consent of the majority of the ratepayers of the section present at a special meeting duly called to consider the advisability of such action at law being undertaken.

#### Power to Limit Number of Trustees when all School Sections Consolidated.

3. The paragraph numbered 1 in section 41 of *The Public Schools Act* as amended by section 2 of the Act passed in the second year of His Majesty's reign, and chaptered 40 is further amended by adding at the end thereof the following words :

"Provided that when all the school sections in a township have been consolidated the Municipal Council may limit the number of trustees constituting the public school board to six, after at least one month's notice in writing has been given to the secretary of the Public School Board of the intention to consider a resolution to that effect."

#### School Sections Existing 1st April, 1904, Legally Formed.

4. Section 45 of *The Public Schools Act* is amended by striking out "1901" in the second line and inserting in lieu thereof "1904."

#### Award of Arbitrators as to Formation of Union School Section.

5. The paragraph numbered 2 of section 46 of *The Public Schools Act* is amended by adding at the end thereof the following : "And the arbitrators or a majority of them present at any lawful meeting shall have authority to make and publish an award."

#### New Arbitration After the Expiration of Three Years.

6. Section 46 of *The Public Schools Act* is amended by adding thereto the following paragraph :

12. "In case any award of arbitrators forming or refusing to form a new union school section has not been acted upon, or has been adjudged illegal or void by the court or judge, the proceedings in sub-section 1 of this section may be taken at any time after the expiration of three years from the date of such award."

#### Member Assessed for Largest Sum to Have Casting Vote in Case of Tie on Public School Question.

7. Section 64 of *The Public Schools Act* is amended by adding thereto the following sub-section :

(5) In cities, towns and incorporated villages in every question (other than the election of a chairman) arising at a meeting of the Board on which there is an equality of votes, if no decision is arrived at during the same meeting or after the board has voted twice on the question at a second meeting specially called for that purpose, the member who is assessed for the largest sum on the last revised assessment roll shall have a second or casting vote in addition to his vote as a member of the Board.

#### Interim Certificate.

8. Section 82 of *The Public Schools Act* is amended by inserting after the word "second" in the fourth line of the first subsection the word "interim," and inserting after the word "conduct" in the third line of the second sub-section the words "interim certificates shall be valid for two years."

#### Cities and Incorporated Towns to Contribute to Expenses of Board of Examiners.

9. Section 83 of *The Public Schools Act* is amended by adding thereto the following sub-section :

(6) The council of any city or town separated from the county shall pay to the treasurer of the county in which such city or town is situate such proportion of the per diem allowance and other expenses mentioned in sub-sections 3 and 4 of this section as may be agreed upon or as may be fixed by the order of the judge of the county court of the county on application made to him on behalf of such county or city or separated town.

#### Discontinuance of Model Schools

10. Sub-section 2 of section 84 of *The Public Schools Act* is amended by striking out the words "the county board of examiners may, with the approval of" in the 4th and 5th lines and inserting in the 5th line after the word "Department" the word "may."

#### Inspector's Allowance for Each Room with Separate Teacher.

11. Sub-section 8 of section 86 of *The Public Schools Act* is amended by striking out "\$5," in the second line and inserting in lieu thereof "\$6."

#### Grant in Aid of Inspectors' Salary

12. Sub-section 10 of section 86 of *The Public Schools Act* is amended by striking out "\$5," in the first line, and inserting in lieu thereof "\$6," and by striking out the words "a similar sum" in the 5th line and inserting in lieu thereof "\$5" for every such teacher."

#### Remuneration of County Inspectors.

13. Section 86 of *The Public Schools Act* is amended by adding the following as sub-section 10a :

(10a.) No county inspector shall receive remuneration under any of the sub-sections of this section, in respect of more than 120 schools ; provided, however, that the salary of no county inspector already appointed shall be lessened unless his schools are decreased in number.

#### Grant to Superannuation Fund by Board.

14. *The Public Schools Act* is amended by adding thereto the following section :

93a. The public school board or the board of education, as the case may be, of any city or town may make such annual grant as they deem proper, out of the school funds, to aid in the establishment of a superannuation fund for the public school teachers of such city or town.

#### Holidays in Rural Schools.

15. Sub-section 4 of section 96 of *The Public Schools Act* is amended by striking out all the words in the first line and the words "of Haliburton" in the second line and inserting in lieu thereof the words "with the approval of the Public School Inspector."

#### Assessment of Portion of Unorganized Township Forming Part of Union School Section.

16. *The Public Schools Act* is amended by inserting therein the following as section 27a.

27a. (1) Any portion of an unorganized township which forms part of a union school section, the remaining portion of which is an organized municipality or part of an organized municipality, shall for school purposes be deemed to be annexed to such organized municipality and the officers of such organized municipality shall make all assessments and collect all taxes and do all such other acts and perform all such duties and be subject to the same liabilities with respect to the portion of the unorganized township forming part of such union school section as with respect to any part thereof which lies within the organized municipality.

(2) Every person of the full age of 21 years assessed as a public school supporter in an unorganized township under the preceding sub-section shall be entitled to vote at any election of school trustees or on any school question in such union school section.

#### Council Authorized to Establish Second School in Section During Part of Year, Under Certain Conditions.

17. (1) In case it appears to the council of any township that owing to the condition of the roads or other causes the public school in any school section in such township is inaccessible to any of the pupils entitled to attend such school during certain months of the year, the council may by by-law to be passed not later than the first day of June in any year, provide for the establishment of a second school in such section to be opened during such months of the year as the council may deem advisable, and may prescribe the area within which pupils reside who shall have the right to attend such second school.

(2) The township clerk shall transmit forthwith a copy of such by-law and minutes relating thereto to the trustees of the school section affected thereby and to the public school inspector.

(3) There shall be the same right to appeal against the neglect or refusal of the township council to pass such by-law as is provided by sub-section 1 of section 42 of *The Public Schools Act* in the case of neglect or refusal to form, unite, divide or alter the boundaries of a school section, and the provisions of the said section respecting the time of appeal the appointment and qualification of arbitrators and the time when the award shall take effect and its duration and as to notice of the award shall apply to every such appeal.

(4) In case of arbitration to determine the matter in question on the appeal, the arbitrators may provide in their award for the establishment and location of such second school and the area within which pupils reside who shall have the right to attend the same, and the period in each year during which such school shall be open.

(5) The provisions of sub-section 1 of section 96 of the said Act shall not apply to a school established under this section, but nothing herein contained shall be deemed to relieve the pupils attending such second school from attendance at the public school of the school section during those periods of the school year in which such second school is closed, nor to relieve the trustees of such school section from the duty of providing school accommodation for such pupils during such periods.