THE MUNICIPAL WORLD

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Contents:

Calendar for October and November, 1903.

Legal, Educational, Municipal and Other Appointments.

OCTOBER.

1. Last day for returning Assessment Roll to Clerk in cities, towns and incorporated villages when assessment is taken between 1st July and 30th September.—Assessment Act, section 58.
   Last day for delivery by Clerks of Municipalities to Collectors, of Collectors' Rolls, unless some other day be perscribed by by-law of the Municipality.—Assessment Act, section 131.
   Last day for passing resolution by boards of Separate School Trustees in urban municipalities adopting voting by ballot at elections of Separate School Trustees.—Separate Schools Act, section 32, subsection 6.
   Notice by Trustees of cities, towns, incorporated villages and township boards to Municipal Clerk to hold Trustee elections on same day as Municipal elections due.—Public Schools Act, section 61 (1).
   Night Schools open (session 1903-1904.)
   Ontario Normal College opens
5. Make returns of deaths by contagious diseases registered during September. R. S. O., chapter 44, section 11.
   Copy of Roll, or summarized statement of the same, as the case may be, to be transmitted to County Clerk.—Assessment Act, section 83; Assessment Amendment Act, 1899, section 7.
10. Selectors of Juror meet in every municipality.—Jurors Act, section 18.
15. THANKSGIVING DAY.
31. Last day for passing by-laws for holding first election in junior townships after separation.—Municipal Act, section 98.

NOVEMBER.

2. Last day for transmission by local clerks to County Treasurer of taxes on lands of non-residents.—Assessment Act, section 132.
   Last day for transmission of Tree Inspector's Report to Provincial Treasurer.—Tree Planting Act, section 5.
9. King's Birthday.
10. Last day for collector to demand taxes on lands omitted from the roll.—Assessment Act, section 166.

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The Municipal World

PUBLISHED MONTHLY

In the Interests of every department of the Municipal Institutious of Ontario.

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J. M. GLENN, K. C., LL.B. } Editors

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THE MUNICIPAL WORLD,

Box 1321, - - St. Thomas, Ont.

ST. THOMAS, OCTOBER 1, 1903.

Mr. W. A. Macfarlane has been appointed clerk of the Township of North Cayuga, to succeed Mr. James Mitchell.

* * *

Mr. John Hetherington, of Sharbot Lake, has been appointed clerk of the Township of Oso to succeed Mr. S. C. Bourk.

* * *

Twelve years ago Parry Sound installed the municipal waterworks plant. To-day the town has $200 every year after paying expenses.

* * *

At a recent meeting of the council of the Township of Dunwich, Mr. D. P. McCallum handed in his resignation as clerk, and Mr. Donald Campbell, of Dutton, was appointed to fill the vacancy.

* * *

Lanark County is now entirely free of toll roads. The toll roads from Perth to Lanark and Manion, and from Balderson to Fallbrooke, have been thrown open without the tolls. The length of roads is 21 miles, and all were purchased by the county for the sum of $19,246, and debentures will be issued to cover the expenditures. Six toll places are affected.

* * *

The council of a western township has passed the following resolution: "That sweet clover be and is hereby classed as a noxious weed in that township and that it will be considered as such in the future." A *resolution* of a council is not sufficient to effect this purpose. Sub-section 1 of section 3 of chapter 279, R. S. O., 1897, provides that "the council of any township may, BY BY-LAW, extend the operation of this Act to any other weed or weeds, etc." The council should, therefore pass a by-law, if it desires to constitute "sweet clover" a noxious weed within the meaning of the above Act.

Municipal Debentures and the Money Market

By Messrs. G. A. Stimson & Co., Debenture Brokers, Toronto.

As to the general situation of the debenture and money market, conditions have prevailed about on the lines which we uggested last year, that is, so long as prosperous conditions exist, the less chance there would be of improved prices for municipal bonds. Every one recognizes that good times cannot always exist, but various conditions effect very materially the duration of times either good or bad. Fortunately in the present case, conditions are, we believe, to the advantage and benefit of this country, and if they continue a number of years longer, will not be regretted. A young country growing with rapidity at present indicated by increased emigration, with a contribution of excellent harvests, is not likely to see bad times, or to reach the turn of the tide as quickly as the older and more populous countries. Everything at present points to another exceptional year, both in the older provinces and in Manitabo and the Northwest. In fact, such conditions are practically assured, and with this we have an assurance of continued good times. That the time is a growing one is evidenced by the extensive alterations, improvements and extensions in the railway systems, in the manufacturing and commercial establishments, and in the improved and more liberal method of living of all classes.

Capital expenditure generally plays a rather important part in the demand and price of municipal securities. During the past few years, owing to prosperous conditions, capital expenditure has been simply enormous, that is, governments, municipalities, railways and manufacturing institutions and individuals have taken advantage of conditions to improve and extend, and thus the surplus earnings of good times has been quickly absorbed.

During the past year a slight reaction has taken place to some extent, and we find capital for certain lines has become scarce; there is yet, however, sufficient opportunities for the investment of capital yielding a fairly good return. This capital expenditure, however, will, notwithstanding prosperous conditions, more or less vary, and as capital is required less it will accumulate much faster and to such an extent that an increased demand for municipal securities will likely follow. At present, municipal authorities find they can no longer borrow money on the old terms and consequently they are inclined to reduce their capital commitment; this will, to some degree, tend to check the trade. A reduction in the expenditure of capital by the governments, municipalities, railways and business institutions must cause some contraction in trade generally, and this will also mean an accumulation of capital and the price of securities which are now depressed by reason of an excessive supply of stocks or securities, will begin to improve.

Municipalities should be cautious and conservative in their expenditures, especially for objects which will not in themselves provide some return towards their maintainance. It has become almost necessary for the average town to have all the public utilities and conveniences of the larger centres. Manufacturers located in the smaller places find their workmen in many cases decline to live outside the centres where they can enjoy some advantages similar to city life. Municipalities in general, have recognized that they require to keep their school system up to a higher standard, and they have also found it necessary to embark in the ownership and establishment of certain public utilities. On the other hand, the municipality must consider that when times change, a high rate of taxation will not help to increase the population. The aspect of municipal debentures from a sellers' standpoint, has greatly changed within the last year. This, we think, has been encouraged by the continued and increased confidence in investments in Manitoba and the Northwest, and by the very liberal investing powers conferred upon many of our monetary institutions. Immense sums of money have gone from this province for investment on mortgages in the Northwest. Strange to say, this has been drawn very largely from the class which constituted the largest buyers of municipal bonds. It is sometimes difficult to understand why interest on real estate mortgages of the best quality has not varied of any account, and at the same time the interest on municipal debentures has varied considerably. There is no question as to which is the better security. The change has come about partly as above mentioned. Persons controlling and investing trust funds are being continually pressed for better rates of Interest, and they have been compelled to alter the buying price on certain classes of securities, and to go out of their usual channels to find a better return. The English market and conditions of course have a certain effect upon the value of municipal debentures in particular, but while present conditions remain on the other side, we are not likely to feel any favorable change. So far as any one can discern, we would advise municipalities not to think of issuing bonds at less than four and one half per cent. rate.

There is one feature in connection with municipal debentures which should have some careful consideration and action, and that is municipalities should adopt some uniform and improved style of debentures. At present, the average debenture issued, especially by the smaller and rural municipalities are simply a disgrace and are extremely difficult to handle. They are printed on very poor paper which necessitates continual patching and particular care in order that they may last out their term A neat folded form, something on the line of our railway bonds would present itself more favorably to the investor, and we certainly think it would pay the municipatity to consider this feature.

Rights of the Bell Telephone Company as to Use of Streets of Municipalities.

In our answer to clause 2 of Question No. 136, 1902 (March Issue) we stated the law in this regard to be as follows:

"The Bell Telephone Company obtained its original charter under the Federal Act, 43 Vic., chapter 67. Section 92, subsection 10 of the British North America Act, 1867, exempts from provincial jurisdiction, and places within the exclusive legislative authority of the Parliament of Canada, "telegraphs, etc., connecting the province with any other or others of the provinces, or extending beyond the limits of the province, and such works as though wholly situate within the province are declared by the parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the provinces." It was held in the case of Regina vs. Mohr (7 Q. L. R., 182, 1881), that under its original charter, the Bell Telephone Company, although authorized to establish telephone lines in the several provinces, in the Dominion, had no power to connect two or more provinces by such lines and (the undertaking not having [then] been declared to be for the general advantage of Canada) that section 4 of the Act, conferring power upon the company to extend its lines across or under highways, etc., was invalid. This company accordingly obtained, in 1882, a further Act (45 Vic., chapter 95), by section 4 of which its works are declared to be for the general advantage of Canada. See also chapter 71, Ontario Statutes, 1882." In a case stated between the city of Toronto and the Bell Telephone Company (reported on pages 95 and 96 of the WORLD for 1902) Mr. Justice Street some time ago handed out a decision to the effect that the Bell Telephone Company had no power or authority to erect their poles or string their wires on and along the highways of a municipality unless the consent of the council had first been obtained to its so doing. The company appealed from this decision to the Court of Appeal for Ontario. On the 14th September last, this court handed out its decision reversing the judgment of Mr. Justice Street. The Provincial Act (chapter 71 of the Ontario Statutes, 1882) passed at the company's request is declared to be invalid. This means that the company has power to erect its poles and string its wires along, across or under any highway or street in any municipality in the province whether its council consents to its so doing or not. The following is the finding of the court, as delivered by Mr. Chief Justice Moss:

"Upon the case stated by the parties two questions arise for decision. The first is whether the work or undertaking for the prosecution of which the defendants were incorporated by the Act, 43 Vic, cap. 67 (Dominion) is one falling within the description of a work or undertaking connecting the province with any other provinces or extending beyond the limits of the province within the meaning of clause 10 (a) of section 92 of the British North America Act.

"If this question is answered in the affirmative then the work or undertaking falls within the exclusive legislative authority of the Parliament of Canada under clause 29 of section 91 of the Act, and thereupon arises the second question: What, if any, effect has the Ontario Act (45 Victoria, cap. 71) passed by the legislature at the instance of the Bell Telephone Company, upon the rights conferred upon them by the Act of Incorporation and Act 45 Vic., cap. 95 (Dominion). Are their rights in any way curtailed by the provisions of the Ontario Act?

DOMINION ACT.

Power is given the company by the Dominion Act, the judges point out, to build or to purchase lines and operate in any part of Canada, and it is difficult to resist the conclusion that it was intended that the company would extend their operations into more than one province and probably beyond the Dominion. And the conclusion must be that the work or undertaking authorized by section 3 of the defendant's Act of Incorporation, is one falling within clause 10 (a) of section 92 of the B. N. A. Act. The first question must, therefore, be answered in the affirmative.

"It remains to consider the second question," the judgment continues. "The argument for the respondent, the city, is that granting the legislative authority to be in the Parliament of Canada, and not in the Legislature, the defendants having applied for and obtained legislation from the Legislature, must be held to have consented that in any conflict of the enactments those passed by the Legislature should prevail.

"It may well be doubted whether there was any occasion for the Ontario Act. . . . Its preamble shows that its purpose apparently was to allay doubts in regard to those portions of the defendant's work and undertaking which were local and did not extend beyond the limits of this province, and the legislation was sought as a measure of precaution rather than with the purpose or intention of giving up any powers or rights the defendants were entitled to under the Dominion Act.

"Nor is there anything on the face of the legislation to indicate that the defendants had entered into or were making a bargain to that effect. There is nothing there to prevent them from now insisting upon such rights as were given them by the parliament in respect of matters in which it had undoubted authority. Among these were the rights to construct, erect and maintain their line or lines of telephone along the sides of and across or under any public highway or street. These having been granted in furtherance of objects or purposes properly authorized by the parliament, could not be impaired by the action of the provincial legislature.

"Under the circumstances there should be no costs of the litigation to either party."

Consolidation of Municipal Legislation.

At a meeting of delegates from the several county Law Library Associations in this Province held at Osgoode Hall on the 3rd inst, the following resolution was passed:

"Whereas municipal law has to do with so many matters immediately related to the every day life of each citizen, that it should be made as clear and easily understood as possible, and

Whereas incessant, hasty and imperfectly considered amendments to the municipal law, passed often without any apparent reference to principle, but only to correct some particular case of assumed hardship or injustice, has made our municipal law unnecessarily complicated, and

Whereas the municipal Legislation of the Province has been referred to on some occasions by our judges as a "Patchwork of clauses" also as "Complicated, cumberous and contradictory" also as "sometimes illogical and frequently unjust," and

Whereas it has been stated on the floor of the Legislative Assembly for Ontario, that our Municipal Amendments "Are seldom discussed in the House and seldom indeed in the Committee in a thorough or serious way," and that "they are usually passed upon by a few members not always in a judicial but rather in an impatient spirit," and

Whereas the Consolidated Municipal Act of 1903, does not remove these unsatisfactory conditions.

Therefore in the opinion of this meeting, Municipal Legislation of the Province should be all grouped into one well considered Act, or the municipal law of the Province be codified and the grouping of the Legislation or the codification of the law should be done by a draft bill prepared in the interval between the sessions by a committee of the house with the assistance of a number of municipal officers who are accustomed to putting the law in operation.

That copies of this resolution be sent to the Hon., the Attorney General and all members of the Ontario Legislature.—Carried.

The subject matter of this resolution is very important and is well worthy of thoughtful consideration by all who desire the improvement and simplification of municipal legislation. We will be pleased to publish the communications of any subscribers who may be desirous of giving expression to their ideas on the subject.

Engineering Department

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

Meeting of Western Ontario Good Roads Association.

The annual meeting of the Western Ontario Good Roads Association was held in the directors' building on the grounds of the Toronto exhibition, on the 8th and 9th of September last. The meeting was well attended, about one hundred municipal councillors were present, twenty-seven counties having been represented by from one to five delegates.

The programme was a lengthy one and as usual, too lengthy, for the importance of the different subjects and the time allotted for each.

Necessity, however, centered on the question of the best way to control and manage leading roads. This is a very important problem, and one in which every municipality is at the present time interested, and this was clearly apparent from the deep interest which was taken in the discussions.

There seems to be no difference of opinion as to the wisdom of county councillors controlling and managing the principal thoroughfares, leaving township councillors to control the remainder of the roads.

A few years ago the feeling against county councils having anything to do with the management of roads, was very strong, but this was, no doubt, due to the fact that careful study had not been given to the fairness and economy of the larger system, as compared with that of a purely local or township nature.

For several years past, sentiment has been along the line of localizing these works, until it is now realized that the forces at work, in connection with road making have become so scattered that sufficient money cannot be controlled in any one section to undertake any work of a substantial and finished nature.

People are beginning to realize that business methods must be employed in road making as with any other work, that the expenditure must be concentrated and contracted along carefully prepared plans, and that work of a more substantial nature must be undertaken. That modern implements to do work cheaply and well, must be employed to supply the deficiency in labor, and to bring about improvements more rapid. That experienced supervision is necessary and that in order to control these, the township system is too small to incur the expense, and that a combination of townships is necessary in the interest of good organization and economy.

This can be accomplished only through county councils.

The appropriation of one million dollars to aid in the improvement of public highways, by the Provincial Government, has already served a most useful purpose in arousing interest in behalf of better roads.

The aim of the Act is not to oblige the building of an expensive system of complete roads, but to secure uniform and systematic work, to employ and properly operate modern and economical implements, to provide careful, constant and methodical supervision and maintenance; to provide object lessons in the care and treatment of roads, and set examples for those having charge of the remainder.

The measure is not one that demands a large expenditure from the municipalities acting under it, but it is designed to do the greatest amount of good by aiding the counties and townships to help themselves. All the expenditure placed on roads will be spent in the county, and thus returned, in a great measure, to those who contributed it in the first place, together with the Provincial grant.

This Legislative grant is for country road construction only, and is a means of requiring the urban municipalities to aid in the maintenance of the common highways, from which they derive a great benefit, without heretofore, sharing in the cost. As an illustration, the city of Toronto, containing about one tenth of the population and wealth of the Province would ordinarily be entitled to one-tenth of the $1,000,000, or $100,000. None of this grant, however, is spent within the limits of Toronto, but all is spent on the roads of rural or township municipalities.

It is objected to township control that the township council, having charge of all the other roads in the township, as well as these special roads, will be influenced after the first expenditure, to make future municipal expenditures on other roads, and those which have received Government aid will be neglected. While other roads in a township remained unimproved many councils, after once improving a road under the Act, owing to local jealousies, would find it impossible to make a sufficient yearly expenditure to properly maintain it, and under such circumstances the first outlay would not accomplish its chief mission.

County councils, on the other hand, would have charge of these few leading roads only, all of the one class so that the most economical but efficient system of maintenance could be adopted with respect to them.

Under county control a properly organized corps of men can be employed to build and repair the roads. As at other employments, they become experienced and do better work, and in the matter of repairs are ready to make them as soon as signs of wear appear.

In a county plan an experienced and properly qualified man could be employed to have constant supervision of the work, whereas under township control each municipality cannot afford to pay the salary of such a man. Under every good system it is necessary to have responsibility centralized and defined, not divided and easily shifted from one to another as it now is under statute labor methods.

Under county control, modern machinery, too expensive for individual townships can be purchased and handled to advantage, an experienced operator can be employed for each implement, and a better and more uniform class of work will be secured.

A greater cost to the individual citizen need not be feared, as no greater road mileage is to be maintained. The effect of a county system is merely to group the most heavily travelled roads under one management, where they can be most economically maintained.

By a county plan, uniformity of work and system will be immediately secured throughout the various municipalities. Under township control it is by no means likely that the various townships would act in unison, at best there must be delay while here and there a township will not take advantage of the Act.

One chief object in recommending that certain roads be cared for by the county council, is to obtain from the towns and villages in the county a fair share of assistance in keeping up the leading roads. There can be no question as to the justice of requiring the towns and villages to contribute towards the cost of this work Towns and villages are benefited by the improvement of roads, and the county should not hesitate to assess them. This can be done through the county council only. It is not the intention that any of the money should be spent in the towns, but that all should be spent in the townships. Where the county has to raise two-thirds of the total amount, such a percentage of this will be contributed by the towns as to make their contribution added to the Government grant, equal to about one half the cost of the work. Where the townships instead of the county, take advantage of the Act, towns and villages cannot contribute in this way. Under a county system, a portion of the cost of road-building is levied in the county rate, against the towns and villages within the municipality for road purposes. At the present time, under township systems, the farmers bear the entire cost.

While there may be some feeling adverse to townships parting with the control of any of their roads, it is, nevertheless, impossible, under a township organization, in the case of heavily travelled roads, or levy the necessary taxation equitably, or employ the most economical and at the same time serviceable system. The trend of opinion has turned towards collecting the most important roads of

each county, placing them under the management of the county council. It provides for a more equitable system of levying the cost, for a better use of modern machinery and for a higher grade of oversight and workmanship. At the present time township councils are unable to maintain the roads by statute labor, and are in consequence compelled to make annual appropriations of money from the general t x. Th s m oney is, in the main, spent on the roads which would comprise a county system, but owing to the contracted character of the township system, township councils cannot expect to apply this expenditure to the greatest advantage.

The distribution of the expenditure, where the work is undertaken by a county council, is not defined by the Act, but is left almost wholly to the judgment of the county council. It is not required that the expenditure shall be in proportion to the assessment of the various townships, to their ar a, nor road mileage, but this may be determined if so desired, by the county council, in framing their by-law.

The Act does suggest, however, that the mileage of roads to be maintained by the county shall be, as far as practicable, distributed among the various townships, in proportion to their area, in order that all the townships may be benefited.

The actual improvements may be placed wherever they will be most servicable and effective in bettering the condition of the roads. It is quite possible to conceive of a case in which the greatest benefit to one township will arise in making almost the whole expenditure in an adjoining township. Take as an example a township where road material is plentiful and where liberal use of it has been made on the roads, bringing them all to a good and serviceable condition. If the people of this township, in order to reach their market town, have to pass through an adjoining township in which road material is scarce, and where, through the character of the soil and difficulty of drainage, road-making is difficult and expensive, and the roads bad in consequence, it is apparent that the greatest benefit to the first township will arise from building and maintaining a good road through the second township, leading to the common market. Having in view such a condition as this, of which instances are common throughout the Province, the reason for leaving the distribution of the expenditure to be governed by local circumstances will be apparent

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Construction, Management and Extension of Sewerage Systems and Waterworks Plants.

In many Canadian towns, as soon as the population is sufficient to qualify them to incorporate as such, the ambition of the citizen is to institute a system of Sewerage and Waterworks. Many primitive plans are suggested, the source of supply is determined and a plan roughly prepared showing the location of the pipe lines in order to reduce the cost as much as possible. The size of the pipes are usually made large enough to meet requirements of the time only, or possibly it may be that provision is made for some little growth, but very rarely is it considered economy to design a system that will provide for any very increased population.

In designing a waterworks plant where the flow is central, provision should be made for future extension. Very little additional cost is incurred in designing the station house so that extension to the end of the building may be easily and cheaply made for the addition of the machinery and building. The cost of excavating is generally one-half of the cost of pipe. The excavation for eight inch pipe is no greater than for a four inch pipe, and such is true of nearly all the sizes below eight inch in size, so that very little additional cost is necessary to provide a plant that will permit of extensions capable of supplying the demand of places several times the then population, by simple extensions of the pipe lines or increasing the number of pipes, boilers, etc.

While every well decided waterworks system should be capable of such extensions and enlargements, yet it is not always the growth of the town that effects materially the amount of water demanded, in small systems, more than in large cities, is water wilfully wasted. It is advisable that water should be used as lavishly as possible by citizens generally. There is always a reasonable limit which should not be exceeded and when the present capacity of a water works plant has been about reached, it is advisable for the authorities, before plunging into a general tearing up and remo eling, that a careful study and observation should be made of the purposes for which the water is being used, to see if some curtailment could not be reasonably made so as to ward off, for some time, the proposed enlargement.

As a general thing it will be found, where a limit of the water, required for the various purposes, is fixed and meters placed upon the pipes for measuring that supply, and where the rate to be paid by the user is in proportion to the amount used, that the curtailment is sufficient to reduce the consumption sufficiently, to ward off for several years the threatened necessity for a large outlay for increased plant.

Arguments in favor of meters is a rational one and appeals to everybody, especially when it is shown authoritatively that the cost of obtaining an additional supply of water will necessarily be relatively great, and that the financial condition of the community renders such an outlay temporarily inexpedient.

A large number of citizens are fully satisfied that a waste of water occurs on their premises but are opposed to the meter system mainly on the ground of its expense. They claim that the large outlay involved can be applied more advantageously to procuring an additional supply and that a stinted use of water by the inhabitants will result in a serious impairment of the public health.

By the use of meters the intention is not to curtail the amount necessarily required by the user, but to prevent much of that waste, usually permitted by careless people.

Meters should be placed on the pipes of all large consumers, and these meters should be charged up as a part of the cost of the works construction, and as rapidly as possible, meters should be placed on the pipes of other consumers, in order that the authorities may be able, from the capacity of their works, to know how long and how many consumers they can supply and when it is really necessary to figure on enlargement and extensions of the plant.

Gas and light are measured in this way and wherever works are owned by private corporations, meters are used, and there can be no question as to the wisdom of the investment, for a reasonable plan laid down for supplying meters to measure water of consumers.

Windsor

The city of Windsor in 1899 adopted a by-law providing for the expenditure of $200,000 on street improvement, the work to be extended over ten years. The by-law provided that $20,000 shall be raised annually for ten years, by the issue of debentures, certain streets being allotted for each year's work. The estimate is based on a plan for paving with macadam the principal thoroughfares and most commonly travelled streets.

The debentures are payable in annual instalments for twenty years from the date of issue. That is, the debentures issued in 1900 were payable up to and including 1920; while the last $20,000 of debentures, to be issued in 1910, will be payable up to and including 1930. Should the residents on any street desire and petition for a better pavement than macadam, the difference in cost is levied upon the property on the street according to frontage. The aggregate length of the streets included in the by-law is 15.70 miles. Under this by-law there has been constructed in the three years 1900-1902, inclusive, 2½ miles of macadam pavement and 1⅓ miles of asphalt block. A special act of the Legislature was obtained at the session of 1900 to validate this by-law, its provisions not being in accordance with the general Municipal Act.

ASPHALT BLOCKS.

Asphalt block has been laid on the main streets, chiefly in the business section, which had previously been paved with cedar block and rubble stone. This paving material is manufactured and used to a considerable extent in the United

States, but Windsor is the only city in Ontario where it has been laid

These blocks are composed of finely crushed granite and asphaltic cement. In manufacture, the materials are heated, thoroughly combined in mechanical mixers, and then passing into a machine very similar to that used in pressing bricks, the mixture is moulded into blocks measuring 4x4x12 inches.

The blocks weigh between 17 and 19 pounds each, and require 25 for a square yard of pavement. The price is $67.20 per 1,000 f.o.b., Windsor, but the city pays for the blocks on the basis of $1.68 a square yard, measured in the pavement, so that the price includes an allowance for waste.

The cost of this pavement per square yard, as laid in Windsor is estimated as follows :

Removal of cedar blocks, per sq. yd...	.10
Broken stone foundation	.74
Sand cushion.....	.05
Asphalt blocks.....	1.68
Laying blocks	.10
Hauling asphalt blocks	.045
Duty on blocks, 20 per cent	.336
Engineering and incidental expenses..	.05
Total per square yard..... $	3.10

The process of laying these blocks is very similar to that of laying vitrified brick. The pavement consists of a substantial foundation of concrete broken stone or gravel ; next a sand cushion, then the surface of asphalt blocks, which is covered with a temporary coating of clean fine sand to fill the joints.

In all, about 20,000 square yards of asphalt block have been laid in Windsor. This has been put on a broken stone foundation ; not on concrete. Petitions have been received and granted for laying this pavement. on about 2 2-5 miles of street. Among the qualities claimed for this pavement are that it does not require skilled labor and an expensive plant to lay and repair as does sheet asphalt, being on a par with vitrified brick in this respect ; that it is not so noisy as vitrified brick ; that it forms a smooth and practically impervious pavement because, under the action of sun and traffic, the asphalt is compressed and the blocks are cemented together, making a healthy and pleasant pavement.

MACADAM.

Broken stone for macadam roadways and for the foundation of the asphalt block pavements is now largely obtained at Hagersville, the cost being $1.25 a ton delivered on the street.

The general width of roadways on residential streets is being reduced to 24 feet, and on the streets macadamized to the present, there has been laid a depth of twelve inches of stone from curb to curb. All work has been done by day labor under the supervision of the street commissioner.

CURB

Concrete curbs with gutter have been laid on the streets paved with asphalt block, the cost being 45 cents per lineal foot. The concrete core is composed of five parts of broken stone, two parts of sand, and one part of Portland cement ; and the surface finish, one inch in thickness, one part of Portland cement to two parts of sand

CONCRETE SIDEWALKS.

The city has about eight miles of cement concrete walks, or nearly 200,000 square feet. These are laid by contract, the price this year (1902) being 11 cents a square foot. The nearest gravel obtainable is not of a good quality, and is about four miles distant, so that very little is used for street work. The city sidewalk specifications require :

(1) The excavation to be to a depth of 10 inches below the finished grade of the walk.

(2) A 6 inch foundation of soft coal cinders.

(3) A 3 inch base of concrete, mixed in the proportions of one part of Portland cement, two parts of sand and five parts of crushed stone.

(4) A 1 inch surface finish mixed in the proportion of one of cement to two of sand.

The surface of the walk is given a fall towards the street of one quarter of an inch to each foot in width of the walk. The walk is divided into blocks not greater than 4 x 6 feet, and is finished with a fine ribbed roller.

The cost of sidewalks is paid out of the general funds. The contractor receives fortnightly payments to the amount of 80 per cent of the work finished. On the first of May following completion, he is entitled to half the money retained, and on the first of May of the second year following completion, he is paid the remainder, if the walks have been kept in perfect order, and have given satisfactory evidence of proper construction.

MACHINERY.

The principal machinery owned by the town consists of a steam roller and two graders. The roller is of twelve tons weight, and was purchased in 1898 at a cost of $2,800 set up at Windsor. One of the graders has been in use since 1885, and is still giving good service, while the other has been in use for thirteen years.

County Roads in Wentworth and Simcoe.

At the recent good roads meeting the counties of Wentworth and Simcoe, where by-laws have been recently passed, adopting a comprehensive system of county roads, were well represented, and the experience of these men, as to the framing of their by-laws and the carrying out of their works under them, was a very great necessity. It was pointed out that Wentworth county, the first to adopt the new system, had taken over 138 miles of leading road, including about sixty miles of toll roads. The toll roads were purchased from the companies at a valuation of $63,000, fixed by the county judge. Other roads, extensions of the toll roads, leading from the various townships, were assumed, so as to form a system of connecting roads, serving the different parts of the whole county.

By-laws for the money required to purchase these roads, together with $30,000, to commence the improvement of the other roads were submitted to the ratepayers, and carried by a majority of 950. The toll gates were immediately removed. The roads in Wentworth, for the first time, are now all free.

The county council appointed one man to act as general superintendent for the whole county, at an annual salary of $800. This gentleman has had considerable experience in hauling and crushing stone for shipment and the building of streets and roads.

The committee of the county council, known as the Road and Bridge Committee, have practically charge of the executive work.

A complete outfit of road making machinery, including a grader, rock crusher and steam roller, have been purchased, and already, this summer, long stretches of first class roads have been made, possibly some of the best constructed roads in Ontario are now to be found as a result of this year's work in Wentworth.

The first step taken by the Road and Bridge Committee in the early season, was with their county road superintendent and Provincial Commissioner of Highways to make an inspection of all the roads, culverts and bridges comprised in the system and to carefully examine the material, gravel and stone of the county, available for road purposes. After this examination, the programme for the summer's work was laid down and operations immediately commenced.

Wentworth is the first county in the Province to have drawn its share of the Government grant to roads, when a few days ago they were paid over their proportion, about $20,000.

Owing to Wentworth's conditions, the density of the counties' population and surrounding as it does the city of Hamilton, the heavy character of the traffic on the leading roads, which is very great, stone being easily available, crushed stone has been selected as a standard material for this county.

Conditions differ in different counties, and plans must be framed and material selected in keeping with such conditions.

The County Council of Simcoe, which is one of the largest counties in the Province, in order to serve their different sections, found it necessary to assume about 350 miles of road. These traversed the county so as to form a complete network, connecting the different railway stations and centres of business.

These roads are under the County Engineer, and the Commissioners for the

different Districts, taking charge of the administration in their respective Districts.

Modern road machinery, including graders, crushers and rollers are employed. Stone and gravel are being used and about $75,000 will this year be expended.

With the excellent condition of the roads in this very rich County, in a few years, following the improvement that is now going on, this county will serve as an object lesson in Good Roads.

Fortunately for Simcoe, material is quite easily available, and gravel of an excellent quality is to be found in abundance. So plentiful is this material, that good gravel roads are this year being built at a cost of from $300 upwards. This gravel is of such good quality that the Simcoe council considering the matter of cost, are using it in preference to stone on the greatest part of their work.

Construction and Maintenance of Culverts

The question of what material should be used in the construction and maintenance of small culverts, is a question that is agitating the minds of municipal councillors considerably, at the present time. The high price of timber and lumber and the low grade of this material, which is now being delivered for such purposes, has almost compelled us to look for something more substantial, even if the initial expense is somewhat greater.

The very heavy draught upon the municipal funds of the ordinary township, for culvert repairs and renewals, where wood is being used, has absorbed so much of our available cash that little of this fund has been left for actual road improvement.

Concrete pipes are now being manufactured pretty largely by the councils where gravel or broken stone is to be found within reasonable distance.

Some little trouble was experienced in obtaining a knowledge of how this work should be done, owing to the fact that few experienced in the manipulation of concrete were to be found among the mechanics of the day. This work, however, has gone beyond the experimental stage and now is being pretty generally adopted.

We have not, however, made so much progress in using concrete for the larger culverts. Where circular pipes do not afford sufficient capacity to carry the water from such channel, concrete arches have been adopted successfully in some instances, but an arch requiring a little additional skill, makes it a more sensitive undertaking. Up to a certain span including all openings of not more than six foot width, with the proportionate wall, customery batter, and a flat top, can be more easily constructed, will give equally good service, and can be made for less cost than an arch.

Care, however, should be exercised in seeing that the proper materials be used, and that care should be taken in the mixing and laying of these materials. Should it be necessary to extend the side walls to a greater depth to a secure foundation, they should have a top width of twelve inches and a frost batter of two inches to each foot, and the footing of the wall should project six inches beyond the bottom.

Where the excavation furnishes more material than is required for the embankments, and surplus earth should be used to increase the width of the embankment.

The side walls should be erected within a substantial and well constructed framework of well fitted lumber, closely boarded up against the work as it proceeds. Care should be taken to make a clear, smooth, regular surface so that moisture will not find lodgement. The concrete should be thoroughly rammed into place so that all surfaces shall be smooth. The framework should not be removed in less than ten days from the completion of the work.

A temporary framework should be erected to support the concrete flooring while it is in process of construction. This framework should be firm and substantial of dressed lumber. Upon this framework should first be placed a sufficient layer of fine concrete. Across this should be spread ordinary barbed wire about four inches apart, woven around, nails or spikes driven into the false work, upon this there should then be laid the remainder of the concrete.

The barbed wire is used to reinforce the concrete and prevent sagging. It is now being very commonly used in preference to other materials, answering the purpose in certain small works and being less expensive. The concrete used in side and wing walls should be composed of gravel and Portland cement, mixed in the proportion of one part of cement to six parts of gravel, and that used for the cover stone should be in the proportion of one of cement to five of fine gravel.

The cement should be mixed on a platform placed close to the work by first spreading evenly a layer of gravel, upon this shall be spread a proportionate quantity of cement, and the two should be thoroughly intermixed in a dry state. To this should be added sufficient clean water to bring the mixture to a consistency of a stiff mortar.

Care should be taken to see that the gravel does not contain an excessive amount of sand, loam, or large stones, if such is the gravel's composition, it should be screened to remove the sand and earthy matter, and also the large stones, then the screened gravel and good clean sand should be mixed in the proportion above specified.

If the cover stone of the culvert should be on a plane with the surface of the roadway, the upper 1 ½ inches of the stone cover should be composed of equal parts of cement and sand, laid in a separate layer over the concrete bed.

Orillia's Power Plant.

The September issue of The Canadian Engineer and Electrical Science Review has an article on "Orillia Power Development," which is a strong argument in favor of civic ownership. More than twenty years ago a private company built waterworks, which were taken over by the town in 1883. In 1887 electric lighting was introduced. The waterworks and electric light were operated by steam power till the electric power plant now in successful operation was installed.

The Canadian Engineer then tells of the harnessing of the Ragged Rapids on the Severn, nineteen and one-half miles from Orillia, at a cost of $75,000, by which it was expected 800 horse power would be developed, but the tail race was defective and that amount of power was not available. The revenue derived from the various services operated by electricity is: Water, $5,000; light, $9,700; power $6,537; total, $21,237. The cost of running the works, with repairs, is about $7,500, adding to which the interest on the investment, leaves a profit of from $600 to $1,000 on present capacity. In addition the town has its street and municipal building lights free. The flat rate for residences is 25c. per month for each 16 candle-power lamp; for stores, hotels, halls and churches 35c. per month. When ten or more lamps are installed the current is supplied on a meter basis at the rate of 13c. per thousand watts.

On all these there is a discount of 20 per cent for payment within ten days of presentation of the bill. Fifteen cents a month is the rental charge for the meter. The charge for power is $15 per horse-power per annum.—*Ex.*

A by-law confirming an agreement entered into by the town council with the Dominion Linen Mills Co. for the establishment of a large linen mill, and kindred industries in Orillia was carried recently by a vote of 558 to 14. An Exchange says: "This is the first of the concerns to be attracted to Orillia from a distance by the cheap electric power offered by the municipality from its plant at Ragged Rapids, but negotiations are under way with others."

From a newspaper report of its proceedings we observe that the council of a certain western township recently passed a resolution directing the placing of the collector's roll in the hands of the collector on or before the 24th of September 1903. The statutory time for the performance of this duty by the clerk is the 1st October in each year, or such other day as may be prescribed by by-law of the local municipality. (See the latter part of section 131 of the Assessment Act). If the council desires to legally effect the change mentioned, it should pass a BY-LAW for the purpose. A RESOLUTION is not sufficient.

Question Drawer

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

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

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

Assessment and Taxation of Telegraph and Telephone Companies.

497—J. R.—This year the Telegraph and Telephone Companies have been assessed for the first time in this township. We have county, township, township school, trustees' school and also police village rates. Are all these rates chargeable against said companies, if not which are? Of course only a small part of properties lies in police villages, the rest being scattered all through the township. I understand there were some amendments to the assessment of these companies passed in 1902.

The property of telegraph and telephone companies in the municipality is properly chargeable with its proportionate share of all the rates mentioned, according to its assessed value. The law as to the assessment of these companies is now to be found in section 18 of the Assessment Act as enacted by section 1 of chapter 31 of the Ontario statutes, 1902, as amended by sections 6 and 7 of chapter 21 of the Ontario statutes 1903.

Payment of Fees by Non-Resident Pupils.

498—Y. Z.—Our board of Trustees charges non-resident pupils a fee of 50 cents per month. One non-resident refuses to pay said fee, as he owns shares in a company located here. There are about twelve shareholders in said company, which is assessed at $6,000, and our school rate is seven mills on the dollar. The said non-resident's name does not appear on our voter's list. Can the board legally collect the fee in his case or not? I might say that the annual cost of educating each pupil was last year $10.28, and will be about the same this year.

The fact that this non-resident is an owner of shares in a company whose property is assessed in the municipality over which the board has jurisdiction, does not entitle him to take advantage of the provisions of sub-section 4 of section 95 of the Public Schools Act, 1901, or to escape payment of the fees imposed by the board under the authority of section 95 or section 21 of the Act (as the case may be). If this non-resident refuses to pay the fee required by the board, it may refuse admission to the school of the pupil or pupils he sends. We are assuming that the person referred to is not assessed personally in respect of any property.

Qualification of M. F. Voters—Collection of Fence Viewers Fees—Injury to Private Entrance.

499—CLERK.—1. Can M. F. voters who have not paid their poll tax be prevented from voting?

2. Fenceviewers made an award in 1902 after the collector's roll had been closed. Can their fees be put in the roll for 1903?

3. A ratepayer has a road from the concession line to his gate which blocks up the ditch. If the pathmaster were to continue the ditch through this, would the council have to cover it or the ratepayer?

1. If the voting referred to is at a municipal election, voters possessing only the manhood franchise qualification have no right to vote at all, and if it is at a parliamentary election, the fact that they have not paid their poll tax for the year in which the voting takes place, does not deprive them of their right to vote.

2. Yes.

3. If the digging of this ditch destroys or injures the ratepayers entrance to his premises, he is entitled to be paid compensation by the council of the municipality for the damages he has thereby sustained. As the amount of these damages would probably be the cost of replacing or repairing the entrance to his premises, the best course for the council to pursue is to replace or repair it, as the case may be.

Vote on By-Law to Extend Waterworks and Electric Light Systems.

500 F. J. C.—We are to have a vote taken on Sept 14th, 1903 on granting $10,000 for the extension of our waterworks and electric light plants. Some claim that at least one-third of the owners of real property must vote either for or against the by-law. Will you kindly let me know if this opinion is justified by law, and if so, where can the law be found on the subject?

It is not necessary to submit a by-law for the EXTENSION of a waterworks or electric light plant to the electors of the municipality before its final passing, provided it is first approved of by the Lieutenant Govenor in council, and that on the final passing of such by-law, three-fourths of all the members of the council vote in its favor. (See the proviso appended to sub-section 5 of section 569 of the Consolidated Municipal Act, 1903). If, however, the council follows the alternative course of submitting the by-law to the electors, if the majority of the votes cast is in its favor, it should be declared carried.

Township Councils May Pass By-Laws For Construction of Sidewalks.

501—A. D. A.—A portion of our township being unincorporated, adjoins the village of B. Petitions have been presented to our council signed by the necessary three-fourths of the property owners requesting the township to build cement or granolithic sidewalks on certain streets in the said township, then to pay 40 per cent of cost of construction, and township balance, but we find that the township has no power or authority to build such walks. Then the question arises, and what I would like to know is this: Could our township council grant a certain sum of money to those people living in that district, and they to use the same for building a portion of cement walk and the balance for repairing the wooden sidewalk?

Although section 678 of the Consolidated Municipal Act, 1903, doesnot apply to townships, and the councils of such municipalities have no authority to construct these sidewalks pursuant to its provisions, they have power to pass by-laws to construct them as local improvements, and assess the cost against the property benefited pursuant to the provisions of section 664 of the Act, as enacted by section 143 of the Municipal Amendment Act, 1903. The council may also construct such sidewalks at the expense of the municipality, if it considers the construction of these sidewalks necessary for the general public convenience.

Ontario Municipalities Fund Cannot be Devoted to Bonusing Railways.

502—P. F. S.—We have in our township a municipal loan fund, say $12,000, the interest of which is distributed to the various schools of this municipality annually, according to a by-law to that effect. Now what I want to know is, if our council can appropriate such amount of money towards bonusing a railroad to be built through this township? Allowing that they can, would such have to be approved of by the ratepayers at an election held for that purpose?

We assume that reference is made to "Tne Ontario Municipalities Fund", mentioned in sub-section 1 of section 423 of the Municipal Act, as the "Municipal Loan Fund" is a fund belonging to the Government, out of which it advances moneys to municipalities. (See section 426). Sub-section 1 of section 423 enumerates the securities in which surplus moneys derived from "The Ontario Municipalities Fund" may be invested. A township council has no power or authority to devote these moneys to bonusing railways.

Municipal Loan to Manufacturing Establishment Should Receive Assent of Electors—Procedure.

503—A. A. Y.—The council of a rural municipality are in favor of loaning $1000.00 to assist an industry lately burned, to rebuild. The debt to be repaid in annual instalments of $100 each. Is it necessary to get the assent of the ratepayers to make by-law of this description legal, and if so what proportion of the vote of the ratepayers is necessary to carry same? Will you kindly give me as clerk the course of procedure to take in putting this question to the electors?

A by-law of this kind must receive the assent of the electors of the municipality before its final passing. (See clause (a) of sub-sec. 12 of the Consolidated Municipal Act, 1903). The assent is necessary of two-thirds of all the ratepayers who are entitled to vote on the by-law, unless the number of ratepayers voting against such by-law does not exceed one-fifth of the total number entitled to vote, when the assent of three-fifths of all the ratepayers shall be necessary. (See section 366 (a) of the Consolidated Municipal Act, 1903). The procedure to be observed in submitting a by-law to the vote of the electors

will be found in section 338 and following sections of the above Act.

Assessment of Corner Lots For Local Improvements.

504—H. G. T.—The council of this village is laying cement sidewalks, and are paying 40 per cent of the cost; the owners of the properties immediately benefited pay 60 per cent. The owners or at least two-thirds of them petitioned the council to construct these walks. Where the walks are laid both in front and along side of a corner lot, must the owner of such lot pay 60 per cent of the cost of both walks, or can the council by resolution or by-law legally pay more than 40 per cent of any sidewalk laid under the authority of sections 668 or 678 of the Municipal Act?

The council of the corporation on an affirmative vote of three-fourths of the members of the council may by by-law provide from the general funds of the municipality such LARGER or smaller proportion than 40 per cent, as they may deem expedient of the cost of construction of granolithic sidewalks upon the streets of any village, as provided in sub-section 2 (a) of section 678 of the Consolidated Municipal Act, 1903, or it may by by-law provide what it siders an equitable mode of assessing corner lots, for the construction of these sidewalks as provided in sub-section 4 of section 673 of the Act.

Cement Walk May be Laid Under Section 677, Notwithstanding Petition Against Them.

505—W. F.—Conncil gives notice of its intention to construct cement walk as a local improvement, and to assess the cost on the frontage benefited, and the property owners affected petition against it. Can council, under sub-section 1 of section 677 of the Municipal Act, by a two-thirds vote, proceed in spite of the petition, to put down the walk and assess the cost upon the property immediately benefited by the work?

We are of the opinion that the council can construct a cement sidewalk under section 677 if it is in the public interest to do so, but before going on with the work a by-law should be passed provisionally declaring that the council considers the work necessary in the public interest and notice should then be given to all the persons who will be affected by the by-law, that the council will at a certain meeting hear the persons so affected and after hearing them the council may then, if it considers the construction of the sidewalk to be in the public interest, finally pass the by-law and hold a court of revision in the usual way. The council ought to abandon its proceedings already taken and begin afresh.

Assessment Roll as Finally Revised, is Binding.

506—S. BLYTH—It appears the Ontario Government at its last session increased the income exemption to $1,000. Can a person who has been assessed for $100 income be relieved from paying this year's tax, seeing that the Court of Revision for the Municipality has been closed, and no appeal for exemption was made before said court?

No. The roll as finally passed by the Court of Revision, and certified by the clerk as passed, shall, except in so far as it may be further amended, on appeal to the judge of the County Court, be valid, and *bind all parties concerned.* See section 72 of the Assessment Act.

Seat of Absentee Councillor Should be Declared Vacant and New Election Held.

507—REEVE—One councilman has not attended for the last three meetings. At the last meeting we struck the rates for the year.

1. Would it be legal to finish the business of the year without a new election to fill the vacant chair?

2. Would the council have to call a new election?

1 and 2. If the councillor referred to absented himself from the meetings of the council for three months without being authorized by a resolution of the council entered upon its minutes his seat in the council became vacant and it then became the duty of the council to declare the seat vacant and hold a new election. We do not care to speculate upon the question as to whether the council can go on and do business lawfully without having a new election. The law makes it the duty of the council to hold a new election and it ought to discharge that duty.

Vote Necessary to Carry Local Improvement By-Law

508—S. L. M.—Will you kindly advise as to what vote of the council is required for the putting down a concrete walk, petitioned for by the required number of ratepayers?

The votes of a majority of a quorum of the council present at the meeting at which a by-law is introduced under the authority of section 664 of the Consolidated Municipal Act, 1903, is sufficient to carry it. If, however, the work is undertaken, pursuant to the provisions of section 677 of the Act, the votes of two-thirds of the members present at the meeting is necessary. And if the by-law is one to provide for paying the cost of the work in the manner provided by section 678, the affirmative vote of three-fourths of the members of the council is necessary to carry it.

Collection and Payment of Union School Rates—Trustees' Grant to Public Library.

509—COUNCILLOR.—1. There is a part of our ratepayers attached to a union school in the village of R. Twelve years ago they built a new school house and raised $2,000 on the section by debentures to be paid in twenty years in yearly instalments of $175, and according to the equalization the trustees of the village have been collecting per year more than they have a right to. I requested our council to stop paying the amount that was overpaid, and they claimed they had to pay what the trustees demanded. Have council not a right to protect their ratepayers when it is by them the taxes are raised. Would you kindly advise what steps to take to recover the amount overpaid?

2. I have been informed that the same trustees granted $20 last year of school funds to the village library. Was that legal?

1. The council of the township is not compelled to pay whatever part of the annual school levy the trustees of the union school section demands. It should pay them only the proportionate part that the township is liable for, according to the equalized assessment of the union school section and the council can be restrained from paying over more than its proportionate part.

2. Sub-section 4 of section 65 of the Public Schools Act, 1901, authorizes trustees of school sections to establish and maintain SCHOOL libraries, but they have no power to make a grant in aid of a library established pursuant to the provisions of the Public Libraries Act, as we assume, that aided in this instance, was.

Procedure to be Followed in Laying Cement Sidewalks

510—H. B—Our council is putting down concrete sidewalks without a motion in the minute book and without the voice of the ratepayers. Is it legally done?

2. Is the council responsible for the cost, or the ratepayers?

3. They are going to pass a by-law to borrow money. What majority does it want to carry the by-law?

4. If the by-law does not carry can they tax this year for the cost of the sidewalk?

1, 2, 3 and 4. These questions are put somewhat indefinitely, and we cannot do otherwise than answer them in a general way. The council may put down such sidewalks, as the needs of the public demand, and pay for them out of the general funds of the municipality. If the cost of these sidewalks is to be paid within the year in which the work is done, it is not necessary to obtain the assent of the ratepayers to a by-law providing for the raising of the money. These sidewalks may also be laid as local improvements pursuant to section 664 of the Consolidated Municipal Act, 1903, and following sections, and the cost of the work assessed against and collected from the property immediately benefited by its construction according to the frontage thereof. By-laws should be passed for this purpose and a majority vote of the council is sufficient to carry them. The only local improvement by-law which requires the assent of the electors is that mentioned in section 682. The councils of cities, towns and VILLAGES may, under the authority of section 677, by a two-thirds vote of the members present at any regular meeting, construct the sidewalks mentioned therein without petition. The minute book of the municipality should contain a record of all resolutions passed by the council for the construction of these walks or authorizing the payment of the cost, or providing for the several readings of all by-laws relating to the construction of any such works.

Closing Old Road and Opening New.

511—SUBSCRIBER—The council of this township are taking action to close part of an original road which crosses the Grand River, "There being no bridge across the river," and want to open a road in place of part closed across two farms to connect with another road. One owner of farm which road is to cross, strongly objects to road, refuses to come to a settlement, asking too high a price, refuses to name an arbitrator, threatens to eject any person entering on his lands.

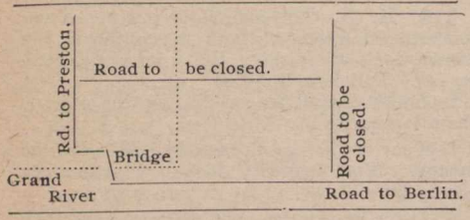
1. Under what sections of the Municipal Act must council proceed to open a road across the farms?

2. How must council proceed to get possession of land for road?

3. Can the council force owner to arbitrate?

4. Is the township liable for any damage that may occur when people cross the open ford in the river?

1. The council is empowered by section 637 of the Consolidated Municipal Act, 1903, to open this road if it deems that the convenience of the public requires it. The preliminary proceedings prescribed by section 532 of tne Act must first be strictly observed.



2. The council has power, under section 637 to take possession of such lands as may be necessary for opening and establishing a legal road in this locality and if the owner or owners of the land so taken and the council fail to agree as to the compensation to be allowed to the former, their differences must be settled by arbitration under the Act. (See section 437.)

3. Yes. See sections 451 to 454, (inclusive), of the Consolidated Municipal Act, 1903, particularly section 454.

4. This depends on the circumstances of each particular case. As long as this road remains open, it amounts to a tacit invitation to travellers to use it, and if an accident should happen, by reason of the absence of a bridge at the river ends of the road, to a stranger to the locality at night or otherwise, without any contributory negligence on the part of the person who sustains injury, the municipality would most likely be held responsible in damages. It would be different if the accident happened to a person well acquainted with the locality and the nature and condition of the road, as it would then be safe to assume that he was using it at his own risk. In any event, the municipality should have conspicuous notices at either end of the road, warning travellers of the dangerous condition of the river crossing.

Liability For Expenses of Burying Unclaimed Body.

512—C. A. W.—A resident of an incorporated village leaves his home in the evening and goes into the adjoining township, and is killed by a passing train. Is the township liable for his funeral expenses and all other expenses concerned, he having been a resident of the village for a number of years and well known?

If there is an inspector for anatomy for this locality, the body of the deceased should have been placed under his control as directed by section 2 of chapter 177, R. S. O., 1897. If there is no such official in the locality, this unclaimed body having been found dead within the limits of the *township* municipality should be buried at the expense of the corporation of such township, as directed by section 19 of the Act, but such corporation may recover such expense from the estate of the deceased, (if any.)

Timber on Original Road Allowance to be Sold Subject to Right of Government Licensee.

513—R. A. B.—Will you inform me if a municipal council has the right of selling timber on road allowances, whether such lots are included in lumbermen's limits or not?

By "lumbermen's limits" we infer that reference is made to the limits included in licenses issued pursuant to section 2 of chapter 32, R. S. O., 1897. If this is so, the Government may include the timber on any Government road allowance in any such license. See section 7 of the Act. And as regards such timber, the council of the municipality can exercise the authority to sell it, conferred by subsection 7 of section 640 of the Consolidated Municipal Act, 1903, subject only to the provisions of section 7 and following sections of chapter 32, R. S. O., 1897.

Council's Liability for Sheep Killed by Dogs—Killing of Dogs—Council's Liability for Death of Cow.

514—J. S.—1. A ratepayer has sheep killed by dogs, and the owner of the dogs is found. In case the owner of dogs is not worth price of sheep killed, or refuses to pay, can owner recover from council?

2. A neighbor shot the dogs while pursuing the sheep and has received notice that he will be prosecuted. Was he perfectly justified in shooting the dogs?

3. A cow was being driven home to milk along a public road and stepped through a hole in a culvert and broke its leg and had to be destroyed. Can owner recover full value from township council?

1. Section 15 of chapter 271, R. S. O., 1897, makes provision for the recovery by the owner of sheep killed or injured by dogs, of the amount of the damage occasioned, from the owners or keepers of such dogs, by summary proceedings before a justice of the peace. If, as a result of these proceedings, a conviction of the offender is obtained, and the owner of the sheep killed is unable to levy the amount ordered to be paid, for want of sufficient distress to levy the same, section 17 of the Act provides that the council of the municipality in which the offender resided at the time of the injury, shall order their treasurer to pay to the aggrieved party two-thirds of the amount ordered to be paid by the public under the conviction, in addition to the costs of the proceedings before the justice and before the council. The mere refusal by the owner of the dogs to pay the amount of the damages sustained by the owner of the sheep killed will not justify the council in paying the latter such amount.

2. Yes. Clause (a) of section 9 of the Act provides that "any person may kill (a) any dog which he sees pursuing, worrying or wounding any sheep or lamb."

3. If the owner of this cow can show that by reason of the hole in the culvert, the highway was out of repair, that this non-repair was due to negligence on the part of the municipal corporation, that the damage, (the loss of the cow), was sustained by reason of the non-repair, and that the conduct or knowledge of the driver did not contribute to the happening of the accident, the owner of the cow can recover the amount of damage he has sustained from the municipality. Notice of the accident and the cause thereof must be served upon, or mailed to the head of the corporation or the clerk within thirty days after the happening of the accident, and the action must be brought within three months after the damages have been sustained. (See section 606 of the Consolidated Municipal Act, 1903.)

Vote Required to Carry Resolution—Councillor Supplying Material to Corporation Contractor Disqualified.

515—G. H. B.—Our village council engaged a man to water streets at $12.00 per week, during the pleasure of the council. At a meeting of the council with the reeve and two councillors present, they cancelled the contract.

1. Was this legal with only three members of the council present?

2. The village constructed a quantity of granolithic sidewalk by contract. One of the councillors furnished the contractor with cement for the job. Can the said councillor be unseated and disqualified for so doing?

1. If the reeve and the two members of the council present, were not disqualified to vote on the question, and all voted in favor of the cancellation of this contract, this was sufficient for the purpose. Since the council of this municipality is composed of only five members, section 269 of the Consolidated Municipal Act, 1903, is applicable.

2. Sub-section 1 of section 80 of the Consolidated Municipal Act, 1903, amongst other things provides that "no person having a contract for the supply of goods or materials to a contractor for work for which the corporation pays, or is liable directly or indirectly to pay, or which is subject to the control or supervision of the council, or of an officer thereof on behalf of the council, shall be qualified to be a member of the council of any municipal corporation." The councillor has transgressed the provisions of this section and proceedings may be instituted against him to unseat him as provided in section 208 of the Act and the other sections of the Act, therein mentioned.

Removal of Fence on Road Allowance.

516—J. B.—A ratepayer made a complaint to our council that a certain fence was on the road allowance and he wished the council to have it removed. The owners of the farm were notified to have the fence removed by a certain time. They object to do so until they are satisfied the fence is on the road. Who are the proper persons to employ a surveyor and pay for the same?

If there is any doubt as to whether this fence is on the correct line or not, the council cannot safely take any proceedings to enforce its removal, until this point has been definitely settled. In order to accomplish this, the council should employ a competent land surveyor to locate the

line, and will have to bear the expense of his so doing. The council is not, however, bound to employ an engineer or take any proceedings because a certain ratepayer has made a complaint.

Liability of Township to Repair Approach to Private Property.

517—M. E.—A ratepayer of our township has asked the council to place sewer pipe and make good the approach to his property. He claims to have legal advice that a municipality must make good all approaches which have once been built by property owners. The Ditches and Watercourses' Act is cited as the authority. Kindly advise as to the matter?

If an approach or entrance to private property is destroyed or injured by the council of a municipality or its employes, the private owner is entitled to be compensated by the municipality for the damages he has thus sustained. Since the amount of the compensation would be the cost of replacing the approach removed or making good any injury done it, the best course for the council to pursue, is to do the necessary work, or cause it to be done. We do not see that the provisions of the Ditches and Watercourses Act affect this question in any way.

Procedure for Sale of Part of School Site.

518—W. D.—1. Have the trustees of a rural school section power to sell part of a school site that is considered not required for school purposes, even if the only well is on that part?

2. If sold, shall the trustees dig a new well or provide water in some other way?

3. What is the procedure for selling part of a school site?

4. Will the trustees, or only the chairman and secretary need to sign the deed?

1. Yes. The latter part of sub-section 12 of section 65 of the Public Schools Act, 1901, authorizes school trustees "to dispose by sale or otherwise, of any school site *or other property not required in consequence if a change of site or other cause.*" The trustees are to be the judges as to whether a part of the school site is not required for any cause.

2. The trustees should provide a new well and keep it in a proper sanitary condition. See sub-sections 3 and 4 of section 65.

3. The procedure is the same as in the case of the sale of real estate by one private individual to another.

4. The latter part of sub-section 12 of section 65 empowers the trustees to convey the real estate of the school corporation under their corporate seal. All the trustees should sign the deed, and cause their corporate seal to be affixed thereto.

Liability of Farmers' Sons for Statute Labor—Sale of Lands for Taxes in Unorganized Territory—Inspection of Fences and Drains.

519—J. A. L.—Should farmers' sons do statute labor?

2. Could unpatented land in unorganized territory be sold for school taxes?

3. Who should pay the costs for inspeetion of fences and watercourses?

1. If a farmer's son is assessed jointly with his father or mother (as the case may be), pursuant to the provisions of section 14 of the Assessment Act, he is not separately charged with statute labor but it should be calculated on the assessed value of the land, according to the ratio in vogue for the time being in the municipality. A farmer's son, however, entered and rated as such on the assessment roll, if not otherwise exempted by law, is liable to perform statute labor or commute therefor, as if he were not rated and assessed. (See section 106 of the Act.)

2. By section 53 of chapter 225, R. S. O., 1897, the provisions of the Assessment Act relating to sales of land for taxes are made to apply to such sales in the unorganized territory of Ontario. Section 188 of the Assessment Act provides that if any lands of which the fee is in the Crown, are sold for taxes, only the interest therein of the lessee, licensee or locatee therein shall be sold.

3. The circumstances giving rise to the occasion for the inspection must be stated before we can reply to this question.

Calculation of Statute Labor in Townships.

520—EQUITY.—In this township there is a difference of opinion as to how statute labor should be calculated when a party is assessed for lots or parts of lots aggregating over 200 acres. There is no dispute about the scale which has been altered from that given in statutes, so that any amount up to $1,000 brings two days, from $1,000 to $1,800 three days, $1,800 to $2,800 four days, $2,800 to 4,000 five days and so on, one additional day for every $1,200 or part thereof. The clerk maintains this scale cannot be continued ad infinitum for all the land that any one party or group of parties may get assessed together, but that the scale is only for whatever assessment may be on 200 acres, and that for whatever acreage a party may be assessed over 200 acres, let it be 10, 25 or 50 or more acres up to 200, the scale will have to be commenced with just the same as though it was a separate party was assessed.

We agree with the clerk's view of this matter. Sub-section 2 of section 109 of the Assessment Act provides that such lots or parts of lots as those mentioned, "shall be rated and charged for statute labor as if the same were one lot and the statute labor shall be rated and charged against any EXCESS of said parts in like manner."

Payment of Charges of Medical Health Officers of Cost of Necessaries for Persons in Quarantine.

521—I. A.—At a meeting of our council a few days ago the following resolution was passed: That re small pox cases and other contagious diseases the clerk write the Municipal World for information again as to who is liable for the cost of quarantining as follows:

1. If a member of the local Board of Health sent a medical man (who is not a medical health officer for the municipality) to a house where he has suspicion of some contagious disease, who is liable for the costs, the parties who were quarantined or the Board of Health?

2. If the medical health officer of the municipality has suspicion of contagious diseases in any house in the municipality, and on such suspicion he visits such houses and makes temporary quarantining for a few days until he is sure as to the grounds of his suspicion, and if a case should or should not develop, who is liable to the medical health officer for his charges, the parties who were visited or the Board of Health, and would it make any difference whether or not the medical health officer was employed by the Board of Health at a yearly salary, or only paid for any work he actually does?

3. If the Board of Health is liable for the costs of medical health officer or other medical man, what must the charges be, and are they liable where the medical health officer acts without instructions from the Board of Health? What the Board of Health is most anxious to know is this, are the parties afflicted liable for the whole costs incurred, sitting up, quarantining and releasing of same, and for medical attendance and necessaries, or should the Board of Health bear part of the expense? In most cases the medical health officer being the doctor in attendance?

1. We infer that this member of the Local Board of Health, in giving his instructions to the physician, was not acting as a committee of, or under instructions received from the Local Board of Health, of which he was a member. If this is the case, his personal order, in the absence of other circumstances making the Local Board of Health liable, does not commit the board to the payment of the physician so ordered to attend the person afflicted. In the case of Bissonette v. Municipality of Stirling et al (reported on page 175 of The Municipal World for 1903), the judge of the County of Hastings in the course of his judgment says that "the plaintiff, *not being medical health officer*, a clear contract of hiring or engagement must be shown in order to maintain an action for services such as these. (The services were attending a family afflicted with typhoid fever.) Has such a hiring or engagement been shown either expressly or by implication? The plaintiff has failed to prove that he was engaged by the Local Board of Health." A perusal of the above case will be of interest in this connection.

2. The services thus performed by the physician were within the range of his duties as medical health officer of the municipality. If he was engaged at an annual salary his charges would be covered by his annual salary, and he would be entitled to no additional pay. If, on the contrary, he is to be paid for performing the duties pertaining to his office, as and when he is called upon to perform them, he is entitled to reasonable pay for the work he actually performs, having regard to the tariff of fees allowed to physicians generally, performing similar services.

3. A medical health officer is appointed and should be paid by the COUNCIL of the MUNICIPALITY. If he is engaged at an annual salary, this is all he is entitled to receive for services performed. If, on the other hand, he is to be paid only for such duties as he actually performs under the Act, he should be paid his reasonable fees for such work actually done, according to the tariff of fees allowed to physicians generally, for performing similar work.

The persons afflicted with a contagious disease are liable for all costs, charges and expenses incurred for their quarantining

nursing, medical and other attendance, and necessaries supplied them while isolated, except such sum or sums as the council has agreed to pay to the medical health officer for performing the duties imposed on him, as such official by the Public Health Act, and should pay the amount if able. Otherwise the municipality will have to bear the whole expense. (See section 93 of the Public Health Act, R. S. O., 1897, chapter 248.)

Collection of Taxes—Exemption From Seizure—Collector May Make Seizure.

522—J. B.—In our village there is a ten acre field, vacant land. It is leased to a man who lives in our county but not in our village. The owner lives in our village. The tenant has made no use of the land this year, except to cut the weeds when forced to do so. The land was assessed in the year for which the taxes are due to the owner and tenant jointly.

1. From whom should we collect the taxes, as neither of them are disposed to pay them?

2. What goods and chattels are exempt from seizure by the tax collector?

3. Can the collector be his own bailiff and seize and sell the goods for taxes?

1. The collector can proceed against either the owner or tenant to realize the amount of these taxes since they are the persons 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.)

2. If the goods seized are the property of the person who is actually assessed for the premises and whose name also appears upon the collector's roll for the year as liable therefore none of them are exempt from seizure for taxes. If otherwise, a list of the exempted goods will be found in section 2 of chapter 77, R. S. O., 1897. (See sub-section 2 of section 135 of the Assessment Act.)

3. Yes. Sub-section 1 of section 135 of the Assessment Act provides that the "collector may by himself *or his* AGENT levy, etc."

Inspection of Drains—Selection of Jurors—Liability for Non-Repair of Roads—Tethering Horses Over Sidewalk—Poundage Fees.

523—J. M.—1. Has the reeve authority in townships to inspect Government drains under construction, and have the work paid for by the council, or is the township engineer the proper person to do so?

2. Has the Act been changed lately as to the reeve, clerk and assessor selecting the jury list, and what is the date?

3. Is pathmaster held responsible for damages done to rigs by his neglect to fix the road when he knew it required it, and had all the statute labor of his division at his command, or can he compel the council to do so?

4. Is the public at liberty to come to an unincorporated village and tie there horses across the sidewalk, or can they be fined for stopping up the way?

5. If parties dig drains from their cellars across or along the public road, should they not fill up thedrain again properly, and if not, are they not held responsible for damages if any accidents occur?

6. What is the poundage fee for impounding animals, and has the party who impounds the animals to pay the poundage in advance?

1. We assume that reference is made to municipal drains constructed under the provisions of a by-law passed pursuant to the Municipal Drainage Act, (R. S. O. 1897, chapter 226) and not to drainage works constructed and paid for by the Government. If this is so there is nothing to prevent the overseeing and inspection of the construction of the drainage works, by the reeve of the township, and the issuing by him of orders on the treasurer for the amounts due contractors for the work, provided he has been directed or authorized to do this by the council of the municipality. We may say however, that we consider it best, in all cases, to leave the performance of these duties to a competent engineer.

2. No. The date fixed by statute for the selection of jurors by these officials is the 10th October in each year. (See sections 17 and 18 of chapter 61, R. S. O. 1897.)

3. So far as the travelling public is concerned, the municipality is responsible and can be held liable for damages resulting from the happening of accidents by reason of the non-repair of the highway. If the pathmaster neglects to do the work necessary to put this road in a proper state of repair, the council, to avoid liability, will have to see that it is done.

4. The public can be prevented from using these sidewalks in the manner mentioned, if the council of the township passes a by-law pursuant to the provisions of sub-section 9 of section 559 and section 560 of the Consolidated Municipal Act, 1903. The council may, by this by-law, impose a fine on persons who transgress its provisions.

5. The municipality would be liable to parties injured by reason of the existence of the excavations in the highway—in the first instance—but the municipality would have a remedy over against the persons who made the excavations for the damages and costs recovered by the persons injured. (See section 609 of the Consolidated Municipal Act, 1903.)

6. The amount of the fees to which a pound-keeper is entitled depends on the provisions of the township by-law passed pursuant to sub-section 4 of section 546 of the above Act. The person who takes an animal to a pound is not bound to pay the pound-keeper his fees, in advance.

Vacancy in Office of School Trustee Caused by Absence—Illegal Hiring of Disqualified Teacher.

524—E. M.—A is a trustee of a certain school section. About three weeks before last Christmas he left for shanties to spend a few months. He came back about three months after. B is one of the trustees who leaves about New Years day to work in the shanties and came back a few months afterwards. C is the third trustee who stays at his home. D was one of the trustees until Christmas, when B was appointed in his place. D was asked to remain as trustee for that day, that is the annual meeting day of the school section, so he remained for that day, that is it was to replace A who had left for the shanties about three weeks before. The question was to hire a school teacher, but did not hire one on that day. D told B to look after the teacher affair, but he soon left the vicinity for the shanty and no teacher was hired. C then proposed to D to hire X as school teacher though he was not qualified to teach, but D refused as X asked too much. At last X proposed to teach for $22.50 per month, and D said "Well I am not a trustee but will agree to hire you at $22.50 per month until A and B come back." So X wrote his agreement, had C sign it, and as D could not write his name, X wrote D's name for him and intended to have him make his mark. D was asked to go and make his mark, he answered all right, "I will go some of these days and sign it," but he never went to sign the agreement, nor did he sign it, but X continued teaching. A and B came and as they were not satisfied with his teaching, they notified X to quit teaching, notified him twice. The second time they took it over and gave it to him, and A and B hired another teacher. So when the time that he should have quit teaching came, the other teacher came to teach. This was the 1st day of May (about). X would not go out of the school house, but they forced him to go out and had the other teacher to take his place. Now the agreement is made, signed by C and D who (the latter) claims has not signed it, also signed by B who was in the shanty at the time, and who has never signed it either. Now X has proseeuted the trustees of that section for a damage of $45.00, that is two months' wages. X has a copy of the agreement and no one else has one, and only one was made.

1. Can X claim and is he entitled to his claim of $45.00?

2. Is his agreement legal since it was signed by only one trustee?

3. What can be done for his signing B's and D's names on that agreement?

4. Who is the present trustee, is it D or A.

5. Could D be appointed trustee for one day?

6. Did the absence of A put him out as a trustee?

7. X has almost nothing. Should he lose his law suit and cannot pay the costs of court, will the section have to pay the cost of court?

8. What can the said D and A do to X for signing their names on that agreement?

9. Can a trustee be appointed to replace another who has been absent for a short period before the absent one resigns?

10. Who has the best side of this case, is it the trustees or X.

1. We are of opinion that X cannot succeed in recovering the amount of the claim from the trustees. The agreement is invalid, as it was not signed by the trustees, nor was the seal of the school corporation attached thereto, as is required by sub-section 1 of section 81 of the Public Schools Act, 1901. In addition to this X was not a qualified teacher and was therefore incompetent to enter into an agreement to teach.

2. No.

3. If X signed B's and D's names, or either of them to the agreement without having been first authorized by them to do so, he is liable to prosecution under the Criminal Code for forgery.

4. D is not now a trustee as according to your statement of the facts, his term expired on the day of the last annual meeting, but we have not sufficient information to enable us to say whether A is now a trustee or not. If he was absent from the meetings of the board, when away in the winter and spring for THREE consecutive months without being authorized by resolution entered upon the

minutes of the board, his seat by that fact itself, became vacant, and the remaining trustees should have declared his seat vacant and forthwith ordered a new election. (See section 104 of the Act.)

5. No.

6. This is answered by our reply to No. 4.

7. If the school board wins the suit, it will have to pay only its own witness fees and its lawyer's charges for conducting the defense.

8. This is answered by our reply to No. 3.

9. If a trustee absents himself from the meetings of the school board for three consecutive months without being authized by resolution of the board, his seat thereby becomes vacant and no formal resignation of it is necessary, (see section 104) and a new trustee can and should be elected to fill the vacancy for the balance of the term as provided in section 62 of the Act.

10. From your statement of the facts, we are of opinion that the trustees should succeed.

Township Not Liable For Damages Caused by Cow Running at Large.

525—M. M.—A by-law is in force in our municipality prohibiting cows and other cattle from running at large. A ratepayer was driving along in his buggy one day and on the approach to a bridge, met a cow which he attempted to pass, but owing to the approach being fenced on both sides the cow backed against his buggy and damaged it. Now under the provisions of said by-law to whom should he look to recover damages, the council or the owner of the cow?

The highway appears to have been in a proper state of repair where this accident happened, at least the accident was not occasioned by any defect therein. We do not therefore consider the municipality in any way liable to the owner of the buggy for the damage he sustained.

Leasing of Original Road Allowance For Mining Purposes.

526 P. S.—Some time ago the council of this municipality agreed to lease a piece of as yet unused original road allowance for mining purposes, to one of our ratepayers for a certain term of years, and accepted $2.00 cash in advance on the first year's rent thereof. Some of our ratepayers object to this transaction, claiming that the minerals upon or under an original road allowance belong to the Government, and that therefore a municipal council has no right to sell or lease the mining right thereon. Others object only to the manner in which the transaction was made, and claim that if the council has the legal right to lease the mining rights they should have been put up to public competition, so as to realize the highest amount for them. The notices required by sub-section 2 of section 657 of the Municipal Act have been duly posted up, but no by-law has as yet been passed nor lease executed.

1. Will you kindly advise us if (as I personally think they can) the council or corporation of this municipality can lease the mineral rights on or under original road allowance in any manner they see fit?

2. If the council, upon reconsideration of the agreement made with the ratepayer above referred to, should decline to carry out the terms of said agreement and to execute a lease of the road allowance, and tender or offer to return to the said party the $2.00 received on the rental thereof, could the said party refuse to accept the money and put either the corporation or the councillors personally to any trouble or expense for not carrying out the terms and conditions made in the agreement referred to?

1. We are of opinion that the council of the township has power by by-law to lease the right to remove minerals found upon or under the original road allowance, pursuant to the provisions of sub-section 1 of section 657 of the Consolidated Municipal Act, 1903, subject, of course, to the conditions imposed by sub-sections 2 and 3. The lease should be of the *right to take* the minerals, not of the highway itself. However, in Re Ontario Natural Gas Co. and Township of Gosfield South, (19, O. R. 591; 18 A. R., 626), it was held that where the lease was for a portion of the highway, "for the purpose of boring and taking therefrom all gas or other minerals" the quantity of land being no more than was required for the company's purposes, and the rights of the public being fully protected, the practical difference was so small as not to constitute a ground for quashing the by-law. The council may lease this right upon such terms and conditions, (so long as the travelling public are properly protected) and for such length of time, as it may deem expedient and either by public auction *or otherwise* as is provided by sub-section 1 of section 657.

2. It is not stated how this agreement was entered into. If it was in writing signed by the parties concerned and ratified by a by-law of the municipality the lessee could compel its specific performance, and recover damages from the municipality for its breach. If, on the contrary, it was an informal verbal affair, it is not binding on the municipality, and neither the council nor its individual members will incur any liability, if the money paid on account of the first year's rent is returned to the proposed lessee and further negotiations dropped.

Assessment for Drainage Works - Addition of New Lands to School Sections.

527—INVICTA—1. When drainage by-law of township has been finally passed by council, works partly done (Court of Revision duly held and closed), drainage debentures for part of total cost issued and sold, what is the proper course for ratepayers interested to get some of the drains extended further, say a distance of 200 rods, also new ditches added say a distance of one and one-quarter miles, small ditch under section 74 or 75?

And how should cost of same be met, by a levy on those interested only, or over the whole of the drainage scheme, and can more drainage debentures be issued under original by-law, the same as if cost had exceeded engineer's estimate?

2. Would like to know how you reconcile your answer to part 2 of question 411 of July, 1903, to sub-sections 2 and 6 of section 545?

3. When previous township councils have not put outlying parts of the township into some school section, as per Public School Act, when can the council of 1903 do so and how can they get school taxes for 1903, on lots so missed and held by non-resident owners?

1. If the work required is simply the extension of the outlet of drains already constructed, and the cost of the work does not exceed $400, the council may proceed under section 74 of the Municipal Drainage Act, (R. S. O., 1897, chapter 226) and if the cost is not above one-fifth of the cost of the construction and does not exceed $400 in any case; and if the cost exceeds $400, proceedings must be taken under section 75. In the former case the cost of the work is to be collected by a pro rata assessment on the lands assessed for the original construction of the drain. In the latter, such cost shall be charged and collected as directed in the report of the engineer. If it is meant that new drains are to be constructed, having their outlets in that provided for under the original by-law, proceedings must be taken under section 3 of the Act and the cost of the work assessed and charged against the lands to be benefited by the construction of such new drain or drains and for outlet liability and relief from injury liability.

2. We cannot see any connection between clause 2 of question 411, 1903, and the sub-sections mentioned. The former had reference to a by-law respecting cattle running at large. Sub-section 2 of section 545 of the Consolidated Municipal Act, 1903, relates to by-laws regulating the height, etc., of fences and sub-section 6 to those relating to the erection of water gates in drains.

3. We assume that reference is made to the formation of the township into school sections pursuant to section 12 of the Public Schools Act, 1901. If this is so, the Act makes no provision for the remedying of an omission of the kind mentioned unless the owners of the lands not now included in any school section in the township consent to be taken into some school section. Without some legislation on the subject, we do not see how the council can compel them to come in, or how it can compel them to pay any part of the trustees annual school levy in any school section in the municipality.

Payment of Costs of Vaccination and Disinfection of Premises of Persons Afflicted With Contagious Disease.

528—CLERK—1. Our township has had an epidemic of small-pox. The Board of Health put the compulsory Vaccination Act in force and sent the medical health officer from house to house to vaccinate every resident. Who should pay for this work?

2. The board had to fumigate every house after the disease was stamped out at a cost of about $15 for each house. Who should pay for this work?

1. It is the duty of the council of the municipality and not the Local Board of Health to enforce compulsory vaccination. (See section 16 of chapter 249, R. S. O., 1897.) The Act does not authorize the appointment of a medical health officer or practitioner to make house to house visitations for vaccination purposes. Adults are required to present themselves and their children for vaccination in the

manner required by the Act, subject to a penalty for neglecting to do so. If this course had been followed the municipality would have been responsible for the cost of vaccinating only those who, by reason of their poverty, were unable to pay it. In the case mentioned, the board contracted with the physician to do work outside the range of his duties as medical health officer and beyond their jurisdiction, and we are therefore of opinion that the doctor cannot recover for his services.

2. From the information given, we cannot say whether in any of these cases the cost of disinfection should be paid by the owner of the premises or not. If the notice mentioned in Sec. 81, of the Public Health Act, (R. S. O., 1897, Chap. 248,) was first given to the owner by the local board and he failed to comply with it, he is liable to the penalty mentioned in Sec. 82 of the Act, and the local board of health may cause the disinfection of the premises and recover the expenses incurred from the owner or occupier of the premises. If such owner or occupant is, by reason of his poverty, unable to pay the amount, the local board of health will have to pay it. (See Sec. 83 of the Act.)

By-Law Not Invalidated by Lapse of Time.

529—C. W.—A by-law enacting fine was enacted many years ago, but never had a conviction on it. Does that by-law become a dead letter and therefor invalid, and after lapse of what time?

A by-law of a municipality when duly and finally passed, remains in force until it has been repealed by the council or quashed by the courts on application made for this purpose, or until the act under which it is passed is amended or repealed by the legislature. Mere lapse of time cannot invalidate a by-law.

Qualification of Hotel-Keeper.—Of Non-Resident Tenant as Voter.—Chairman of Council Meeting to be Selected in Absence of Reeve.

530—C. J. S.—1. Our township reeve has bought a hotel and took possession of it on 1st September, 1903. He thought he had to resign but the council thought he could remain for the rest of this term, there being only two more sessions, namely, 10th October and 15th December and council passed a resolution that he keep his seat till his term is out. What is your opinion of it? Will the work done by the council be legal and the cheques signed by him be all right?

2. Has a non-resident tenant a right to vote at an election of the municipality?

3. In the absence of the reeve which one of the council is the deputy-reeve?

4. By the council passing the resolution that the reeve stay in the council till his term is over, can the council get into trouble for passing such a resolution?

1, Sub. Sec. 1 of Sec. 80, of the Consolidated Municipal Act, 1903, provides that no inn keeper or saloon-keeper licensed to sell spirituous liquors by retail, shall be qualified to be a member of the council of any municipal corporation. Therefore, if the reeve is keeping a hotel and holds a license in his name to sell spirituous liquors by retail, he may be unseated if proceedings are taken with that object in view, as provided by Sections 219 to 244, both inclusive of the Act. (See also Sec. 208 of the Act.) So long, however, as the reeve is allowed to retain his seat in the council, the mere fact that he may be unseated on the ground of disqualification under the Act, if the prescribed proceedings are taken against him, does not invalidate the business transacted by the council of which he is a member.

2. No. Clause secondly of Sub. Sec. 1 of Sec. 86 of the Consolidated Municipal Act, 1903, provides that only "all RESIDENTS of the municipality who have resided therein for *one month next before the election*, and who are, or whose wives are, at the *date of election*, tenants in the municipality, *have* the right to vote at municipal elections.

3. There is now no such official as a "deputy reeve" of a municipality In the absence of the reeve, the other members of the council may select one of their number to preside as chairman over any of their meetings, and the councillor so selected, shall for the time being, possess all the powers of the reeve of the municipality as head of the council.

4. No.

At What Age Dog Should be Assessed.

531.—R. A. S.—What age must a pup be before dog tax can be collected from the owner of such pup?

A dog is a dog as soon as it is born, and is liable as such to assessment and taxation.

Procedure When Reeve Refuses to Accede to Instructions of Council.

532—When the majority of a council passes a resolution requiring the reeve to sign a contract and he does not do so, what steps can be taken in the matter? Can the majority of the council sign the contract making it legal?

If the reeve refuses to sign this contract in accordance with the resolution passed by the council, the latter should pass a resolution authorizing and instructing some other member of the council to sign the contract on behalf of the municipality, and cause the seal of the corporation to be affixed thereto.

Licensing Peddlars of Farm Produce.—Council Cannot be Compelled to Build Market.

533—COUNCILLOR—1. Has a town power to impose a license to sell farm produce, (like meat and other things, produce on the farm) in the streets if there is no public place or market to go to? The license imposed is $50.

2. Can we compel the council to build a market?

3. How long have we to give them to give us a place to sell or expose our goods for sale? We have meat and other things to sell and it is the time of year that it sells best and we are stopped by the by-law.

1. It is not stated whether this farm produce is the growth or produce of farms in this Province, (but we presume that it is), or whether it is being peddled by the producer. If it is, and it is the product of farms in this Province, no license can be imposed or required, (see the first proviso appended to subsection 14 of section 583 of the Consolidated Municipal Act, 1903.) Otherwise the persons peddling such produce may be required by by-law of the municipality, to obtain licenses enabling them to do so, pursuant to subsection 14 of section 583. The council of the town may, in either case, pass a by-law, pursuant to subsection 5 of section 580 of the Act, for regulating the place and manner of selling and weighing the farm produce and impose the fees to be paid therefor.

2. No.

3. Our answers to the two previous questions render it unnecessary to reply to this.

Gravel Should be so Taken From Highway as not to Injure Adjoining Lands.

534—P. P.—1. How near can one go to a line fence on private property when taking gravel off a road allowance, so as not to interfere with or injure said fence?

2. Is there any legal amount of slope from the fence allowed by law in a case of this kind?

1 and 2. In removing gravel from a highway, care should be taken to so remove it as to occasion no subsidence of the soil of adjoining lands, damage to the fences thereon, or injury of any other kind to these lands. Owners of lands injured in this way, will be entitled to compensation for the amount of the damage they have sustained. The law fixes no rule to be observed in sloping the sides of a gravel pit on a highway. Parties using it should be careful not to impair the safety of the highway, or to cause injury to adjoining lands.

Liability of Separate School Supporter for Debenture Payments.

535—J. B.—Some years ago we issued debentures to build a public school. Certain property was then owned by a separate school supporter and he refuses to pay the debenture tax. Can we collect said tax? If so, please state where we can find the authority.

We gather from the facts, as stated, that the owner who refuses to pay a proportionate share of the public school debenture rate, was a supporter of a separate school, *at the time the debentures were issued.* We are of opinion, therefore, that he cannot be compelled to pay any part of this debenture rate. If he was not a supporter of a separate school at the time the debentures were issued, but subsequently filed the notice mentioned in subsection 1 of section 42 of the Separate Schools Act, (R. S. O 1897, Chap. 294,) he would after the filing of the notice, be exempt from paying the rate so long as he remained a supporter of a separate school. Subsection 5 of section 42 of the Separate Schools Act does not apply to this case.

Statute Labor in Unorganized Territory—First Election in New Municipality.

536—W. J. E.—Our township is under the Bettes Act. Some of the pathmasters have neglected to return their lists at the time required by the commissioners.

1. Is there a penalty for pathmasters not returning the lists?

2. When does it become too late to get the work done?

3. Is it necessary to spend the money collected by the commissioners in commutation of the statute labor in front of the place for which it was paid, or may they spend it in some other place if they deem it advisable?

4. In a first municipal election who are entitled to vote, all householders or all landowners or all residents?

1. No. Section 702 of the Consolidated Municipal Act 1903, authorizes councils of townships to pass by-laws imposing penalties on pathmasters and other officers who refuse or neglect to perform the duties of their respective offices, but we do not think that the latter part of section 124 of the Assessment Act confers this power upon commissioners elected pursuant to section 111 and following sections of the Act.

2. Section 122 of the Act prescribes the time when statute labor shall be performed in townships in unorganized territory, and section 127 prescribes the penalty on persons who, after six days' notice wilfully neglect or refuse to perform at the time and place named by the commissioners, the number of days' labor for which they are respectively liable.

3. These moneys should be expended on the roads on which the labor, which is commuted for, should have been performed. (See section 125 of the Act.)

4. Section 7 of Chap. 225, R. S. O. 1897, provides that "the persons qualified to vote at the election, (that is, the first election in a township in unorganized territory) shall be male British subjects of the full age of twenty-one years, being *householders resident in the locality* proposed to be organized into a municipality."

Town Council Cannot Grant Exclusive Rights to Power Company.

537—SUBSCRIBER—Has a municipal corporation a legal right to grant exclusive franchise to a local power company to place poles on the streets for a period of ten years, and if so, what is the procedure for so doing?

No.

A by-law to loan $18,000 to the Cumming Manufacturing Company was carried recently in the town of Renfrew, by a vote of 294 to 29. This was 30 more than the necessary three-fifths vote. The company manufactures woodwares and steel utensils.

By section 3 of chapter 7 of the Ontario Statutes, 1903, section 8 of the Ontario Voters' Lists Act was amended by adding thereto the following: "(e), the registrar of Deeds of the Registration Division in which the municipality is situate." This renders it necessary for municipal clerks to send two copies of their respective voters' lists to the *County Registrar* in addition to the other persons referred to in section 8.

New Automobile Law.

The Provincial law governing the use of automobiles went into force on the 1st of September last. Every automobilist must display his number in full view upon the back of his machine. The law includes in its application all vehicles propelled otherwise than by muscular power, excepting the cars of electric and steam railways and other vehicles running only upon rails or tracks. It is presumed that this will include motor cycles. The Act requires that every motor vehicle shall be equipped with a proper alarm bell, gong or horn, and a lamp to be lighted after dark, which will display prominently the number of the permit. Motors must not run faster than ten miles an hour in cities, towns or villages, and fifteen miles an hour on a public highway in the country. Any city, town, township or village may set apart any public street or part thereof on which motors may be driven at any specified rate for testing purposes. No person, according to the new law, will be allowed to drive a motor or vehicle on any public street, highway, park, road or driveway in the Province in a race or on a bet or wager. When a driver of a frightened horse signals a motorist to stop, the law says he must do so. At crossings and bridges motorists are required to slow up. Violation of any provision of the Act renders a person liable to a penalty not exceeding $25 for the first offence and a similar fine for any subsequent offence, or the magistrate may imprison him for a term not exceeding one month.

Municipal ownership of waterworks is becoming general in the United States. There are now but nine cities in the Union with over 100,000 population, whose waterworks are still under private ownership. These nine cities, according to the Engineering News, are San Francisco, New Orleans, Indianapolis, Denver, New Haven, Patterson, St. Joseph, Omaha and Scranton. Two of these, Omaha and New Orleans, are already committed to municipal ownership. There are 97 cities with a population ranging from 10,000 to 30,000, and of these nearly 70 own waterworks, while a number of others are making more or less rapid progress toward municipal ownership. An exchange discusses the cause of the drift in that direction, and says that it is because a water supply is so essential "to the general prosperity of a community, and so closely related to the comfort and health of every citizen, as to give rise to a strong feeling that its supply should not be entrusted to those whose primary object is profit."

Hull municipality finds itself in a somewhat awkward financial situation. Like a good many places it found its desire for improvements greater than its capacity to pay for them. It borrowed and then used for ordinary purposes the money it should have set apart for the sinking fund to redeem its bonds. It now has a deficit according to the auditors' report, of $156,694. The people living in the town are not wealthy, being mostly mill workers. The burden put upon them by the mistakes of their municipal authorities will be heavy indeed. It would have paid them to have followed what their council was doing and checked the unbusinesslike methods which continued for eight years, and have brought them face to face with serious embarrassment. The case is one of many which shows that in matters of civil administration people pay least attention to what concerns them most.—*Prescott "Journal."*

Road Building.

A contractor in Indiana gives some helpful hints on the repair of roads. Whenever a rut forms, he says, it should be repaired at once. The road should be graded in the spring and graveled in the fall. The road will then be hard and smooth, and the gravel will be packed down but not worn out before bad weather sets in. It depends on what shape the crown of the road is in, what the condition of the roads will be for travel through the winter; if the crown is in good shape it will shed the water in the side ditches, and if they are in good shape the road will remain dry and solid.

The surest way to spoil a good road is to use the road grader and pile all the mud, sod and weeds from the sides and ditches into the center of the road. This makes the road soft and muddy, and it will be impossible for the next coat of gravel to unite with the old roadbed. The result is the road will be spongy. The best plan is to scrape it up into piles and haul to some gully, of which all roads have a few, and dump it there. Another way to spoil a road is to make the crown so steep that all the travel will enter the center.—*Scientific American Building Monthly.*

Barrrington, R. I., has constructed nearly all its main roads with a broken brick foundation and a top dressing of gravel, with excellent results, it is reported. The brick was acquired at a moderate cost from the refuse heaps that had been accumulating for many years at the brickyards.

While state aid is a good thing, it is not always best to wait for it indefinitely. So thought the citizens of Skamania county, Wash., and they now have a considerable stretch of good road as a result of adopting a co-operative system.—*Good Roads Magazine.*

Legal Department

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

Waechter vs. Pinkerton.

Illegal Seizure for Taxes.—Tender of Part of Entire Demand Ineffective.—Specific Tender as to Distinct Item Sufficient.—Commuted Statute Labor to be Computed Against Each Separate Lot or Parcel of Lot.

Judgment on appeal by defendants from judgment of County Court of Bruce in favor of plaintiff, in action by Andrew Waechter against Thomas Pinkerton, the collector of taxes for the township of Greenock for 1901, and Ezra Briggs, the collector's bailiff, for illegal seizure of plaintiff's chattels as a distress for taxes and for a return of the goods. The judge found that there was a tender of all taxes except those for statute labor. Defendants contended that tender of part was no valid tender. Held, that tender of part of one entire demand or entire contract debt or liability is ineffective: Dixon v. Clark 56 B., 365; but if a tender is specifically made as to one distinct item in an account fairly divisible into items or parts, it is a good tender as to that item. Whether there was specific appropriation by plaintiff when making the tender is a question of fact, and the judge has found the fact in plaintiff's favor; Hardingham v. Allen, 5 C. B., 793. This leaves but the one question to be disposed of: Can there be distress for statute labor commutation, when the amount for which several lots are liable is put down in gross against them all, instead of being rated and charged against every separate lot and parcel, as required under section 109 of the Assessment Act? The provision of section 109 as to special apportionment of the statute labor tax is imperative and not merely directory. In the case of resident and non-resident, the words of the section are: "The statute labor shall be rated and charged against every separate lot or parcel, according to its assessed value." Love v. Webster, 26, O. R., 453, followed. In the event of there being no distress upon any of plaintiff's lots, a sale of them, or any of them, could not be validly made for this unapportioned tax, or for any part of it where not apportioned on the roll. If the taxes which plaintiff admits to be due, for which he tendered $68.40, have not been paid, the township should not lose them, and as the township has indemnified the collector, this amount should be set off, if defendants wish it, against plaintiff's costs. If there should be any difficulty about the lien for costs of plaintiff's solicitor an application may be made. Appeal dismissed with costs.

Matthews vs. City of Hamilton.

Right of Municipality to Discharge Sewer Water into Bay—Must not Interfere With Rights of Parties Lawfully Using its Waters—Municipality Liable for Special Damages Caused by Such Discharge to Vessel Moored at Dock.

Judgment on appeal by defendants from judgment of county court of Wentworth, awarding plaintiffs $200 damages and costs for injuries caused to a certain steamer Acacia, the property of plaintiffs, by reason of alleged negligence of defendants. Held, that defendants have the right to discharge water from their sewers into the bay at Hamilton, providing they do not interfere with the rights of persons lawfully using the waters of the bay The plaintiffs were lawfully using the waters in mooring their steamboat at the wharf during the winter months. The evidence establishes damages to plaintiffs caused by the discharge from the defendants' sewer into the bay of hot water, by the effect of which the ice forming about plaintiffs' vessel was affected, and the safety of the vessel's mooring was interfered with. The discharge of the hot water into the bay was, under the circumstances, a public nuisance, and the plaintiffs having received special and peculiar damage from it, are entitled to maintain this action: 10 Am. & Eng. Ency. of Law, 2nd ed. p. 248, 21 ib. p. 442; Wood on Nuisances; 2nd ed. sec. 480; Original Hartlepool Collieries Co. vs. Gibb, 5 Ch. D. 713; McDonald vs. Lake Simcoe Ice Co.; 26 A. R. 416; 31 S. C. R. 133; Ellis vs. Clemens, 21 O. R. 227. Appeal dismissed with costs.

Re Macdonald and Village of Alexandria.

Quashing Drainage By-Law—Authority of Engineer to Change Route—Councils Cannot Accept Alteration Without New Petition—Distinction Between Local Assessments and Those for General Revenue Purposes—Statute Giving Power of Local Taxation Must be Strictly Followed—Costs.

Judgment on motion to quash by-law 243 of the village, passed on 2nd September, 1902, to provide money, by the issue of debentures, secured by a special rate, to pay for the construction of a drain on Main street, in a village, from a point 33 feet north of the northerly side of St. George street to the north side of Catherine street, then easterly along Catherine street to a point opposite to lot A, then southerly through said lot to the River Garry. The by-law recited that a petition was presented by the owners of real property to be benefited, to the council for the construction of a drain on Main street from Kincardine street to the River Garry. The total cost of the drain was $3,600. Held, that the engineer had no authority to alter the route in the manner he did, substantially making a new work, and one not asked for. The council should not have accepted the new route without a new petition, unless they were prepared to enter upon it and proceed under section 669 of the Municipal Act. The distinction between local assessments, or assessment for local improvements, and those for general revenue purposes, must be recognized. The statute giving the power of local taxation must be strictly followed: McCullough v. Township of Caledonia, 25 A. R. 417. The council acted in good faith. Although the cost is larger than estimated, the amount is not oppressive. Upon the evidence, the work is a beneficial one to the village. Therefore, the costs should be limited. Order made quashing the by-law, with costs fixed at $80.

McCoy v. Township of Cobden.

Quashing By-Law Regulating Tavern and Shop Licenses.—By-Law Should be Signed by Chairman of Meeting at Which Passed.—Untrue References in.

Plaintiff moved on consent for order quashing by-law for regulation of duties on tavern and shop licenses in defendant municipality, on grounds, among others, that, although such by-law was signed by the reeve, he was not in fact present at the meeting at which the by-law was passed, and the by-law was not signed by the member of the council, who was in the chair at that meeting, and that the by-law referred to certain legal provisions as being in force, whereas such was not the case. Order made quashing by-law, without costs, as per consent.

Re Murphy and Town of St. Mary's.

Quashing By-Law Regulating the Number of Tavern Licenses in Towns.—In the Absence of Objection and the Whole Council Consenting, By-Law Valid.

Counsel for applicant moved for order quashing so much of by-law No. 6 of the Town of St. Mary's as provides that "the tavern licenses to be issued in the Town of St. Mary's for the ensuing year shall be limited to five," on the grounds of irregularity. Held, that as there was an unanimous consent of the council, all the members being present, and no objection being made, the by-law was valid. Motion dismissed with costs.

The Court of Appeal gave judgment recently in the case of the appeal of the Guelph Pavement Company against the verdict of $200 obtained against it by the city before Judge Falconbridge for water supplied the company by the city. The city claimed payment; the company claimed that no corporation had ever charged them for water. The fact that the city entered upon new contracts with the company without making any claim for water under the old contracts was the chief barrier to the city's case.

Chief Justice Moss said: "We have come to the conclusion that the city's case fails. They have not made out such a case as would entitle them to charge the defendants for the water they used. There was certainly no agreement or contract proved. The evidence, we think, shows that the city consented, or at least acquiesced, in the contractors taking the water. In any case the amount charged is excessive. It should have been $40 or $50 if anything, not $200. We allow the company's appeal with costs.