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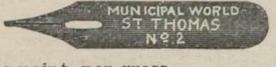
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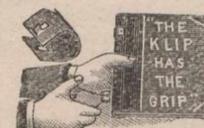
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THE MUNICIPAL WORLD

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

Vol. 11. No. 1.

ST. THOMAS, ONTARIO, JANUARY, 1901.

Whole No. 121.

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Calendar for January and February, 1901.

JAN. 1.	New Year's Day.
	By-Laws for establishing and withdrawal of union municipalities for High School purposes take effect.—H. S. Act, Section 8 (1, 2)
	Trustees' Annual Report to Inspectors due.
	By-Law establishing Township Boards, takes effect.
	Separation of Junior Township takes effect.
2.	First meeting of Rural School Trustees.—P. S. Act, Section 16 (1.)
	Polling day for Trustees in Public and Separate Schools.—P. S. Act, Section 57 (3)
	S. S. Act, Section 31 (3.)
3.	High Schools open, second term.—H. S. Act, Section 42.
	Public and Separate Schools open.—P. S. Act, Section 91 (1, 2); S. S. Act, Section 81, (1, 2)
5.	Trustees' Report on Truancy to Department, due.
	Make return of deaths by contagious diseases registered during December.—R. S. O., Chap. 44, Section 11.
7.	Treasurer and Register of Deeds, making payments to other municipalities, to send detailed statement to head of same.—61 V., Chap. 23, Section 11.
	Election Day.
9.	Clerk of Municipality to be notified by Separate School supporters of their withdrawal. S. S. Act, Section 47, (1.)
	Annual Meeting of the Township Agricultural Society, at one p. m.
14.	Names and addresses of Separate School Trustees and Teachers to be sent to Department. S. S. Act, Section 28, (12)
	Councils of Townships, Villages, Towns and Cities to hold their first meeting at eleven o'clock, a. m.—Municipal Act, Section 259.
	Annual Report of School Boards to Department due.
	Members of Library Boards to be appointed by Councils in Cities, Towns and Villages. Public Libraries' Act, Section 9.
	Names and addresses of Public School Trustees and Teachers to be sent to Township Clerk and Inspector.—P. S. Act, Section 18, (3.)
	Councils to appoint members of Local Boards of Health.—Public Health Act, Section 49.
15.	Annual Report of Separate Schools to Department due.—S. S. Act, Section 28, (18); Section 33, (9)
	Minutes of R. C. S. S. Trustees annual meeting to Department due.
	Application for Legislative appointment for inspection of Public Schools in cities and towns separated from the county, to Department, due.
	Annual Reports of Kindergarten attendance, to Department, due.
	Last day for Pound Keepers to file annual statement with Clerk.
	Last day for making returns of Births, Deaths and Marriages, registered for half year, ending 31st December.—R. S. O., Chap. 44, Section 11.
	Last day for Treasurers of Municipalities indebted under Municipal Loan Fund Act, to make returns of Taxable Property, Debt and Liabilities to Provincial Treasurer.
	By-Law withdrawing from Union Health District takes effect. R. S. O., c. 248, s. 50.
	First meeting of Public School Trustees in Cities, Towns and Incorporated Villages.—P. S. Act, Section 61, (1.)
21.	Trustees of Police Villages to hold their first meeting at noon.—Municipal Act, Section 737, R. S. O., c. 223.
22.	County Councils to hold first meeting, at Two p. m., at Court House or County House. County Treasurer to submit to County Council Report of the state of the Non-Resident Land Fund.—Assessment Act, Section 244
	Appointment of High School Trustees by Public School Board.—H. S. Act, Section 12.
	Annual Meeting District Agricultural Society, at one p. m.
31.	Last day for all Councils to make returns to Bureau of Industries, of the debt of their corporation.—Municipal Act, Section 427.
FEB. 1	Last day for Railway Companies to transmit to Clerks of Municipalities statement of Railway Property.—Assessment Act, Section 31.
	Last day for Collectors to return their Roll and pay over proceeds.—Assessment Act, Section 144.
	Last day for County Treasurer to furnish Clerks of Local Municipalities with List of Lands in arrears for taxes for three years.—Assessment Act, Section 152.
6	First meeting of Board of Education, at Seven p. m., or such other hour as may have been fixed by resolution of former Board, at the usual place of meeting of such Board.—High School Act, Section 14.
33.	Farmers' Son's Statute Labor
34.	Time for Resignation of Candidates for County Councillor, 1900
35.	Ballot in Town of Less Than 5,000—Which Candidate's for Aldermen Should be Declared Elected
36.	Last Day for the Payment of taxes to Avoid Percentage Falling on Sunday
37.	Voting in Towns in More Wards than One
38.	Voting for Township Councillors in More Wards than One
39.	Time for filing Resignations
40.	Time for filing Resignations
41.	Time and Mode of Appointment of Officers of Municipal Corporation
42.	Railway Crossing—Exemption of, and Taxes on Agricultural Hall—Motion Legal
43.	Council should authorize Payment—Railway Crossing—Clerk's Duties
44.	D. R. O. Should not Refuse Vote

The Municipal World

PUBLISHED MONTHLY

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

K. W. MCKAY, EDITOR,

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

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ST. THOMAS, JANUARY 1, 1901.

The Municipal World.

No. 1. Vol. 11. Whole Number, 121.

With this issue THE MUNICIPAL WORLD commences the eleventh year of publication. During 1900 the subscription list was the largest in the history of the paper. The Question Drawer occupied 225 columns, and answered 992 queries in reference to municipal law. The number of questions submitted for private reply is rapidly increasing; these are not published.

The Supply Department of THE WORLD has received an encouraging support. This is necessary if we are to continue the privileges that subscribers enjoy.

Co-operation on the part of municipal officers with THE WORLD has, in the past, been the means of distributing more useful municipal information than could otherwise be obtained, and we hope that this will be increased during 1901.

With the present issue we commence the publication of a series of supplements describing the public works and utilities of some of the towns of the Province. This will be most interesting to councillors and officials where questions dealing with similar matters are under consideration. Waterworks and lighting plants are almost universal in the towns and villages of the Province, and information showing the cost of installation and operation, will be interesting for the purpose of comparing results. The special supplements will be prepared by W. A. McLean, C. E., of Toronto. In every case a personal inspection will be made, and local conditions considered.

Road Improvement Considered With Reference to County and Government Act.

All will admit that a system of improved roads is desirable in every municipality, and that, although, a great deal has been said and published during the last few years, the work of road improvement, in accordance with modern ideas, has not been considered by municipal authorities to the extent that the benefits to be derived therefrom will warrant. It has been stated in the public press that the government of Ontario is prepared to grant the sum of one million dollars from the surplus revenues, to aid in the improvement of roads. An effort should be made by municipal authorities to induce the government to formulate a plan for this expenditure. Their representatives in the legislature should be requested to bring the matter to the attention of the government, so that an act may be passed to provide for the same. Road improvement from a township, county or provincial point of view should be uniform where requirements of travel are the same. If government aid is granted for road improvement it would have to be in accordance with a definite plan, which would apply to all municipalities. The roads of local municipalities, when improved, should form a connecting system throughout a county or counties. The first question to be considered is, "what roads are to be improved?" An act, to be satisfactory, should direct county councils to confer with the councils of local municipalities for the purpose of designating the roads to be improved. The road mileage so designated in each local municipality should be in proportion to the equalized value. A plan should be prepared, showing the roads set apart for special improvement, and any system for government aid should refer to the improvement of these roads and no others until they are completed. As to whether the county councils should assume and afterwards maintain the roads so set apart is a question for them to consider. Some are in favor of a county road system, others think that all work of road construction and maintenance should be in the hands of local councils. This, however, can best be decided by the councils themselves. After the roads to be improved have been designated, they should be constructed and maintained in accordance with a standard which should be determined only after the local conditions in each county and municipality have been considered. This can be done by the appointment of a county engineer, whose duty it would be to make an examination and report to the council, setting forth the best methods of constructing the roads within the county and defining the standard to which they should be maintained, together with an estimate of cost. This report should be adopted by the county council, after consulting the councils of local municipalities, and be

subjected to the approval of the provincial instructor in roadmaking. The specifications for construction and the standard of maintenance would thus be determined by the local and county councils, and be approved by a central authority for the purpose of securing uniformity throughout the province. After the roads have been set apart, and other preliminaries determined, the question of undertaking the work would have to be considered. As to whether this should be done by the authorities of local municipalities or by the county council should, we think, be left to themselves. All construction work on the roads set apart should be performed under the supervision of a county engineer. The question of supplementing any aid the government may grant for road improvement, is important. Whether this should be done wholly by the county or wholly by the local municipality or by each, and in what proportion, must be determined. We favor the payment of equal amounts by county councils and local municipalities. These questions, however, are somewhat local and could be disposed of by the municipal authorities.

In conclusion we suggest:

1. That government aid for road improvement is desirable.
2. That roads to be improved should be designated.
3. That specifications for construction and subsequent maintenance should be determined.
4. That the county engineer should supervise all construction work.
5. That the authorities of each county, after consulting the local councils, should determine when work should be undertaken and how the expense is to be provided.

Boland vs. Jenkins.

Judgment in action tried at Toronto, brought to set aside a sale of land for taxes. Held, that in consequence of the failure of the City Clerk to comply with sec. 158 of R. S. O., chap. 224, it became impossible for him to carry out the directions contained in sec. 154, and as there were no lists the treasurer could not be furnished with a copy and therefore sec. 163 prevents a sale; *Love vs. Webster*, 26 O. R., 453. The defects are not cured by secs. 208 and 209 of the Act; *Whelan v. Ryan*, 20 S. R., per Strong, C. J. C., at p. 72. Judgment for plaintiff with costs. Plaintiff to pay defendant the sum he paid to the treasurer of the city of Toronto on the tax sale, together with interest at 10 per cent., and also the taxes paid, with ten per cent. thereon.

Mr. ex-Alderman McClelland was recently appointed city clerk of St. Catharines.

PAT.—"Say, Mike, why don't you buy a bicycle?" MIKE.—"Bekase if I want to walk, I'll walk standing up."

Specification for Municipal Balance Sheet, Analysis and Classification.

Designed by F. H. Macpherson, Chartered Accountant, Windsor, Ont.

Revenues and Disbursements.

Revenue	ORDINARY :
	Cash on hand and in Bank Taxes, divided as to years Licenses Schools, divided as to Public, High and Separate Water Rates Electric Light Franchises Fines and Fees Rents Interest Other Sources
	EXTRAORDINARY :
Expenditure	Loans, Current Account Debentures, General Debentures, Local Improvement Sinking Fund Sinking Fund Interest Other Sources
	ORDINARY :
	Salaries. Waterworks Electric Light Grants and Charities Board of Works Fire Administration of Justice Police Department Health Parks Market Library Schools, divided as to Public, High and Separate Printing, Advertising and Stationery Interest Rebates and Allowances Contingencies Other sources
	EXTRAORDINARY :
	Loans, Current Debentures, General Debentures, Local Improvement Interest—General Debentures Interest—Local Improvement Debentures Sinking Fund Public Works in progress Local Improvements in progress Other sources.

Assets and Liabilities.

Assets	ACTIVE.....	Cash on hand Cash in Bank Taxes { Current Arrears Water-Rates Light-Rates Rents Advances, Public Works in progress Advances, Local Improvements in progress Other Advances
	RESERVE.....	Sinking Fund, General Sinking Fund, Local Improvements Special Trust Funds
Assets	FIXED.....	NECESSARY INVESTMENTS. Waterworks System Electric Light System Fire Halls and Apparatus Market School Buildings and Equipments City Hall and Furniture Public Library Public Park Real Estate Hospital Public Works Equipment Other necessary Investments
	PASSIVE.....	SPECULATIVE INVESTMENTS. Stock in Railways Stock in Gravel Road Companies Other Speculative Investments
Liabilities	BONDED	Bridges Sewers Pavements Bonus Account Local Improvements
	FLOATING ...	Debentures, General Debentures, Local Improvement
	CAPITAL.....	Debentures, due and unpaid Coupons, due and unpaid Loans, Current Loans, Local Improvement, in progress Accounts payable Other Indebtedness
		Surplus of Assets over Liabilities

Auditors and Their Duties.

It is a duty of every council to appoint, at its first meeting, two auditors, unless a by-law has been passed appointing a permanent auditor or to provide for their appointment in November or December each year. (See sec. 9 and 10, Municipal Amendment Act, 1898.

Auditors should receive a salary sufficient to pay them for the time necessary to fully investigate the treasurer's accounts and system of doing business.

A most important duty of municipal auditors is the examination and audit of collector's rolls. This is usually neglected, and as a result there is no check on the clerk's work or any assurance that special or other rates have been properly entered on the roll, or that amount paid to treasurer is correct. For the information of auditors, who may have this duty to perform for the first time, the following mode of procedure is suggested:

I. Compare the assessment roll with the collector's roll, to see that the assessed

values on which the rates are levied, are correctly entered.

II. In townships compare school section entries with the school section map, and in all municipalities with separate school supporters notice-book and check valuations on which school rates have been levied.

III. Check all entries and additions on the roll.

IV. Verify the correctness of all rates and taxes levied by by-laws, proceedings of council, engineer's drainage awards and certificates, statute labor lists, fenceviewers awards, county treasurer's returns, treasurer's accounts, school board requisitions or other authority.

V. The collector's account with treasurer should be examined, and also settlement of roll which should be verified under oath and in accordance with sections 147 and 148, of The Assessment Act.

VI. Check the return to treasurer of unpaid taxes required by section 157, of The Assessment Act.

Unless there is evidence that the audi-

tors for 1900 did their work properly, the auditors for this year will, in most cases, have to check the collector's roll and settlement for 1899. Very few collectors made their returns previous to the 1st of January last year.

It will also be necessary to check the roll for 1900, to make proper statement of assets, showing amount due from collector's roll, and for this purpose the roll should be procured from the collector if it is still in his hands.

Every stub of the treasurer's receipt-book, and every document or roll audited, should be properly stamped as required by the Act of 1898. The treasurer should produce all vouchers, stubs, letters, and letter books, and it is the auditor's duty to verify all receipts from every source, and see that they are entered in the cash-book.

If any source of revenue has ceased to exist, or if the last payment has been made on any special assessment, the auditors

should make a report to that effect in their report.

The treasurer's vouchers should be carefully examined to see that each payment was authorized by a proper authority and that a receipt is attached. When satisfactory and proper entries are found in the cash book, the voucher should be stamped with the words audited and initialed. All checks, debentures and coupons should be similarly stamped.

The auditors should use their judgment in passing accounts.

* * * *

If auditors start with a correct balance at the first of the year; if they check properly all sources of revenue and also all payments, the balance they find must be a true one.

* * * *

When all entries in treasurer's books have been checked, each page should be stamped and initialed, and the page showing balance on hand signed by the auditors.

The report should refer to the condition of the treasurer's security, and also to insurance on corporation property.

The bank account, if practicable, should be kept in a chartered bank, and once a year at least, the auditors should check the balance with the manager or accountant of the bank.

It is very important that the auditors should make themselves familiar with the by-laws of the municipality, and it is incumbent on them to make a special report of any payment made contrary to law.

The auditors should also see that the treasurer keeps the corporation funds separate from his own, and when possible makes his payments by cheque.

If the auditors think that improvement might be made in the system of passing accounts, the treasurer's books or any other matter connected with the business of the municipality, they should so report. If the council declines to follow the recommendation, the auditors have done their duty and have no further responsibility.

* * * *

The value of the security given by the treasurer and collector is a subject which every council and their auditors should consider. The security offered and accepted in the majority of cases is a bond, signed by the personal friends of the officers giving the same, and owing to the small salaries usually paid no one, unless he can induce a number of his friends to sign the bond, can hold the office. When friends sign a bond they believe they are doing a favor, and while that may be the case, the real benefit is derived by the corporation. Security, like insurance, is worth a reasonable percentage per annum. There is no good reason why councils should not pay for guarantee security for their officials. Corporations doing business in a business way never think of requiring any of their employees to give security without paying them therefor. The Municipal Act pro-

vides that councils may accept bonds or policies, from guarantee companies from any officers of the corporation, the rate charged depends upon very largely on the way that the business is conducted, and the financial position of the treasurer. The security would, in all cases, be absolutely safe, and these most responsible offices could be filled by the most trustworthy members of the community, who believe in the proverb, "Go no man's security." Auditors are required to report on the condition and value of the securities given by the treasurer, and to show what cash balance, if any, was due from the treasurer to the municipality from the date of the audit, and where such balance is deposited, and what security exists that the same will be available when required for the purpose of the municipality.

Contested Elections.

RECOUNT.

Section 188 requires the clerk to retain for one month all the ballot-papers received by him or furnished to him by deputy-returning officers. Section 189 provides for the inspection of ballot-papers on the order of a court or judge. An application for a recount must be made within 14 days from the time when the ballot papers are received by the clerk. Sub-section 3 of section 189. In computing the 14 days, the day on which the clerk receives the ballots is not counted. Sub-section 4 requires that the applicant shall deposit \$25 with the clerk of the county court, as security for payment of costs.

Quo Warranto PROCEEDINGS.

An application for a recount does not destroy or prevent the remedy by *quo warranto* or otherwise. Sub-section 9 of section 189. Proceedings in the nature of *quo warranto* to contest the validity of an election must be commenced within six weeks after an election, or within one month after acceptance of office by the person elected. Section 220 (1) of the Municipal Act. Any candidate at the election, or any elector who gave or tendered his vote, or in case of an election by acclamation, any elector entitled to vote at a municipal election may be the relator to take these proceedings. Section 219 (1). Jurisdiction to try contested elections is conferred upon a judge of the High Court, the Senior or officiating judge of the county court in which the election took place, or the Master in Chambers.

DISCLAIMERS.

Section 238 enables a person whose election is complained of (unless such election is complained of on the ground of corrupt practices on the part of such person) within one week after service on him of the notice of motion to disclaim his right to the seat. The person disclaiming must be careful that the disclaimer is in the exact form prescribed by section 238 and that it is addressed properly and delivered to the person named in the section, otherwise the disclaimer may be

regarded by the court as a nullity.

Section 239 provides that the disclaimer, or the envelope containing the same, shall be endorsed on the outside thereof with the word "disclaimer," and shall be registered at the post-office where it is mailed. Section 240 provides for a disclaimer where there has been a contested election at any time after the election and before the election is complained of. This disclaimer must be in the form provided, signed by the person disclaiming and delivered to the clerk of the municipality. Section 241 declares that such disclaimer shall relieve the party making it from all liability to costs. Care ought to be taken that the disclaimer is in proper form, signed and delivered to the clerk, as the statute provides, because if a person does not disclaim his right to the seat in the manner provided by the act he cannot claim relief from costs. It will therefore be seen how important it is to comply strictly with the law.

Sinclair vs. Township of Whitby.

Judgment for the plaintiff for \$5 damages and costs on high court scale has been given in the suit of John Sinclair vs. the Township of Whitby, brought to recover damages for the flooding of his land. Also an injunction restraining the defendants from causing to flow upon plaintiff's lands by means of the culvert in question any surface water collected by them, which would not otherwise come upon him. So much of the costs as is applicable to the claim for damages to the land upon the west side of the railway is to be taxed to the defendants and set off.

Homewood vs. City of Hamilton.

Judgment in action tried at Hamilton brought to recover damages for injuries sustained by plaintiff, who while walking along the south side of Market Square, stepping toward a doorway leading into the premises of the third party, Hughes, struck his toe against the step or doorsill, and stumbling back, fell into an area or opening in the sidewalk used by Hughes, by permission of defendants, for putting beer, etc., into his cellar. Held, that the third party had not been negligent, and so defendants had not, and that plaintiff by the exercise of such care as was incumbent upon him to use owing to his defective vision could have avoided the accident. See *Davenport vs. Ruckman*, 3 N. Y., 568. Action dismissed with costs and also the claim of defendants against the third party. Costs of third party to be paid by defendants.

County Councils are required to hold their first meeting on the fourth Tuesday in January, which will, this year, be the 22nd. Their first duty is the election of Warden. The voting will be open, the system of ballot voting having been done away with in the year 1899.

Engineering Department

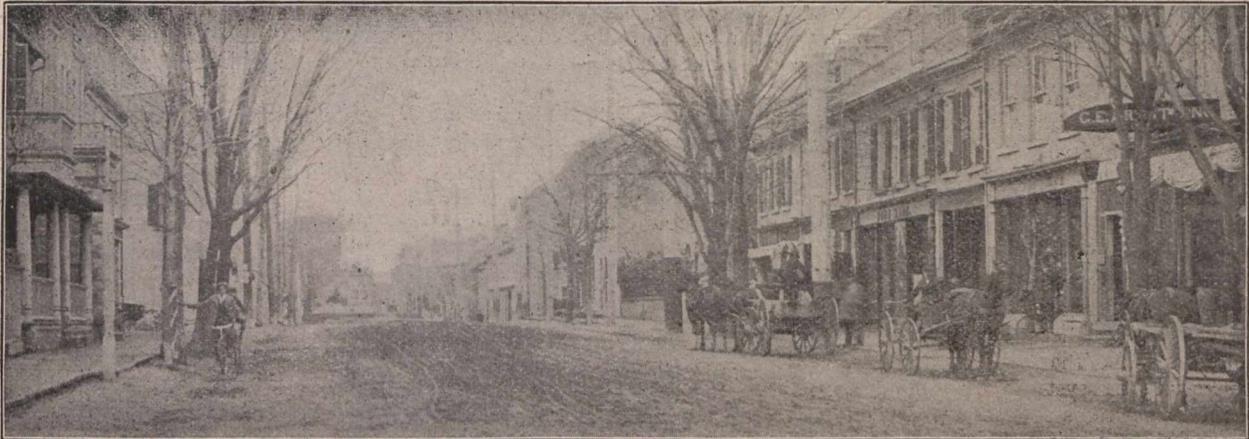
A. W. CAMPBELL,
O.L.S., C.E., M.C.S., C.E.

The Good Roads Movement.

The Good Roads movement, although of comparatively recent birth, is an infant of remarkable health and proportions. In extent, it spreads over the entire North American continent, from Mexico on the south to the outskirts of Canadian civilization on the north. From the Atlantic to the Pacific, citizens of Canada and the United States are urging the cause of road improvement. In British Columbia there are advocates. A president of the Winnipeg (Manitoba) Grain Exchange, in an address, said:

"The best emigration agents we can get are the actual settlers living in the country who are doing well, and are contented with their surroundings. Good roads will lead a long way to this success and contentment. Our sister province of Ontario has found this out and now there

Ontario, with improved roads, farm produce will be marketed more advantageously and cheaply, while varieties of produce now neglected will find sale; thereby increasing the value of farm land in the agricultural districts, through which the roads pass. It is the magnificent highways of England and France which make the small farm holding profitable and the same can be effected in Canada. Dairymen are fully awake to the necessity of improved roads in increasing the grazing area from which milk can be obtained; the result is a larger quantity, and better quality of the products of cheese factories and creameries. While the benefits of good roads belong more directly and chiefly to the farming community, the results are widespread, and to a greater or less extent promote the prosperity of every individual in the state.



GORE STREET, PERTH, MACADAMIZED IN 1899.

is a commissioner of roads whose duty it is to see to the maintenance of the highways."

In Quebec an organized effort is being put forth in some localities, particularly in the district of Bedford. In New Brunswick a good roads sentiment is rapidly growing, while in Nova Scotia, the public press with public sentiment behind it, is making a distinct impression. The movement so widespread, is not lacking power, a fact which is making itself apparent in the United States, where legislation of a most beneficial kind has been effected. In Massachusetts, New Jersey, Connecticut, New York and numerous other states, changes of the most radical description have been made, and a vast improvement in the condition of their highways is already apparent.

The good roads of France enable carters in that country to compete with the railways in carrying freight one hundred and two hundred miles. In

Good roads, must of necessity, be of incalculable benefit. Millions of dollars have been spent in subsidizing railways to provide quick and easy transit for long distances. No one questions the value of a railway to a community or district, in promoting commerce, wealth and civilization. Here, however, the liberality and wisdom of the people appears to have ceased, for we find the means of travel and transportation rendered possible by the railways, abruptly cut off at the railway stations. Beyond this point, travel is slow and difficult, and at many seasons of the year is almost impassable. Canada has a system of railways which, viewed in the light of our population, is unsurpassed in any country in the world. Here, however, our superiority ceases. The one link of the chain, upon which hangs the value of the whole, is weak and inefficient.

Mr. H. W. Lawlor, barrister, has been appointed clerk of the town of Hawkesbury, to succeed the late M. J. Costello.

The Campaign in Carleton.

An active campaign has been carried on for some weeks past, on behalf of road reform by the Ottawa Valley *Journal*, with a result that the entire county of Carleton has been thinking seriously with regard to good roads. The township of Goulburne, in response to a petition of one hundred and nine ratepayers, decided to submit to a plebiscite at the January municipal elections, a by-law for the commutation of statute labor. The petition was as follows:

"To the Reeve and Members of Goulburne Township Council:

"GENTLEMEN,—We, the undersigned ratepayers of the township of Goulburne, join in petitioning your body to have a vote taken at the approaching municipal elections to decide whether the present system of maintaining public roads by statute labor shall be continued. We are of the opinion that, if statute labor be commuted at not more than sixty-five cents per day, and the control of roads taken over by the council, an improvement would ensue."

The result of this vote is awaited by other municipalities of the county, and if it should prove adverse to a continuation of statute labor, similar action will be taken by numerous townships of the district.

The investigation carried on by the energetic editor of the *Journal*, Mr. H. B. Cowan, consisted largely in submitting to the more representative farmers a series of questions, the replies thereto being published. Very few of these favored a continuation of statute labor.

Among those to whom inquiry was addressed, was Mr. A. E. Wood, ex-M. P. P., of Hastings county, whose reply, especially with regard to county roads, should be well considered by the citizens of more than Carleton county alone. Mr. Wood's letter was as follows:

"MADOC, Nov. 9th, 1900.
"Editor Ottawa Valley Journal, Ottawa, Ont.
"DEAR SIR,—I am in receipt of your letter of Nov. 7th, inst. In reply, I was a

member of the council in 1858, when the agitation for 'good roads' commenced in our county (Hastings,) and remained a member for about twenty years.

"During that time I was Warden of the county ten years, and am, therefore, pretty intimately connected with the efforts to obtain good roads, the building of them and their maintenance.

"We have now over four hundred miles of good gravel roads, maintained at the county expense, and *free from tolls*. We have unquestionably the finest system of gravel roads of any county in the Dominion, and maintained by the best system of supervision. I was one of the originators, and have been active in completing and extending them. And now in direct reply to your queries:

"1. I am decidedly opposed to the present system of statute labor. It is the most expensive mode of keeping up roads, and very inefficient.

"2. You ask: 'What has your county adopted to take its place?'

"As a county we assumed all the leading roads as 'county roads.' These are directly maintained by the county by direct taxation upon the ratepayers. We have no tolls. Over four hundred miles are gravelled and maintained by direct county supervision.

"The 'statute labor' along the lines of road is used by township and village councils on roads outside county roads.

"3. 'What did we do with toll roads?'

"When we commenced our county system in 1862, of no tolls, we had about fifty miles of toll roads. The county bought them up and made them free. These fifty miles were divided among six companies. Some asked too much, but we forced them into compliance with what was just by starting parallel lines where possible. In two cases we had to pay too much, but purchased all.

"4. 'Do you find county control of roads to be a success?'

"Yes, an unqualified success; not a ratepayer would go back to the old system.

"5. 'How are your roads managed?'

"Under the power under the municipal law, which was broader twenty years ago than now, and has not been amended by the changes. We have, as stated before, assumed leading roads as county roads; using the term *leading roads* in a very broad sense. We tried various plans of managing, but finally, about 1870, we adopted the system we now have, and which works admirably. Other systems had worked badly. It was through my efforts the county council was induced to try it. It has worked well, and is the best, I believe, that can be used.

"The system is as follows: At the county council, each year, a gravel road committee of seven members is appointed. They choose a chairman.

"This committee acts during recess of council when necessary in the opinion of the chairman. The council has a superintendent of gravel roads. He employs foremen and men, subject to approval of

committee. Gangs of men are placed where repairs are required. The foremen and men become experts. We pay good wages, and have men in the employ of the county covering ten to fifteen years. The foreman reports to the superintendent, he to the committee, and the committee to the council.

At the first meeting of the year the county council determines what sum to expend during the year, based on the reports of last year. So far, this system has worked admirably. Roads are never allowed to 'run down,' and are improving annually. We have all the modern machinery, and have had only two superintendents during thirty years. The one now occupying the position secured it on the death of the first.

"Two things are essentially important to the proper working of this system.

"The first is an experienced trustworthy superintendent. We have such men, and pay them good salaries.

"The second is that the council should have its best seven men on the gravel road committee.

"Both superintendent and committee need to be kept up to the mark. The council demanding full reports in detail stimulates the committee, an active committee stimulates superintendent, foremen and men.

"The system has had the unqualified approval of the people during all these years.

"Your obedient servant,
"A. F. WOOD."

In a private letter to the *Journal's* editor, Mr. Wood says: "I believe in good roads, and have no faith in statute labor. Our experience has demonstrated the county system to be superior to all others.

Pathmasters.

One of the first duties that will devolve on the new councils of many townships is the appointment of pathmasters.

Pathmasters should be chosen from amongst the most respected and intelligent men of the community, and they should be kept in office; even then their individual opinions and plans should be subject to revision by the council, which body should exercise a direct oversight of the roads, and their improvement by statute labor.

That there are men who could fill the office of pathmaster in a creditable manner is apparent from the fact, that in driving over the roads there will be found sections which have been well done, and good pieces of road constructed by statute labor alone. That there are poor pathmasters is indicated by other sections which show no evidence of result except those produced by the expenditure of municipal taxes, contributed very largely by those who have worked with a will in performing statute labor on other beats.

When men of suitable ability, knowledge and experience have been once

obtained, they should be retained in office. By the present system of annual rotation as soon as the pathmaster has learned something in his year of apprenticeship, his experience is lost and another appointed, who begins in turn to take lessons in roadmaking, at the expense of their condition. In other occupations an apprenticeship of some years is necessary before a person is qualified to practice, but a pathmaster, the moment he is chosen, is thought fit to direct a work requiring much science, at the expense of the township's capital of time, labor and money. Men are taken from the occupation in which they are skilled, and are transferred to one of which they know nothing. An honest man knows this, and immediately strives from his personal experience, from the advice of others trained by practice and instruction, from experts and from every available source to properly qualify himself. In this way and with continued experience he can become a most valuable officer. Such a man realizes the responsibility of his position and the duty he owes his fellow citizens, whose money he directs, and whose interests he expects to advance. He commands the respect of those who have to serve under him, his order is obeyed, public interest is created and maintained and the question of making good roads is rendered simple, requiring but a small outlay of money.

There is another man who strives for the office of pathmaster and looks upon his appointment merely as a victory over his neighbor. He exercises his authority in performing some act to aggravate a citizen with whom he does not see eye to eye. The improvement of the road is by no means the prime object, injury rather than betterment is the probable result, and those who are obliged to perform the work become disgusted.

Some men look upon their appointment as an acknowledgment by the council and community of their skill as roadmakers. The solicitation or acceptance of any advice from experienced men would be looked upon as a confession of unfitness, and certainly any suggestion to accept instruction from an expert would be regarded with contempt. The competent pathmaster, as well as the competent business man, is he who eagerly seeks from every source, the fullest possible information pertaining to his special line, believing that his knowledge never can be too perfect.

It is one of the weaknesses of the statute labor system, that it is very difficult for a pathmaster to enforce prompt obedience to his orders. If a neighbor persists in idleness, or if instead of doing as he is directed, he stops and argues for an hour on the wisdom of so doing, the pathmaster cannot obtain redress except at the expense of his neighbors good will, a step very few pathmasters are willing to take. A farmer could and would discharge an employee for pursuing such a

course but in the case of a pathmaster the roads must suffer. Under a proper administration of the statute labor law, it is apparent that it is the duty of every man performing statute labor to set aside his personal feelings and opinions, and promptly do the work allotted to him. This is the relation of the taxpayer to the pathmaster. On the other hand the pathmaster (and going further back the council) owes it to the taxpayer that all plans shall be carefully prepared and considered before the work is commenced so that improvement will be made along the right line, and with the greatest economy of labor.

County Roads.

In this issue is a letter from one of the prominent public men of Ontario, describing the county roads of Hastings, and the system under which they are controlled. The meaning of "county roads" should not be misunderstood, they are not necessarily roads leading from one side of the county to the other. If they should do this, so much the better, perhaps, as they will then furnish through lines of travel. But the first essential of a county road is that it be a heavily travelled road, and for that reason requiring special treatment in construction and maintenance. Because of the heavy travel to which they are subjected, such a system as a township can afford is not sufficient to provide the attention, material and machinery needed to build and repair them efficiently and economically. In the advocacy of county roads, there is no slight offered to township councils, and in reality no curtailment of their influence, for the few miles of road in each township which would be included in a county system, would still leave more than the average township councillor cares to be responsible for. The advantages of a county system have been put in a series of statements and as there are many new councillors now sitting in township and county councils, it is opportune to reproduce them.

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. All the expenditure thus placed on roads is spent in the county, and is thus returned in a great measure, to those who contributed it in the first place.

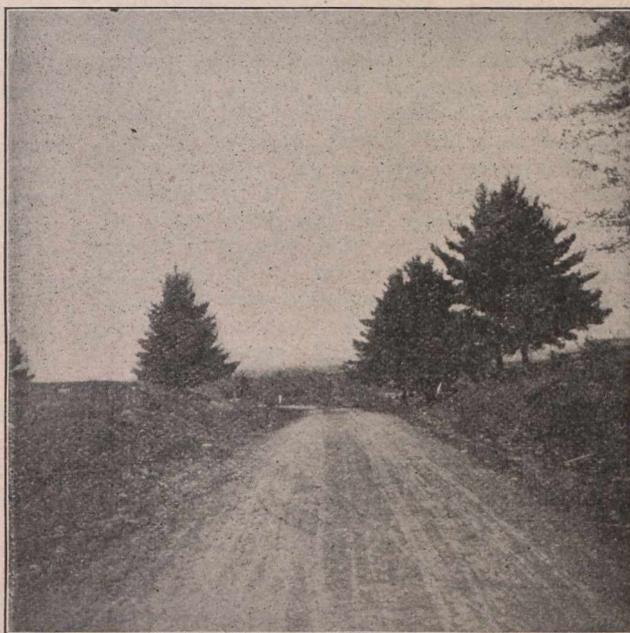
Under county control a properly organized corps of men can be employed to build and repair roads. As at other employments they become experienced and do better work, and in the matter of

repairs are ready to make them as soon as signs of wear appear.

By a county plan, uniformity of work and system will be secured throughout the various municipalities. Whereas under township control a diversity of plans is sure to be adopted.

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 the statute labor system.

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



A GRAVEL ROAD IN NORTH MONAGHAN.

better and more uniform class of work will be secured.

A properly connected system of leading roads throughout the county will be obtained under a county system; whereas with each township, and even each statute labor beat, working independently of those around it, this will be lost sight of.

There is no community of interest between the townships. In one township there is a certain leading road, much travelled and well made and maintained. The adjoining municipality may, for various reasons, not consider it of so much importance as to warrant it in making an expenditure to benefit largely its neighbors who are obliged to travel over it.

If no greater expenditure is made upon the roads than at present, the rate will be reduced because most of the township expenditure is now placed on the leading

roads; and the township will be relieved of these by a county system. Under the county system the funds will be sufficiently concentrated to undertake durable work, and consequently these roads will be properly constructed and afterwards maintained at a less cost than at present.

A county road system equalizes the cost of maintaining leading roads. In every county within a certain radius of a market town, traffic constantly increases as the town is approached. The cost of construction and maintenance increases in proportion to the traffic. It is unfair to charge those living near the town with the cost of keeping the roads to support the traffic from a distance; so unfair as to cause discouragement and often withdraws support.

Property is very largely valued according to distance from the market and the convenience with which the market can be reached. Property a long distance from the market is affected to a greater extent by the bad condition of the roads than is property very near the market. Good roads are, therefore, of greater value to townships a long distance from the market town than those in the immediate vicinity.

Under a county system, proper road construction would be undertaken and the economic value of this work would be seen and appreciated by the people of the different townships. The well built roads would stand as object lessons, and would teach the better expenditure of funds spent by the townships on the roads maintained by them.

While there may be some feeling adverse to townships parting with any control of their roads, it is nevertheless impossible, under a township system, to levy 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, and placing them under the management of the county council. It has been shown that, by such a means, roadmaking could be placed on a more businesslike basis, and consequently greater efficiency is secured.

Culverts.

In no department of municipal management is there so much wasted energy as in construction and maintenance of culverts and sluices. In most townships they are built of timber. Timber is perishable, culverts are subject to repeated changes of wet and dry, and this is very destructive to timber. The life of these structures is not more than five years before repairs are required, and these repairs in a short time amount almost to renewal. No sooner

have they all been rebuilt than it is necessary to recommence the reconstruction of the first; in this way the expenditure becomes perpetual. Therefore, their construction in the most durable manner is the best and most economical plan. For small culverts there is very little difference in the cost of timber and vitrified pipe; and culverts of five and ten feet span should be cement concrete arches. This work, if properly done, is permanent, and once done the expenditure should be over for a generation at least.

Municipal Statements and Records.

It is required by statute that every municipality issue, at the end of each year, a financial statement showing receipts and expenditures for the year. These statements serve an excellent purpose, one not to be in any way minimized. At the same time, consisting as they usually do of a mere list of the people to whom accounts were paid, they possess little value compared to that which might be given them, by showing, in addition, what works and services were accomplished with the expenditure, and what each cost in detail. If a statement of this latter kind is satisfactory, there is little need for criticism as to the people who were paid for doing the work or supplying material. While a statement showing to whom money was paid will guard against favoritism on the part of the council, this is really a minor matter if the ratepayers have received full value for their money in labor or material, and if the money has been otherwise wisely expended.

It is not a difficult matter, at the close of every year, to go over the accounts, and classify them in accordance with the works to which they belong, especially if this has been kept in view throughout the year by the clerk of the municipality, who can, as each account is presented, see that the items are fully explained on the face of the account. By this means, a statement of the work performed during the year can be prepared. If it is a township municipality, each bridge or culvert constructed or repaired, can be specified together with the material required for each, and its cost; and the number of days labor and cost. The work done on each road can be specified, the number of days the grading machine was used on each particular job can be itemized, the amount of gravel and stone, with its cost, and the cost of hauling, etc., can be shown.

If it is a town, the same principle extends to streets, sidewalks, waterworks, sewers, electric light plants, etc. In the case of a waterworks system, the statement should show the cost of labor for the year, salaries paid, the amount and cost of coal used, of oil and waste, the repairs or extensions made, the amount of water pumped, and similar details which go to show the real cost of operation and the results produced.

It is statements of this kind which go to show, in a true light, success or failure in the management of a municipality's affairs,

not only so, but these records, in course of time, have an added value in showing what work has been done to certain culverts, bridges or roads; they indicate the comparative value of different materials used, or methods employed. They permit comparison with the results in other municipalities, and, in a more general way, show the relative value of the various systems which different municipalities may adopt. Their value in producing good municipal management is so great, and they can so easily be prepared, that to neglect doing so is very wrong on the part of municipal councils.

It is not a sufficient excuse that the municipality is small and the works of modest dimensions. In the care of such works, upon which little expenditure can be made, the need for economy is the more keenly felt, and such assistance as this record of experience will furnish should not be overlooked. Councillors, too, have not a perpetual lease of office, and details such as these statements supply, should, in justice to the municipality, be furnished to their successors. Certain local information, well known, perhaps, to the councillors of to-day, and apparently of little consequence at the present time, may very readily be lost to the council of ten years hence, and be productive of much expense and hindrance unless properly recorded. The neglect to provide plans of sewers, water-pipes, tile drains, and similar underground work, furnish one of the most frequent instances to be met with of oversight in this regard.

Pipe Sewers.

Pipe is ordinarily used for sewers up to eighteen or twenty-four inches diameter. Above this, up to forty-two inches, vitrified clay pipe is sometimes used, but many engineers are doubtful of the strength of the larger sizes against crushing. The smaller sizes, up to eighteen or twenty four inches, when made of good clay, well-burned, are sufficiently strong for ordinary locations, although the *double strength* pipe (having a thickness of shell one-twelfth the diameter,) is recommended rather than those of the standard thickness, which is less than one-twelfth the diameter. It has so far been found impracticable to make good, sound, symmetrical clay pipe with shells much thicker than one-twelfth the diameter. It is probable that if this thickness be maintained, the largest sizes of pipe are amply strong for ordinary circumstances.

In many instances where vitrified clay pipe has been crushed in the ground, it has been found that this was probably due to the fact that the pipe had a bearing on the bottom at only one or two points, instead of along its entire length, or that stones or frozen earth were thrown upon it when back-filling. If earth is well tamped under and around a vitrified clay pipe it will not usually collapse, even when broken, although it may leak. Such pipe ordinarily breaks along four lines, at top,

bottom and each side, into pieces of almost equal size. For this reason fire cracks and slight imperfections which do not cause the rejection of a pipe should be placed at a point about forty-five degrees above the horizontal in laying, and not at the top.

The joints of a vitrified clay pipe are generally made of the bell and spigot pattern, and in laying these are sealed with cement mortar.

A glazed clay pipe offers a poor surface for cement to adhere to, and consequently with it an absolutely tight joint is almost impossible of construction. After a short period of use, however, a well-made joint of good cement will become so stopped with matter strained from out-filtering sewage as to be practically water-tight. But if the head of ground-water is greater than that of sewage the flow will be inward and the joint will probably not become tighter than it was at construction. Tighter joints could be made if the glazing were omitted or removed from the surface in contact with the cement.

If much sewage leaks out through a joint, there is a danger that the remaining fluid will not be sufficient to keep the sewer clean of deposits. But, as just stated, such a condition seldom continues for a long time after the sewer is put into use if the joints are well made.

Since the joint is the weak place in a pipe, the fewer joints there are the better. The expense of laying, also, is decreased by lessening the number of joints. For these reasons the use of three-foot rather than two-foot lengths of pipe, is advised. Vitrified clay pipes, more than three feet long, have not, as yet, been manufactured with success, but three-foot lengths can be furnished by nine manufacturers at the same price per foot as the two-foot lengths. Some prefer to use the two-foot lengths when the diameter of the pipe exceeds fifteen or eighteen inches, as the three-foot lengths of the larger pipe would require a derrick for handling.

There are some advocates and users of cement sewer-pipe. It has the advantage over clay pipe that it can be moulded to exactly the size and shape desired, while the clay shrinks and sometimes warps in burning. It is, therefore, possible to obtain a sewer with a more uniform bore by using cement pipe; also to obtain the advantage, (not very considerable under most circumstances) of a flat base.

When this pipe is made of good cement and sand, and is properly proportioned and mixed, it should give a material which will improve with age. It is, however, more difficult to detect the quality of a cement than of a vitrified clay pipe, and much worthless cement pipe has consequently been put upon the market. Clay pipe has a smoother surface, but this difference grows less with age, owing to the coating which forms on each.

Cement pipe weighs from fifty to one hundred per cent. more than clay pipe of the same diameter.

The Assessment Commission.

In the December issue we published a digest of the proceedings before the commission, in reference to the assessment of real property, merchants' stocks and corporations, tax exemptions, personal property and income and local improvements.

ASSESSMENT OF CORPORATIONS ENJOYING PUBLIC FRANCHISES.

This question was presented on the 11th December, by Messrs. Christopher Robinson, Q. C., Lynch-Staunton, Hellmuth, Douglas and others. All classes of companies were represented.

It was shown :

1. That it would be impossible to provide for a general system of assessment of franchise corporations that would be always equitable and that the particulars of each individual case must be considered.

2. That net profits would be the most reasonable basis of assessment if they could be ascertained, without difficulty, this in many cases would be impossible.

3. The scrap iron assessment cannot be defended and if departed from the franchise is taxed.

4. That in assessments the ultimate sale for taxes must be considered.

5. That any system to be reasonable must avoid assessment of personal property.

6. Judging from the ideas advanced by others and the practice in some of the States of the Union, a system of taxation on the basis of sixty per cent. of the gross earnings was thought to be the best.

The memorandum put in by Mr. Robinson on behalf of the corporations, was as follows :

"A tax as hereafter directed to be ascertained shall be imposed upon 60 per cent. of the gross earnings of local provincial business of companies for the supplying of water, light, heat and power to municipalities and the inhabitants thereof, telephone companies, and companies operating street railways and electric railways, such tax to be in lieu of all taxes, rates, and assessments of every nature (including school taxes) upon the real and personal property of a company, acquired and used for the purposes of the same.

A provincial board, to be appointed by the Governor-in-Council, shall ascertain in each year the total gross earnings of such companies for the preceding year, and shall apportion fairly the assessable part of such gross earnings among municipalities and they may each of them assess such companies at their respective current rates of taxation upon an amount equal to the proportion of the gross earnings of the company, so apportioned to each of them by such board.

The provincial board shall have power to reduce the taxes to be paid by any company on such percentage of gross earnings, in cases when to exact the whole amount thereof from such company would be unfair or inequitable. Existing or future contracts for exemption from municipal taxation not to be affected.

Mr. Bell, solicitor for the Grand Trunk Railway Company, stated that he was satisfied with the present system of assessment.

Mr. MacKelcan, for the Ontario Municipal Association, stated that he was satisfied with the assessment of companies

before the scrap-iron decision was given, and that they should be in the same position as individuals.

Mr. Fullarton, for Toronto, put in statements to show that in some cases an assessment on the basis of sixty per cent. of gross receipts would result in the payment of a smaller tax than at present, and that Mr. Robinson's proposition was unfair, unjust and inequitable. The basis of assessment should be the market value of the stock and bonds of a company.

In reply Mr. Robinson stated that sixty per cent. of gross receipts might be too small but the principle was right.

INSURANCE COMPANIES.

The last public session of the commission was devoted to the assessment of insurance companies. They were ably represented by Mr. McDonald, of the Confederation Life, who urged that dividends only should be taxed.

An association, composed of the managers of life insurance companies, had considered the question, and requested :

I. That The Revenue tax be reduced from one per cent. to half per cent.

II. That Life Insurance companies be relieved from taxation on income.

The principal reasons offered were: That to tax these companies is to repress thrift; that insurance is a protection for dependents, who would otherwise be a charge on the state. In England one-sixth of a man's income is exempt from taxation if used to pay life insurance premiums.

Mr. Thomson was opposed to the imposition of a tax on the premiums or income of life companies, as it would be paid by the beneficiaries.

Mr. McCabe favored a license for insurance companies doing business in a municipality.

Mr. Mackelcan stated that insurance companies should be assessed at their fair value, or pay a license to do business.

Mr. Fullarton was of the opinion that where there is a liability there is an asset, and that if insurance companies owe the policy holders the latter are assessable under the present law.

This closed the public sessions of the commission for the present. A preliminary report on the taxation of special franchises of companies using streets and highways, will be prepared for consideration at the next session of the legislature.

Assessment in Glasgow.

Mr. James Henry, the assessor of Glasgow, has the following to say on the above subject :

The population of the city of Glasgow is 747,222. The area of the city is 12,888 acres. The gross rental or annual value for the current year is £4,791,295. The valuation roll is made up annually, a door-to-door survey is made of all premises in the city immediately after Whitsunday term, in order to ascertain the names of all owners and occupiers of property, and in all cases of let premises, the rent payable by the tenant or occupier.

Simultaneously with the survey of the city in each year, schedules are issued to all owners, in which they are required to give the names of their tenants and the amount of rent payable by each. At the close of the survey these returned schedules are compared with the information obtained on the survey, and where any discrepancy appears between the survey and the returns it is cleared up by inquiry or resurvey of the premises. Premises in the occupation of the owner are valued by the assessor, and the method usually adopted by me for arriving at the annual value of such premises is to measure the premises and compare the same with similar let premises in the locality; where there are no similar premises in the neighborhood to compare with, I endeavor to get the cost of the ground and buildings, and in the case of mills and public works, the cost of the fixed machinery, and apply a percentage to the cost, which varies from five per cent. to seven and one-half per cent., according to the nature of the building, the chief aim and object of the percentage rate being to find the rent at which the premises in their actual state might reasonably be expected to let from year to year. After the valuation roll has been prepared, every owner and occupier appearing on the roll is served with a notice containing a copy of the entry applicable to the premises so owned or occupied by him. Appeals against the valuation may be adjusted by the assessor up to the 8th of September in each year. Appeals not then disposed of go to the Burgh Valuation Appeal Committee, composed of fifteen members of the town council, who, after hearing all parties concerned, either sustain or modify the assessor's valuation. Should the assessor or appellant be dissatisfied with the decision of the appeal committee, a further appeal can be taken to two judges of the Court of Session, appointed under the Valuation Act, and whose decision is final. All lands and heritages in Glasgow are assessed for police and municipal purposes on the gross annual value as appearing in the valuation roll, with the following exceptions, viz.: Arable, meadow or pasture ground, woodland, market garden or nursery ground, the line of any canal or the line of any railway, and underground gas or water-pipes, which are rated on one-fourth of the annual value entered on the valuation roll. The poor and school rates are charged under deduction of twenty per cent. on rentals appearing in the valuation roll. The rental or annual value as appearing in the valuation roll is the basis, and the only basis, for local taxation.

"What a change," exclaims a novelist, "one little woman can make in a man's life!" "Exactly," says a victim, "and what a lot of 'change' she requires in doing it."

Question Drawer.

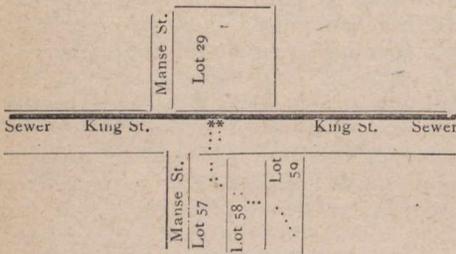
Subscribers are entitled to answers to all Questions submitted, if they pertain to Municipal Matters. It is particularly requested that all facts and circumstances of each case submitted for an opinion should be stated as clearly and explicitly as possible. Unless this request is complied with it is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

The Municipality Not Liable.

1.—J. S. E.—I. Enclosed you will find a diagram illustrating a local difficulty. The occupant of lot 29, on the diagram complains that he has been subject to an overflow in case of an extreme freshet, notwithstanding the presence of the sewer, which has now happened twice owing to obstruction of sewer. He wants the long unused and filled in culvert opened again, in which case the overflow or surface water would be deflected across lots 57, 58 and 59. He has threatened a suit to force our council to open said culvert, in which case the council would again be threatened by the occupants of lots 57, 58 and 59. Can he force our council to open said culvert, in the presence of the fact that the sewer serves for all but extraordinary occasions?

2. And if he can, what recourse may we have from the owners of the opposite lots for deflecting the water upon their lands?



Black line represents sewer.

Both ** on sewer line are manholes.

Double dotted line across street is remains of old culvert filled in for fifteen years.

Dotted streak through lots 57, 58 and 59, is old natural watercourse.

We are of the opinion that the owner of lot 29 has no cause of action against the municipality upon the facts as stated by you.

Examination of Destitute Lunatics.

2.—W. D.—Is a township municipality, in Parry Sound, liable for expense of examination of a boy for lunacy when father is living and able to support him? The boy has been moved to jail and the sheriff and medical examiner have made the demand on the township council.

We are of opinion that your municipality is not liable for this expense, unless the head of the municipality, on application being made to him, is satisfied that the insane person is in destitute circumstances, and notified two medical practitioners to make the required examination. See section 11, of chap. 317, R. S. O., 1897, which applies to "any municipality within the Province of Ontario."

Submission to Electors of Statute Labor By-Law.

3.—C. H. R.—Our township is submitting a by-law to the electors to commute the statute labor of the municipality. No doubt there

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.

will be some changes suggested as they are holding public meetings throughout the township. Will the council have power to make such at the third reading of the by-law after the people have voted as it is represented to them?

The Municipal Act makes no provision for submitting such a by-law as this to the ratepayers, and it is, therefore, improper to submit it to the vote of the electors. By the authority of sub-section 6 of section 561, of The Municipal Act, and section 101, of The Assessment Act, the council has power to pass such a by-law as this.

Submission to Electors of Statute Labor By-Law.

4.—J. R. W.—How is the proper way to take a vote on the statute labor question, by by-law or just a plebiscite?

We presume you mean the question of abolishing the performance of statute labor. Section 561, sub-section 6, of The Municipal Act, and section 101, of The Assessment Act, empower township councils to pass by-laws to entirely abolish statute labor. It is improper for a council to submit a by-law to the electors to vote upon, unless it is a by-law that must be submitted to them.

Time for Audit of Municipal Accounts.

5.—C. W. K.—Will you please inform me what date is fixed by law for auditing the municipal accounts?

Sub-section 1, of section 299, of The Municipal Act, provides that every council shall, at the first meeting thereof, appoint two auditors. The latter part of sub-section 2, of section 304, of the Act provides that the auditors shall file the abstract of the receipts and expenditures, assets and liabilities of the corporation, and the detailed statement and reports prepared in such form as the council directs, in the office of the clerk of the council, within one month after their appointment.

By-Law Unauthorized.

6.—T. J. T.—Our town council are preparing by-law to be voted upon on same date as municipal elections take place. The sum stipulated therein will be \$75,000 and the period to extend over, to be forty years. This, I understand, will require the assent of the Lieutenant-Governor. Kindly advise me where I shall find the proper mode of procedure in so doing?

Under section 384, of The Municipal Act, a debt created by by-law must be repaid in certain cases within twenty years and in others within thirty years. There is no authority to submit the by-law in question to a vote of the electors, the term being forty years. If it is important to your ratepayers that the repayment of the

money should be extended over a period of forty years, the council should apply to the legislature for extra authority to do so.

Reeve for 1900 Can Run for County Councillor for 1901-02.

7.—J. A.—Must I resign my reeveship before the nomination for county commissioner? I am going to resign the reeveship and run for county commissioner.

Section 81 of The Municipal Act provides that "any person having the necessary qualification, and not otherwise disqualified, who is a member of a municipal council for the year in which nominations are held for the election of county councillors, shall be eligible for nomination and election as a member of the county council at such election." You need not, therefore, resign your reeveship.

Meaning of Term "Nomination Meeting."

8.—G. M. B.—Clause 3, of section 129, of the Municipal Act, states, "The resignation after the nomination meeting of any person shall be in writing, etc." What does the term "nomination meeting" mean? Is it the hour during which the nominations are received, or does it include the remainder of the day? I have always considered it meant the former and have acted accordingly, while others think it means the latter.

The nomination meeting continues one hour, during which candidates proposed may resign verbally, but after nomination meeting all resignations must be in writing, signed and attested by a witness, and delivered to the clerk or returning officer, within the time mentioned in the Act. Your view of the law is, therefore, correct.

December 15, Statement.

9.—G. L.—According to section 304, sub-section 6, the council has to publish immediately after the meeting of the 15th December, a detailed statement of receipts and expenditures, with statement of assets and liabilities and uncollected taxes. Is it the duty of the treasurer and collector to make such statement? If so, are they supposed to be paid, or could the council appoint some else to do it?

It is the duty of the Council to have the statement made and published. It is the duty of the treasurer and the officers of the municipality to assist in the work, if requested by the council, without extra pay. See Question No. 155, 1900. The statement, when completed, should be signed by the mayor, (or reeve, as the case may be,) and the treasurer.

Voting for County Councillor.

10.—J. W.—In an election for county councillors where two are to be elected can a voter give his two votes to one candidate as formerly, or has the law changed so that he can only give one vote to each of two candidates? If the law has been so changed please give chapter and section.

The law has not been changed in this particular since the last county council elections. A voter can still give his two votes to one candidate. See sub-section 2, of section 168, R. S. O., 1897.

Should Transient Trader, Selling his Own Goods, Obtain Auctioneer's License.

11.—E. D.—Would you consider it necessary for a trader, who is an auctioneer, to take

out an auctioneer's license fee of the municipality imposed on transient traders, before selling his own goods or merchandise by auction? R. S. O., chap. 223, sec. 583, ss. 31.

Sub-section 2, of section 583, of The Municipal Act, authorizes the councils of counties and separate towns, and of cities having less than one hundred thousand inhabitants, and the boards of commissioners of police in cities having one hundred thousand inhabitants or more, to pass by-laws for licensing, regulating and governing auctioneers, and other persons selling or putting up for sale goods, wares, merchandise or effects by public auction, etc. The fact that the trader referred to has paid the license fee of the municipality imposed on transient traders, does not entitle him to sell by public auction. The important question is, whether the above section applies to a person who is selling his own goods by public auction. We think it does. An auction is a public competitive sale of land or goods to the highest *bona fide* bidder, and an auctioneer is a person who conducts such a sale. In *Goshen vs. Kern, Indiana, 469, 30 Am. Rep. 234*, counsel contended that the word "auctioneer," refers to one who sells the goods of another, and does not include a person who sells his own goods. Upon this point, *Howk, C. J.*, said: "The argument of counsel is founded upon one of the definitions of the word "auctioneer," in *Bouvier's law dictionary*, as follows: "A person authorized by law to sell the goods of others at public sale." If the term "auctioneer" had no other meaning than the limited one thus given it, the argument of counsel would be perhaps well founded; but *Bouvier* also defines an auctioneer as "one who conducts a public sale or auction." In *Burrill's law dictionary* an auctioneer is defined as "one who conducts a public sale or auction," and again as "a person who is authorized to sell goods or merchandise at public auction, or sale for a recompense, or (as it is commonly called) a commission." In *Wharton's law dictionary* auctioneers are defined to be "licensed agents appointed to sell property and to conduct sales or auctions." In *Webster's dictionary* the meaning of the word "auctioneer" is thus given: "A person who sells by auction; a person who disposes of goods or lands by public sale to the highest bidder." In *Worcester's dictionary* the word "auctioneer" is defined as follows: "One whose business it is to offer property for sale by auction; one who invites bids at a sale by auction." It will be seen by these various definitions of the word "auctioneer," by the best lexicographers, legal and otherwise, of our language, that it, as ordinarily used, has no such limited and confined meaning as the appellee's counsel has sought to give it. In the first rule prescribed by law in this state for the construction of statutes it is provided that "words and phrases shall be taken in their plain and ordinary and usual sense." Under the allegation of the appellant's complaint the appellee was an auctioneer within the plain, ordi-

nary, and usual sense of that term." According to the above case, it will be seen that the word "auctioneer" applied to a person selling his own goods by public auction. But our Act goes farther. It applies to "other persons selling goods by public auction." The only case in our own courts which contains anything useful upon the question is *Merritt vs. Toronto, 22 Ap. Repts., p. 205*. At pp. 213-4, Mr. Justice McLennan says: "An auctioneer is a person who sells property of any kind by public auction. For some reason the statutes seem not to extend to persons selling land by auction, or anything but goods, wares, merchandise or effects; that is to say, personal property. It may, perhaps, be assumed that it is intended to apply only to persons who make sales by auction their business, although it says "other persons selling or putting up for sale," and that it is not to apply, for example, to a person selling his own household furniture in that manner. But the business of an auctioneer may either be the selling of his own goods, or the goods of others, or it may combine both. There is no reason why a shopkeeper should not carry on his business altogether by auction, or partly by that method, and partly by ordinary sales over the counter. The Act makes no distinction, all persons selling by auction may be regulated and governed. I myself can see no reason why a person selling his own goods by auction should be regulated and governed any more than his neighbor who sells his goods over the counter in the ordinary way. I suppose those intended to be reached are the probably more numerous class who sell by auction the goods of others." It will be observed that, though Mr. Justice McLennan thinks that the Act was not intended to apply to a person selling his own property, yet he says the Act makes no distinction.

New System of Voting.

12.—J. R.—1. There being a desire on the part of a great many in this municipality to introduce the new system of voting (or as some term the numbered system), can you direct me to any source where I can learn how it is operated?

2. Would it not require a by-law to be passed at December meeting of the council to allow of its operation at the ensuing municipal elections?

3. Should you have published anything in back numbers of the *WORLD* telling how it is done, kindly state year and number.

1 and 2. Section 136 of the Municipal Act provides that, "In case of a poll of an election of persons to serve in municipal councils the votes shall be given by ballot." Section 141, sub-sec. 1 provides that "the ballot-papers shall be according to the form given in schedule "A" to the Act." The general procedure at municipal elections you will find in section 94 and following sections of the Municipal Act. The only other system of taking the votes of the electors allowed by statute, is by the use of a voting machine. The use of these machines was legalized by chapter 37 of the Ontario Statutes, 1900. The use of the voting

machine can be adopted by by-law of the council passed pursuant to section 1 of the last mentioned Act.

3. We are not aware that as yet anything has been published in the *WORLD* on this subject, except our answer to question number 296, 1900, which, however, would not convey much information in the matter.

What Voters' List Should be Used?

13.—M.—The voters' list for 1900 has only been distributed December 1st. There will be appeals against list. In that case 1900 list will not be in force for the election to be held on January 7th next. On what list will we have to vote, 1899 or 1900?

Section 151 of the Municipal Act, sub-section 1, provides that, "In any municipality for which there is a separate assessment roll, but for which no voters' list for the municipality has been filed with the Clerk of the Peace or certified by County Judge under *The Voters' Lists Act*, the clerk of the municipality shall, before the poll is opened, prepare and deliver to the deputy returning officer for every or any ward or polling sub-division, a list in the form of schedule "C" to this Act; containing the names, arranged alphabetically, of the male persons appearing by the then last revised assessment roll, to be entitled to vote in that ward or polling sub-division; and he shall attest the said list by his solemn declaration, in writing under his hand. Sub-section 2 provides for the case of income voters and real property owners who have not paid their taxes before the 14th of December preceding the election, and where the municipal council has passed a by-law pursuant to sub-section 1 of section 535 of the Act. The list in your municipality will therefore have to be prepared as above provided.

Payment of Costs of Drainage Scheme.

14.—SUBSCRIBER.—1. The township of Williamsburg adjoining this has initiated a drainage scheme and has assessed a portion of this township for outlet liability. Of course we raise and pay over the amount demanded, but where do we get our expenses for by-law, printing, council meeting, etc?

2. Parties sued the township of Osnabruck for damage caused by a drainage scheme being improperly carried out, and recovered, although it was proved that the engineer's instructions were followed in the construction of the drainage question. Who pays the damage, the township or drainage scheme?

1. The cost of preparing the by-law, printing, and all other legitimate expenses connected with the passing of the by-law, should have been included by the engineer in his report as part of his estimate of the cost of the whole work, and retained by the township of Osnabruck when paying over the sum for which it was liable to the township of Williamsburg. If this has not been done, we do not see what means the township of Osnabruck now has of collecting it.

2. Unless the circumstances are such that the case comes within the provisions of sub-section 2, of section 95, of *The Drainage Act*, (R. S. O., 1897, chap. 226,) the drainage and costs recovered against, and

payable to the municipality, "shall be levied and collected *pro rata* upon the lands and roads in any way assessed for the drainage work according to the assessment thereof, for construction or maintenance, etc." See sub-section 1, of section 95. Under sub-section 2, the referee or the court may, for the reasons therein stated, direct that the whole, or any part of the damages or costs, shall be borne by the municipality, and paid out of the general funds thereof, but if the court does not so direct, the damages and costs must be levied in the manner provided by sub-section 1.

Tax Exemption—Illegal Resolution.

15.—W. H. N.—As councillor for a town I would be pleased if you could give me a little light on this subject. About eight years ago this town gave to a certain firm a ten thousand dollar bonus and ten years' exemption from taxes on an agreement that said firm would employ a certain number of men which they never did all the year around as they agreed to do. About two years ago this firm went into liquidation and a bank took possession and finally closed the thing down. Later the same parties under another name bought the concern back. Now the latter company comes to the council and asks to have the taxes remitted since their failure and a continued exemption. The council passed a motion to that effect. Can they do that without submitting it to the people.

The firm to which the bonus was originally granted apparently ceased to exist when it was closed out by the bank. The new company is not its successor, but a separate and distinct institution to which no bonus or exemption from taxation has been granted by the town. The present company and their premises cannot be exempted from taxation by a simple resolution of the council. A by-law, making provision for such exemption, should first be submitted to, and passed by the qualified electors in accordance with the provisions of sections 8, 9 and 10 of chapter 33 of the Ontario Statutes, 1900, (63 Vic.) and then duly passed by the council.

Nominator and Seconder Should be Present at Nomination Meeting.

16.—P. R. M.—On page 187 of your issue of December (this year) you publish these words, "the nominator and seconder of a candidate should both be present at the nomination meeting, etc." Will you please be so kind as to inform me of your legal authority for such conclusion. Give me the phraseology of the Act or Statute that says so or the ruling of any court. Be explicit and clear on the point.

Sub-section 1 of section 128 of the Municipal Act provides that, "At such meetings (that is nomination meetings) the person or persons to fill each office shall be proposed and seconded seriatim, and every such nomination shall be in writing, etc." An elector could not propose or second a nomination "at such meeting" or sign the nomination paper unless he were present. We take it that the object of the legislature in requiring nominations to be written and signed by the proposer and seconder, was to prevent fictitious and frivolous nominations, and evil sought to be guarded against would be restored to a much greater extent

than it formerly existed, if nomination papers were allowed to be handed in to the returning officer in the absence of the mover and seconder who purported to sign the same. The Dominion Election Act makes special provision for the handing of the nomination paper to the returning officer, on or before nomination day, but it requires the signatures thereto to be verified by the affidavit of a witness.

Liability for Damages from Defective Bridge.

17.—A party driving over a corporation bridge, his horse broke through, threw out himself and wife, broke his buggy and sustained considerable injury. He applied to the council for damages. Their plea was that they had no previous knowledge of the condition of the bridge nor the overseer though it was known by the people living near that it was unsafe for some time and had been repaired by them. A horse broke a plank the day before. Under these conditions has the party a just right of action? Are the council liable if they were not notified?

The rule is that the public highway must be kept in a reasonably fit state for travel. From your statement of the facts, if the municipal corporation can be shown to have had actual knowledge of the dangerous condition of bridge, or such condition had existed for such a length of time, that the corporation was guilty of negligence in not having discovered it, the corporation will be held liable to pay the party injured the amount of the damages he has sustained, provided he has given notice of action within the time and in the manner required by sub-section 3, of section 606, of The Municipal Act. See Questions 138, 1899, and 323, 1900.

Can Member of Board of Health Qualify as Councillor.

18.—T. J.—Can a member of the local Board of Health, he being chairman of the Board, qualify for a member of the township council? I see this question was asked in the WORLD in December of 1899 and the answer was his resignation should be delivered and accepted by the council before nomination day. I would like to know whether he can legally accept the nomination or not.

If a member of the local Board of Health for 1900 desires to be a candidate for membership in the township council for 1901, his resignation as a member of the Board of Health should be delivered to, and accepted by, the council before nomination day.

Taxes on Tenant's Stock—Qualification of Collector for Councillor.

19.—R. J. E.—A tenant in a store leaves the municipality before Court of Revision is held. No person makes any appeal and the assessment is confirmed with the tenant assessed for the premises and his personal property. The clerk makes out collector's roll for full amount of real and personal property. Should collector accept from landlord the proportion on assessment for realty or are the premises liable for total tax?

2. Can a collector for 1900 run for councillor at the coming election? Is it necessary for him to resign before nomination or would it be sufficient if his services were completed before he takes declaration of office as councillor? In either case would he have to resign as he would be considered collector until his successor is appointed?

Re question No. 1 the goods were removed from the store. The store is now occupied by

another tenant with stock and has been for the past two or three months.

The owner of the premises is liable for the taxes against the premises whether he is assessed or not, and the collector should accept them from him. See sub-section 3, of section 135, of The Assessment Act. In regard to the taxes on the personalty, the landlord is not liable for them unless he was assessed for them, and they must be collected from the tenant, who was assessed in respect of them. See section 11, 135a, 1, of The Assessment Act, 1899 and if the collector cannot find any goods belonging to the tenant, out of which he can make the taxes, they may be recovered by action as a debt due to the municipality. See section 142, of The Assessment Act.

2. Section 80 of the Municipal Act provides that, "No collector, etc., of any municipality, etc., shall be qualified to be a member of the council of any municipal corporation." In order to qualify, the collector must have fully completed his duties, and received his salary and a receipt in full for all taxes, from the corporation, and should resign his office prior to nomination day.

Breach of Drainage Contract—Liability of Contractor and Municipality.

20.—R. M.—There is a drain being constructed under the Municipal Drainage Act in this township. The contract is let to A who starts work and was to have it finished by the 30th of November last. B is appointed commissioner by the council to let and superintend said work, 25% to be kept back of said contract until finally passed by the township engineer, the specifications to be the engineer's plans and profile of said drainage work. Said contract contains a clause empowering the council to extend the time to complete said contract on the recommendation of said commissioner, which was not done. Now the questions are as follows:

1. A does not get his contract finished, goes on with his work for a week after his time is up by contract and for about sixty rods the earth is to be evenly spread on the road allowance but instead of spreading it evenly as per contract, leaves it in scraperfuls which freeze and leave said road dangerous for travel. When remonstrated with for so doing by B, he said he was doing all he could. Is A liable for any accident occurring on said road?

2. Can the municipal council close up said road until fit for public travel and what course can they pursue so that said municipality will not be liable for damage, if any accidents occur on said road? The public could avoid said road without much inconvenience.

1. Apart from A's liability under The Municipal Act, he would not be liable for damages resulting from an accident by the condition in which he left the road, because we do not think it could be said, in such a case as that, that the damage was the proximate result of his breach of contract, but we think that he would be liable, under The Municipal Act, for such damages if the party injured made out a case of damages against the municipality. See sub-section 1, of section 609, and sub-section 4, of section 612, of The Municipal Act.

2. The proper course for the council is to put the road in safe condition for public travel without delay, before an accident

happens, and if that cannot be done by reason of the frost, the council should close the road, and put up notices warning the public that it is dangerous. The public cannot suffer, as you state that another road can be used without much inconvenience. The council should notify A to spread the earth at once in the manner provided by the contract, and if he should neglect to do so, the council can have the work done and recover the cost of it from A. The cost would be the measure of damage resulting from his neglect to fulfil his contract.

What Voters' List Should be Used?—Appointment of Treasurer by Committee.

21.—M & L.—In my letter to you on the 5th inst., I was enquiring about which voters' list we should use in case of appeal.

1. Now I would like to know what procedure if any could be taken in order to use 1900 list for 1901 election, the list having been appealed?

2. The council has appointed a sewer and waterworks committee giving them power to act. This committee has appointed a clerk and a treasurer in the same person, who signed all cheques, received all moneys and in fact had absolute control of the finances without security. Could this man act as treasurer for that special committee when the town was paying another man as treasurer?

1. From our answer to question 13 in this issue you will observe that the voters' list for 1900 cannot be used in your municipality at the 1901 election, but that it must be prepared as provided by section 151 of the Municipal Act.

2. We cannot satisfactorily answer this question without a true copy of the resolution appointing the committee, before us. Simply giving the committee power to act would not authorize them to appoint a treasurer. If the town council has appointed a person to act as treasurer, he is the man to do the business, as the committee, being a subordinate body, cannot supersede the action of the council by appointing someone else.

Qualification for County Councillor—Farmer's Son—Legal Vote

22.—A. W.—1. Will a person who is now a reeve of a municipality be legally qualified to run as county councillor without first resigning his seat?

2. Is a farmer's son who is on the voters' list, legally qualified to vote at a municipal election, he having been working away from home seven months of the year?

3. Can a rate-payer legally vote at a municipal election if his assessment is under \$100.

1. Yes. See section 81 of the Municipal Act.

2. To entitle a farmer's son to vote at such an election, he must be a British subject by birth or naturalization, of the full age of twenty-one years, a resident of the municipality at the time of the election and must have resided on the property of his father or mother for twelve months next before the date of the final revision and correction of the assessment roll, or for twelve months prior to the last day for making complaints to the county judge under the Voters' List Act. See sub-section 1 of section 86 of the Municipal Act (Fourthly) and section 115 of the Act.

3. Section 87 of the Municipal Act provides that, in order to entitle a person to vote at a municipal election in respect of real property, such property whether freehold or leasehold or partly each, must be rated at an actual value in townships and villages of not less than \$100 and if an appeal were made in the case of a person assessed for less than \$100, to have his name struck off the voters' list, the name would be stricken off, but if no appeal were made no objection could be made afterwards against his right to vote, for those reasons. The latter part of section 89 of the Municipal Act provides that no question of qualification shall be raised at any election except to ascertain whether the person tendering his vote is the person intended to be designated in the list of voters, and all that the oath of a person claiming to vote as a freeholder, which is to be found under section 112, requires, is that such person shall swear that at the date of the election he is in his own right, or that of his wife, a freeholder within the polling sub-division, or within the ward, as the case may be, in the municipality.

Reeve Qualified as Candidate for County Councillor.

23.—H. J. F.—Is it necessary for a reeve of a township for 1900 to resign his position in order for him to run for the position of county commissioner for 1901?

No. Section 81, of The Municipal Act enacts as follows: "Any person having the necessary qualifications, and not otherwise disqualified, who is a member of a local municipal council, for the year in which nominations are held, for the election of members of the county council, shall be eligible for nomination and election as a member of the county council at such election."

Payment of Taxes by Note—Arrears of Taxes—Liability County Treasurer.

24.—THE COLLECTOR.—Landlord takes note at one year for full amount of rent, the landlord to pay taxes and do the statute labor. This he did in 1899. This year, 1900 did not pay any on taxes in arrears for 1892, 1895 and 1898.

1. Can tenant's goods be taken for arrears, the landlord having no chattels on place?

2. Is note legal?

3. Is county treasurer in any way responsible, for having let it run so long? It was a resident lot all the time.

1. If the tenant is assessed for the year 1900, and his name appears on the collector's roll for the same year, his goods are liable to seizure for the taxes for 1900, and it is the duty of the collector to seize them, or a sufficient part of them to make the taxes. If the collector's rolls for the prior years 1892, 1895, 1897 and 1898 have been returned, the collector has no power to collect the taxes for those years at all.

2. Yes.

3. If the taxes for the years mentioned, or any part of them, have been lost, through the negligence of the county treasurer, we do not see why he should not be held liable for the loss sustained, but you have

not furnished sufficient information to enable us to express an opinion upon the question, neither can we express an opinion as to whether these taxes can be recovered out of the lands, because you have not given us sufficient information upon that phase of the question to enable us to express an opinion upon the matter.

Should Take Proceedings Under the Ditches and Watercourses Act.

25.—R. F. What right has a person to drain a high farm down on an adjoining low farm? Can he do so, by carrying the water through the lower farm by drain at his own expense? Or will the man owning the lower farm have to bear one-half the expense?

The owner of the upper lands cannot drain them on and through the lower lands, if the owner of the latter objects, unless he acquires the right to do so under The Ditches and Watercourses Act. Chapter 285, R. S. O., 1897.

Voting on Statute Labor By-Law—Commutation of Unassessed Persons.

26 H. S. M.—Our township is going to take a vote at the next election on the abolition of statute labor. There is a village in the township which is incorporated under the "Badgerow Act" which gives them commutation.

1. Have they a right to vote for or against commutation or abolition?

2. If statute labor is abolished what powers have council with regard to parties who are not assessed but now do two days statute labor, the M. F. voters?

1. We can find no provision in the Municipal or Assessment Acts authorizing a municipal council to submit the question of the abolition of statute labor to the electors. The council itself has full power to pass a by-law for the abolition of statute labor. See section 103 of The Assessment Act, and sub-section 4, of section 561, of The Municipal Act. In the case of Darby vs. the City of Toronto, 17, O. R., 561, Mr. Justice Osler made the following observations upon the practice resorted to of taking a plebiscite: "I cannot see what this has to do with the case. It is another instance of a pernicious practice which has been too frequently resorted to, of taking a plebiscite upon a subject wholly within the discretion of the council, which it is their duty to decide and to take the responsibility of deciding themselves, without putting the public to expense. In this case, it is true, no additional expense will be incurred, as there is also a by-law to be voted on, but the practice is none the less objectionable as an attempt to evade responsibility and place it where it does not belong." As the law does not provide for submitting such a question to a vote of the electors, neither the electors of the village nor township have a legal right to vote. The Act, which you refer to as "The Badgerow Act," is section 37, of The Municipal Act, and if you will examine that section you will find that the township council, where a village has been set apart under section 37, has all the rights and privileges conferred by The Municipal Act upon the councils of cities, towns and villages to require a commutation tax to be paid in lieu of statute labor.

2. Persons not otherwise assessed in a township are, by section 100, of The Assessment Act, liable to perform one day's statute labor. If the township council passes a by-law commuting the statute labor to a money payment, pursuant to section 103, of The Assessment Act, and sub-section 4, of section 561, of The Municipal Act, the persons theretofore liable to perform one day's statute labor under section 100 of the former Act, must pay the per diem commutation, or suffer the penalty provided by sub-section 1, of section 107, of The Assessment Act.

General School Levy in Districts.

27.—G. K.—In looking over the Public Schools Act I don't see anything that is very clear on the subject of *changing a school section* into a township board that would be applicable to our municipality, Neebing, as we are at present composed, viz., five townships in one municipality and only one school section and that is in a part of one of the townships, where the majority of the settlers reside.

1. Could you refer me to the particular clause (if any)? I see by sec. 66, sub-sec. 1, Public Schools Act, that the council of every township shall levy upon the whole township that is the public school supporters a sum of \$150.

2. Does that word "township" mean the whole municipality or the township?

3. Does that sentence "public school supporters" mean all those residents outside of school section in the township?

4. Or does it mean all those in the municipality?

1. See section 29 of the Public Schools Act, chapter 292, R. S. O., 1897.

2 and 3. The words "public school supporters" in section 66 includes all the public supporters in the township, that is all those within and outside the school section in the township.

4. In using the word "municipality" we understand it to mean the district formed by the union of several townships under the provisions of chapter 225, R. S. O., 1897, and if we understand you aright the words "public school supporters" have reference to "township" and not to the whole municipality.

Drainage Scheme—Allowance for Work Done.

28.—W. D. M.—In a drain just being constructed under the provisions of the Municipal Drainage Act the question has arisen that where a party has been allowed by the engineer for certain work previously done on said drain and which the engineer has allowed in his report to be deducted from the total assessment of the party, upon letting the contract for the drain it was found that the work could not be constructed for the amount originally estimated by the engineer. The contract was finally let for an amount about one half more than the original estimate thus adding to the assessment of all the parties on the drain *pro rata* according to the extra amount required for the construction. One of the parties allowed for work previously done claims that the same per centage should be added to the value of this work as was added to the engineer's estimate for the actual cost of construction. For instance, he had been allowed \$50.00, originally by the engineer, and he claims this amount should be made \$75.00. Is there anything in the Municipal Drainage Act that would bear the council out in allowing this addition? The Act appears to me to be silent on this point. It gives the council power to let the work and if the cost exceeds the original estimate they have the power to add on to the

assessment of the several parties assessed a *pro rata* proportion, but as far as I can see there is nothing said which would indicate that the council could add the same proportion to the value of the work previously done. Kindly give us your opinion as to the meaning of the Act as we wish to deal fairly with all parties and at the same time act in accordance with the statutes.

We assume that the allowance made by the engineer to this person for drainage work already done by him, was that provided for by sub-section 4, of section 9, of The Drainage Act, (R. S. O., 1897, chap. 226.) The engineer, no doubt, estimated this work at its actual value, and credited him with the amount on his share of the cost of the drainage scheme. The account so credited is a fixed sum, and is all that the party can be allowed, whether the whole cost of the drainage scheme exceeds or falls below the engineer's original estimate. The council, under section 66, of The Drainage Act, must distribute the amount required to complete the work among the parties assessed for it *pro rata*, according to their respective assessments.

Dog-Tax in Police Village.

29.—A. M. F.—1. We have a police village in our municipality and prior to the formation of the police village, the municipality had a by-law in force taxing dogs, which tax went into the general funds of the municipality. Is the police village entitled to their share of this money in proportion to their assessment, or are they entitled to the full amount of dog-tax imposed on dogs within the limits of the said village?

2. If the municipality had no dog-tax imposed, have the trustees of police village power to pass a by-law imposing a tax on dogs within the limits of said village?

1. No. The only moneys the trustees of the police village are entitled to receive from the council of the township are those levied pursuant to the provisions of section 740, of The Municipal Act, which provides as follows: "The rate levied for police village purposes by the council or councils of the township or townships, in which the police village is situated, upon the property liable to assessment in such village shall be in lieu of such proportion of the township rate now levied for the same or like purposes, within such village, as the trustees and the council may by agreement provide."

2. No.

Liability for Accident on Bridge on Colonization Road

30.—H. S.—A bridge at least four hundred feet long, crossing Massanoga Lake and forming part of the Addington colonization road, situate in this municipality, has been built, rebuilt and repaired several times and controlled by the provincial government. The bridge has lately again been in a very bad state of repair, and the attention of the government has been called to its unsafe condition, but no action was taken to make it more safe. About two months ago a load of merchandize broke through said bridge, and was nearly all lost. Some damage was also done to the wagon and harness of the driver, who also lost some clothing and other articles. One of the merchants who owned part of the goods lost applied to the Department of Public Works for indemnification, but was informed by the Honorable the Commissioner, that whether the bridge in question was built by the government or not, it is by law vested in the municipal council, which is alone responsible for any

damages which may have been sustained. The owners of the goods lost and the owner of the wagon, which broke through the bridge, have now claimed the amount of their losses from the council. The members of the council, however, claim that the municipality ought not to be held liable or responsible for the damages as the bridge was built and controlled by the government and was never assumed by the council. The broken down bridge is now being rebuilt by the government.

Will you kindly advise us at once on the following questions?

1. Have the owners of the goods lost and the driver referred to, a legal claim for indemnification for the full amount of the loss sustained?

2. Who is responsible for said damages, the government, or the municipality?

1. Assuming that there was negligence, the question whether the municipality is liable for the damages sustained by reason of such negligence depends upon whether the Lieutenant-Governor had, under the power conferred upon him by section 627, of The Municipal Act, prior to the accident, declared that the bridge should no longer be under the control of the commissioner of public works. That section prohibits any council interfering with any public roads or bridges vested as a provincial work in Her Majesty, or in any public department or board. If this bridge was, at the time of the accident, vested as a provincial work in Her Majesty, or in a public department or board, the local municipality is not liable. The latter part of the section declares that after a proclamation by the Lieutenant-Governor-in-Council divesting the control of the bridge it shall thenceforth be controlled and kept in repair by the council of the municipality, whose duty it is to repair the same. We observe that the commissioner of public works says that the bridge in question is vested in the municipality. If that is true the municipality is liable if it was negligent. The Government of Ontario frequently grants moneys for colonization roads, and these sums are not always under the control of the public works department. That may be the case here. If you will look at section 22, of chapter 37, R. S. O., 1897, you will find the commissioner of public works is required to submit to the Lieutenant-Governor an annual report on all the works under the control of the department, to be laid before the Legislative Assembly within twenty-one days from the commencement of each session, showing the state of each work, and the amount received and expended in respect thereof. If you will have some person make a search in the Public Works Department you will be able to ascertain whether the bridge in question is a work under the control of the department of Public Works or not. If an action be brought against your municipality, we do not think it will be assumed that this bridge is a work under the control of the Public Works Department; on the contrary, we think the onus will be on the municipality to prove that it is such a work, because the fact that a portion of a grant of money by the legislature has been expended on this bridge under the direction of the government, whether to build

or repair it is not in itself evidence that it is a bridge vested as a provincial work in Her Majesty. We advise you to have some person go to the office of the commissioner of public works and ascertain whether this bridge is under the control of the department under the above act, and if you find that it is not you had better effect a settlement unless the municipality has some other good defence.

Tenant's Covenant to Pay Taxes—Time for Filing Resignations by Candidates.

31.—SUBSCRIBER.—1. The trustees of S. S. No. A, during the summer holidays expended about \$300 in repairing, painting and putting new seats in school house, consequently the school rate in said section was more than double of what it usually was other years. Do tenants, under the ordinary form of lease which binds them to pay taxes, have to pay this extra tax?

2. In month of April the school house in section B was destroyed by fire, the same being insured for about \$1,000. The trustees went to work and built a new school which cost about \$1,500. The ratepayers decided to pay off this extra \$500 in two years and the trustees raised the money by note. Do tenants have to pay this extra tax?

3. Municipal nominations being on Dec. 31st this year, is the following day (New Year's) a public holiday, if so will any candidates who wish to resign have till twelve o'clock noon of Wednesday, Jan 2nd to do so?

1. By the Act respecting short forms of leases (R. S. O., 1897, chap. 125,) schedule B, the covenant "to pay taxes" is defined to mean "and also will pay all taxes, rates, duties and assessments whatsoever, whether municipal, parliamentary or otherwise, now charged or hereafter to be charged, upon the said demised premises, or upon the said lessor or on account thereof, except municipal taxes for local improvements or works, assessed upon the property thereby." Therefore, we are of opinion that the tenants are liable for the extra tax.

2. Yes, for the same reason as above.

3. Yes. Sub-section 2, of section 129, of The Municipal Act, provides that "at the nomination meeting, or at any time before nine o'clock, p. m., on the following day, or when such last-named day is a public holiday, then before twelve o'clock noon of the succeeding day, any persons proposed for one or more offices, may resign, etc."

Council Cannot Remit These Taxes—Time for Petition to Court of Revision Under Section 74, Assessment Act.

32.—W. P.—1. A ratepayer owns a saw mill, which the assessor assessed. The council have, for several years past, on the application of the owner and to encourage the industry, reduced the assessment. This year no application was made to the council for a reduction of assessment, consequently taxes were levied on the full amount. The owner of the mill now applies for a remission of taxes. Can the council lawfully remit them or any part thereof?

2. Also give us your interpretation of the sentence of section 67, page 772, Municipal Manual, 1889, "The court shall also before or after the 1st day of July." How long before or how long after?

1. We are of opinion that the council has no right to remit these taxes or any portion of them, unless the circumstances are such as to bring the case within the provisions of section 74 of the Assessment

Act, sub-section 1, that is, "That the tenement assessed remained vacant for three months in the year for which the assessment was made, or the person petitioning declares himself, from sickness or extreme poverty unable to pay the taxes or who, by reason of any gross and manifest error in the roll as finally passed by the court, has been overcharged more than 25% on the sum he ought to be charged.

2. Section 67 of R. S. O., 1897, now section 74 of R. S. O., 1897, provides, "The court shall also before or after the 1st day of July, and with or without notice, receive and decide upon the petition from any person assessed for a tenement which has remained vacant during more than three months in the year for which the assessment has been made, etc." Under this section we are of the opinion that a person who can show that his premises have remained vacant for any three months of the year, has the right to petition the court for a reduction of taxes. We cannot see why a person who can show that his premises were vacant during the last three months of the year has not as good a right to petition the court as the man whose premises were vacant the last three months but one of the year.

Farmers' Sons' Statute Labor.

33.—C. W.—Under question 423 (November) you say that farmers' sons, who are assessed jointly with their fathers, are not chargeable with statute labor. According to the Assessment Act, section 14, all farmers' sons may be assessed and rated as joint owners. Will you kindly state what farmers' sons (if any) can be charged with statute labor?

If a farmer's son is not rated and assessed as a joint owner, as provided in section 14 of the Assessment Act, but is assessed simply as a farmer's son, that is, if his name is on the roll separately with the letters "F. S." and "M. F." placed after it in column 4 of the roll, he is liable to perform one day's statute labor. See section 106 of the Assessment Act.

Time for Filing Resignation of Candidates for County Councillor, 1900.

34.—E. H.—Will you kindly let me know your opinion as to when the time for receiving resignations of those nominated for the office of county council, expires. In reading sections 129 and 135, of the Municipal Act, there seems to be a difference which I cannot reconcile.

We are of opinion that the candidates nominated for the office of county councillor on Monday, the 24th of December, have until twelve o'clock on the following Wednesday night to file resignations. Sub-section 17, of section 8, of chap. 1, (R. S. O., 1887,) provides that "If the time limited by any act for any proceedings, or for the doing of anything under its provisions, expires or falls upon a holiday, the time so limited shall extend to, and such thing may be done on the day next following, which is not a holiday." Sub-section 16 provides that the term "holiday," when used in the act, shall include Christmas Day. The amendment made by section 10, of The Municipal Amendment

Act, 1899, (chap. 28,) to section 129, does not apply to section 135. The legislature seems to have gone further than was necessary, in providing in section 129 that, if the day after nomination day is a holiday, the resignations could be filed at any time before twelve o'clock noon, on the following day, unless the intention was to limit the operation of the above section of chap. 1 to twelve o'clock, noon, instead of MIDNIGHT of such following day.

Ballot in Towns of Less Than 5,000—Which Candidates for Alderman Should be Declared Elected.

35.—T. J. T.—Referring to chapter 23, section 71a, sub-section 1, 61 Victoria, reads: "The council of every town, etc., shall be elected by a general vote." Is this clause effected by amendments chapter 26, section 140 and 158 (page 99, 62 Victoria)? I am a little in doubt how to prepare my ballot-papers for the coming municipal election and I am mailing per this post a copy of our voters' list and will thank you for information such as will assure me that I am proceeding in right lines. To put the matter in another form, do the names of all the candidates for the council appear on one ballot and after summing up the votes in the three wards or sub-divisions into which our town is divided, the six persons having the largest number of votes are the successful candidates?

Your town being one having less than five thousand inhabitants, the councillors will be elected by general vote. See section 71a of the Municipal Act, added to the Act by section 2 of the Municipal Amendment Act, 1898. By sub-section 2, of section 140, as re enacted by section 11, of the Municipal Amendment Act, 1899, in cases of towns in which the aldermen or councillors are elected by general vote, one kind or set of ballots shall be prepared for all the wards or polling sub-divisions, containing the names of all the candidates for mayor and the names of the candidates for aldermen or councillors, as the case may be. This sub-section applies to your town, the six aldermen or councillors, as the case may be, who obtain the highest number of votes throughout the whole town are the candidates who should ultimately be declared elected.

Last Day for the Payment of Taxes to Avoid Percentage Falling on Sunday.

36.—A. R.—Our council passed a by-law a few years ago, charging two per cent. on all taxes not paid on or before the 16th day of December, in any year. This year the 16th of December is on Sunday. If the taxes are paid on Monday the 17th, can the taxpayer be made to pay the two per cent.

Yes. Sub-section 17 of section 8, chapter 1, R. S. O., 1897, provides, "If the time limited by an Act for any proceeding or for the doing of anything under its provisions, expires or falls upon a holiday, the time so limited shall extend to, and such thing may be done on the day next following which is not a holiday." This provision does not, however, apply to this case because it is the by-law itself and not any Act of the legislature which fixes the final day for the payment of the taxes so as to escape the penalty of two per cent. imposed.

Voting in Town in More Wards Than One.

37. W. C. M.—Would you kindly tell me whether a voter owning property in several wards, in a town (when the voting is not done by wards but a general vote) can vote twice or more for a councillor? They cannot do so for mayor or reeve but am not sure as to councillors.

The voter can vote for councillors in each ward in which he possesses the necessary qualification Section 158 of the Municipal Act, as re-enacted by sec. 13 of the Municipal Amendment Act, 1899, as amended by section 6 of the Municipal Amendment Act, 1900, provides as follows: "In towns and cities in which the councillors or aldermen are elected by wards, or in two divisions or by a general vote, every elector may vote in each ward in which he has been rated for the necessary property qualification for councillors or aldermen, but the elector shall be limited to one vote for mayor of a city or town." This legislation is incomplete as it does not make provision for any change in the form of ballot or oath given in the Act.

Voting for Township Councillor in More Wards Than One.

38.—ENQUIRER.—Can parties, who own property in various wards, in the same municipality, vote for township councillor in each of such wards? Or if not, please give reference to amendment.

The law now is that township councillors are elected by general vote. See section 73, chapter 223 R. S. O., 1897. The legislature has not abolished wards in townships and therefore an elector is entitled to vote for councillors in every ward in which he is qualified as a voter. See section 159 of the Act.

Time for Filing Resignations.

39. F. J. C.—Next Monday is nomination day. Now if more candidates are nominated than are necessary what time can resignations be received or can resignations be accepted after 9 o'clock p. m. or on New Year's Day or must resignations be accepted until 12 o'clock noon on the day after New Year's or the 2nd day of January? See section 129, Municipal Act, as amended by section 10, on page 99, statutes of 1899.

The day following nomination day this year, is a public holiday, namely, New Year's Day—therefore resignations of candidates nominated on Monday the 31st December, 1900, can be received until 12 o'clock noon, on Wednesday the 2nd January, 1901.

Time for Filing Resignations.

40.—C. H. S.—In looking over the last issue of your valuable paper I find an article stating that all resignations must be made before 9 o'clock p. m., the day following the nomination. In looking over the statutes I cannot find any time specified. Sections 129 and 135, says simply the following day. Would not that mean 12 o'clock p. m. Kindly refer me to your authority for stating 9 o'clock.

Section 10, of The Municipal Amendment Act, 1899, provides that "sub-section 2, of section 129, of the said Act, is amended by inserting after the word "or," in the first line the words "at any time before nine o'clock, p. m." It will be observed that the amendment does not

apply to section 135. So candidates for county councillors have until twelve o'clock midnight on the day following nomination day within which to file resignations, or if such day following be a holiday, as it was this year, then until twelve o'clock midnight of the next subsequent day.

Time and Mode of Appointment of Officers of Municipal Corporations.

41. M. R.—1. Can the incorporated villages appoint their officers at first meeting in January? If not, why not?

2. Can officers be appointed by resolution instead of by-law?

1. Yes.

2. No. A by-law of the council should be passed appointing all officers.

Railway Crossing—Exemption of, and Taxes on Agricultural Hall—Motion Legal.

42.—D. C. M.—1. A's and B's lot is on sideroad. Over half of their lots is swamp and they cannot make a road out to concession without considerable expense. Council gives A and B permission to perform statute labor, for the last three years on sideroad. In winter A and B can travel the sideroad, but when they come to the next concession the railway company has filling fifteen feet high and a wire fence across the sideroad. Council notified railway company to put a crossing on the railway, so as to give A and B a road to go into his place. Railway Co. refuses to comply with the township's demand, saying that the law does not compel them to put a crossing on every sideroad. What government has control of this railway, (C. A. R.), the Dominion or Provincial?

2. What is the proper way to compel them to let A and B out?

3. We have an agricultural hall and show grounds. We get aid from the government. One of the directors holds a mortgage on property. The directors rent hall every chance they get and it is often occupied. Can they claim exemption from taxation?

4. Are they entitled to taxes paid in the past?

5. A files a bill for overpaid taxes with clerk for \$40. A owes \$20 which was paid him five years ago by a ratepayer, when A was treasurer of township, but A failed to charge himself with the \$40 as treasurer. A is not treasurer now but refuses to pay council the \$20. Three of the council voted to pay A's claim in full and then sue him for township claim. Reeve and one councillor objected to pay A in full but to hand him the difference after deducting township claim (\$20) from the \$40. Reeve objected to sign motion. One councillor moved that the reeve vacate the chair. Had the reeve any right to leave chair? 6. Is the motion legal that was voted by the three councillors with the reeve's signature?

1. The Dominion government.

2. The matter should be laid before the Dominion Railway Commission for settlement by them.

3. Yes. See sub-section 11 of section 72, the Assessment Act.

4. No. Unless the payment was involuntary and made under protest.

5. The reeve should vacate the chair if requested by the majority of the council to do so.

6. Yes. See sec. 269 of the Municipal Act.

Council Should Authorize Payment—Railway Crossing—Clerk's Duties.

43.—P. B. J.—1. Should any of the following motions be again endorsed by council before payment is made by treasurer?

(a) To John Smith,

Sir,—You are empowered by by-law No. 5, of Victoria township council, to expend \$50 in grading road at lot 7, con. 7 of said township.

JOHN BROWN, Clerk.

(b) To John Smith,

Sir,—You are instructed, by motion of council, to expend \$50 in grading road at lot 7, con. 7, payment made when taxes are collected.

(c) Moved by John Smith and seconded by T. Brown, that James White, councillor, be commissioner to expend the sum of \$50 on con. 7, lot 7.—Carried.

2. A railway passing through a township crosses a concession line that is not open for traffic by the township and no crossing is put in by the railway company. The time comes when the township wished to use the concession. What steps are needed to be taken to procure the crossing, supposing the railway company demurs and asks township to first grade up to level of their right of way on each side of concession 8 when township can only grade one side till the railroad company makes crossing? Can township compel railway to go on and make crossing as it was the company who blocked the township's roadway?

3. Part of a township's school section is an incorporated village section. The village clerk asks the township clerk every year to supply him with names of those in the union S. S. that are qualified to vote in the village election of school trustees also his certificate as to correctness of said list. What remuneration, if any can the township clerk collect for said service?

1. The council should pass a resolution after it is satisfied that the money has been expended as intended, authorizing the treasurer to pay the money to the person entitled to receive it.

2. If the railway is one under the jurisdiction of the Dominion Parliament they should apply to the Railway Committee for an order directing the railway company to do what is proper in regard to the crossing. The council should, however, apply to the proper officer of the railway company first, because the railway company may be quite willing to do its duty without any application to the Railway Committee.

3. There does not appear to be any provision in the School Act, making it the duty of the clerk, to supply a list of the electors in the township who are entitled to vote at the school election. The board of trustees must procure the information itself and have the list made out for the purpose of the election.

D. R. O. Should not Refuse Vote.

44.—CLERK.—Would a D. R. O. be justified in refusing to furnish a ballot paper to a person knowing that the said voter has a vote in another municipality, within the same county council division, that is when coming from said municipality to cast his vote in the one that he is not a resident of?

No. If a person who tenders his vote appears, according to the voters' list, entitled to vote, the deputy returning officer should give a ballot. He incurs great risk if he refuses to give him a ballot. Deputy returning officers should not assume to decide the question of the voter's right to vote by reason of any knowledge which they may think they possess but which does not appear on the list.