

THE
MUNICIPAL WORLD

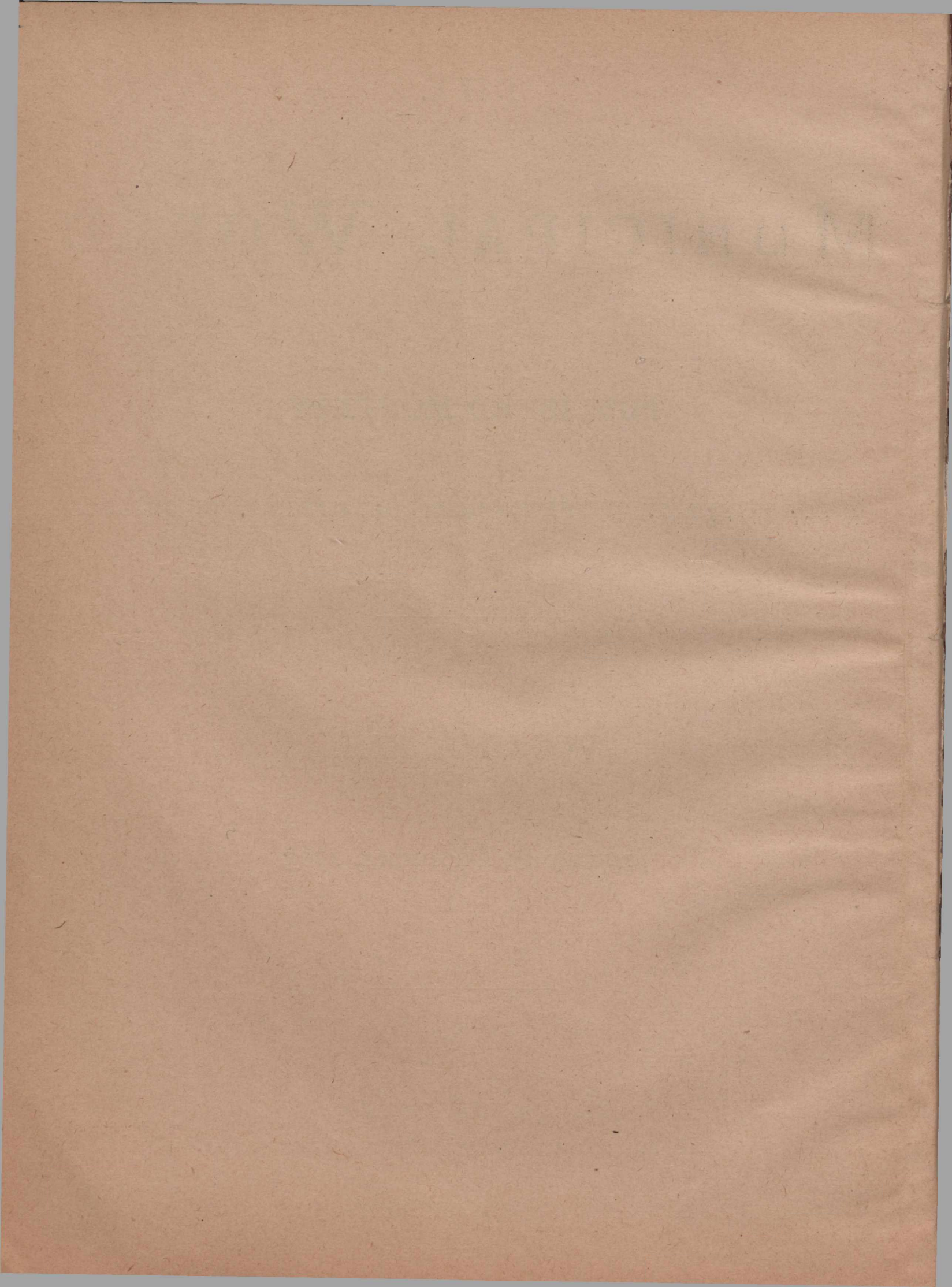
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Calendar for January and February, 1903.

- 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 81, (2).
Trustees' Annual Report to Inspectors due.
By-Law establishing Township Boards take effect.
Separation of Junior Township takes effect.
5. High Schools open, second term.—H. S. Act, Section 45.
Public and Separate Schools open.—P. S. Act, Sec. 96, (1, 2); S. S. Act, Sec. 81, (1, 2).
Trustees' Report on Truancy due.
Make return of deaths by contagious diseases registered during December.—R. S. O., Chapter 44, Section 11.
Election Day.
7. Treasurer and Register of Deeds, making payments to other municipalities, to send detailed statements to head of same.—61 V., Chapter 23, Section 11.
Polling day for Trustees in Public and Separate Schools—P. S. Act, Section 60 (3), S. S. Act, Section 31 (3).
Annual Meeting of Township Agricultural Societies, at 1 p. m.
First meeting of Rural School Trustees.—P. S. Act Section 17, (1).
12. Councils of Townships, Villages, Towns and Cities to hold their first meeting at eleven o'clock, a. m.—Municipal Act, Section 259.
Councils to appoint members of Local Boards of Health.—Public Health Act, Section 49.
14. Names and addresses of Separate School Trustees and Teachers to be sent to Department.
Names and addresses of Public School Trustees and Teachers to be sent to Township Clerk and Inspector.—P. S. Act, Section 19 (3).
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.
Clerk of municipality to be notified by Separate School supporters of their withdrawal, S. S. Act, Section 47 (1).
15. Annual Report of Separate Schools to Department due.—S. S. Act, S. 28 (18), S. 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., Chapter 44, Section 11.
Last day for Treasurers of Municipalities indebted under Municipal Loan Fund Act, to make returns of Taxable Property, Debts and Liabilities, to Provincial Treasurer.
19. By-Law withdrawing from Union Health District takes effect. R. S. O., c. 248, s. 50.
Trustees of Police Villages to hold their meeting at noon.—Municipal Act, Section 737., R. S. O., Chapter 223.
21. First meeting of Public School Trustees in Cities, Towns and Incorporated Villages.—P. S. Act, Section 64, (1).
27. County Councils to hold first meeting, at 2 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 13.
Annual meeting District Agricultural Society, at 1 p. m.
31. Last day for all councils to make returns to Bureau of Industries, of the debts 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 rolls and pay over proceeds.—Assessment Act, Section 144.
Last day for County Treasurer to furnish Clerks of Local Municipalities statement of Lands in arrears for taxes for three years.—Assessment Act, Section 152.
4. First meeting of Board of Education, at 7 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 Schools Act, Section 15.

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The Municipal World

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K. W. MCKAY, EDITOR,

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

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THE MUNICIPAL WORLD,

No. 1. Vol. XIII. Whole Number CXLV.

During 1902 the MUNICIPAL WORLD subscription list, the largest in the history of the paper, contained the names of over two-thirds of the municipal councillors and officers of Ontario. The question drawer occupied 300 columns and contained answers to 1080 questions in reference to municipal law. There was also a large increase in the number of private questions which are not published. Subscribers have found the question drawer to be a convenient and reliable independent source from which to obtain legal and other information in reference to their duties.

Co-operation on the part of municipal officers generally with the WORLD and its supply department has, in the past, done much to improve the Municipal Government of Ontario.

Subscription orders are usually for the whole council and its officers at the expense of the corporation.

The expense is trifling when compared with the possible benefits to be derived from the special privileges extended to subscribers.

The MUNICIPAL WORLD should be in the hands of every councillor and official interested in the good government of his municipality.

The electors of the town of Overton and recently carried by large majorities laws to provide for the election of judges and plants; and to provide for the construction of a water works and grant free water to the industry.

Municipal Bank Accounts.

The recent failures of private banks in which municipal funds were on deposit directs attention to an important matter that councils are apt to overlook. The Municipal Act, section 29, sub-section five enacts that

“The treasurer shall open an account in the name of the municipality, in such of the chartered banks of Canada or at such other place of deposit as may be approved of by the council and shall deposit to the credit of such account all monies received by him.

The Act to make better provision for keeping and auditing municipal and school accounts, chapter 228, R. S. O. section 19 enacts that

“The council of any municipality may by by-law direct that moneys payable to the municipality for taxes or rates and upon such other account as may be mentioned in the by-law shall be by the person charged with the payment thereof paid into a chartered bank having an office in the municipality.”

The council of any municipality may by by-law direct that moneys of the municipality deposited in a chartered bank or elsewhere to the credit of the municipal corporation shall be withdrawn therefrom only upon the cheque of the treasurer countersigned by the head of the municipality or such other person or official as may be named in the by-law.

This Legislation is sufficient to provide for the safety of municipal moneys. Councils should not neglect to consider the question, of which a former council may have been negligent. Managers of private banks are generally influential citizens but they should not be allowed to control the council in deciding where or how the bank account shall be kept.

The monies belonging to every municipal corporation should be kept in two bank accounts: One in the name of the municipality, all cheques thereon to be signed by the head of the council and the treasurer.

The collector should be required by by-law to pay all taxes to the credit of this account. County councils may require the treasurers of local municipalities to pay the county rates to a bank.

The other account should be opened in the name of the treasurer of the municipality.

The head of the council would then require to issue his cheque to the treasurer for monies required to pay accounts passed and other liabilities, and he would at all times be better acquainted with the financial position of the corporation.

When two accounts are kept in this way, the security of the treasurer need not be as large, as it is considered to be a safeguard against the use of corporation monies by the treasurer.

Municipal treasurers should be required to pay all monies by bank cheque, and arrangements should be made with the bank so that the cheques will be payable at par wherever presented. Private banks are often more convenient and the treasurer's account may be kept in one of these

when authorized by resolution. The principal corporation account to be kept only with a chartered bank. No treasurer in Ontario receives sufficient remuneration to pay him for the risk connected with receiving monies from collectors or paying orders by cash. The bank account should show every receipt and payment by the treasurer.

Unauthorized Submission of Plebiscite.

The judgment of Mr. Justice Britton in the recent case of King vs. City of Toronto is in accordance with the opinion on the point at issue, frequently expressed in these columns. Particularly in reference to the submission of statute labor by-laws to the electors of a municipality. The defendants purposed submitting to the electors the question of whether they favored the city contributing \$50,000 towards the erection of a consumptive sanitarium.

The injunction which was applied for by Mr. J. H. King, and which was granted temporarily, is continued by the judgment, and the city must pay the costs of the action.

The vote, the court says, to be of any value, would depend upon many other questions, as to locality, size, and cost, etc., and as to the practice of submitting questions to a vote of the ratepayers, the language of Mr Justice Osler in Darby vs. Toronto is quoted.

The latter, in speaking of taking a vote even upon questions wholly in the power of the council to deal with says:

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 his judgment Mr. Justice Britton says that there is nothing in the Municipal Act permitting the council to take a plebiscite, and there is no express prohibition against their doing so. The practice has obtained, and, in many cases, without objection.

“In this case,” said Mr. Justice Britton, “if I could see that any advantage to the citizens at large could possibly accrue from such answers as the electors may choose to give, I would be slow to interfere at this stage. I continue the injunction. If the plaintiff does not ask anything more than injunction, this may be considered as motion for judgment, and there will be judgment for plaintiff for injunction, with costs.”

Mr. T. R. Maybery has been appointed clerk of the Township of West Oxford, in the place of Mr. W. G. Francis, resigned.

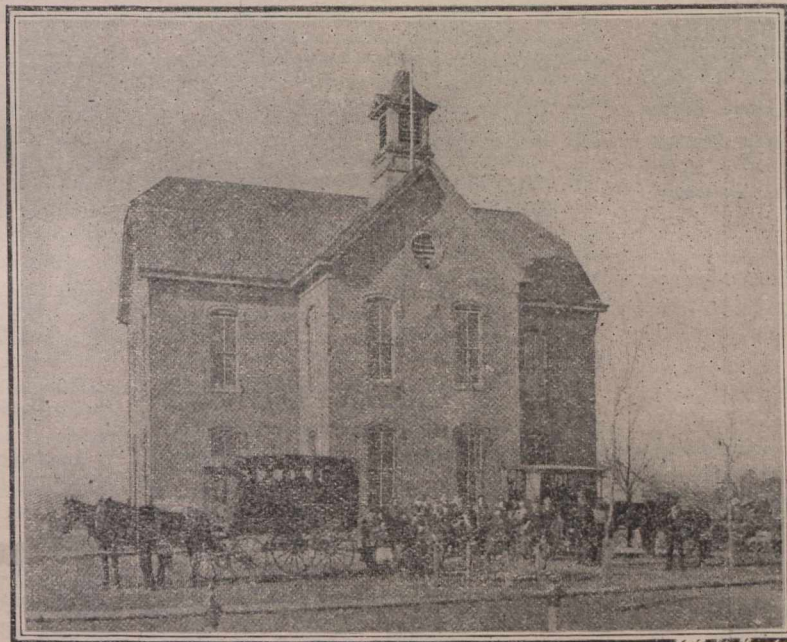
At a recent meeting of the Council of the Village of Woodbridge, Mr. T. A. Agar was appointed clerk, in the place of Mr. John McClure, who had resigned.

Free Voting.

A system of voting that has brought about good results wherever introduced in municipal elections is that known as "cumulative" or "free voting," which respects the freedom and independence of the voter. The election of county councillors is conducted according to this system. The two candidates who receive the most votes are elected, even though one of them by reason of the other being much the more popular, has very few votes. A small number of votes does not seem to be material except in a salutary way by intending to dissuade unworthy men pushing for nomination. Free voting has much in common with what has been designated proportional representation, minority representation and personal representation. It has nevertheless distinctive principles and objects of its own which are less theoretical, more readily understood and can be more easily carried into effect than the methods and purposes included under either of those designations. When the fundamental principle of free voting is understood it will be found to include all that is most desirable. The paramount and distinctive principles of free voting cannot be too much emphasized. It gives the voter a real freedom to vote according to his judgment and sense of duty and (2) it enables him, when several candidates are to be voted for at the same time, to concentrate all his votes upon one or more of them as he chooses. The law cannot tell a citizen whom to vote for. It can only give him real freedom of choice in bestowing his vote.

In free voting the minority can be represented to the extent due to its numbers. The greater the number of officials to be elected at the same time, the more complete will be minority representation. A small proportion of the voters may elect men who truly represent them and they may continue to reelect them thus causing great non partisan interests to be effectively represented. Another advantage of free voting, though by no means apparent at first, is yet important. It would enable men of superior education and ability to make themselves increasingly effective. Free voting will lead the people generally to take more interest in public affairs by dividing them more equally and facilitating discussions. If universally adopted in municipal elections it would result in better municipal government. The system is in operation in some of the United States and in England and Scotland for election of members of the school boards, with the

result that wherever in operation, party politics seem to have been so little regarded that the political opinions of the elected members are not even mentioned in the accounts we have seen. In municipalities, where the political opinions of candidates are considered, the dominant party controls the election of members of the council and the same influence is brought to bear in the appointment of officials. This often results in leaving the minority, which may have the largest interest in municipal expenditures and taxation, entirely unrepresented. No one can reasonably oppose Legislation which will give to all parties as well as to all citizens that proportion of the offices, which is due to the number and intelligence of its municipal adherents. This system of election is bound to be introduced sooner or later in Ontario and we commend it to all who may be desirous of promoting a more equitable representation in municipal councils.



A CONSOLIDATED SCHOOL, SHOWING WAGONS FOR TRANSPORTING PUPILS.

Consolidated Schools.

The amendments to the School Act passed by the Legislature at the last session authorize trustees to pay for the conveyance of pupils from a rural school section to a school in any adjoining municipality, and provide for the consolidation of sections for the purpose of establishing a Central School, all of the sections to continue to be represented on the joint Board of Trustees, which, in addition to the ordinary powers of trustees, will have authority to pay for the conveyance of pupils to the school.

These amendments refer to a most important movement that is calculated to improve the Public School system of America. It is already well established in some of the United States. Sir William Macdonald, of Montreal, will introduce the system in Canada by establishing a Consolidated School in each of the

Provinces, in which nature study and manual training will be features of the instruction. Professor Robertson, Dominion Commissioner of Agriculture and Dairying, accompanied by other educationalists, has recently investigated the workings of the system in the United States, and sums up some of the advantages afforded by the consolidation of rural schools and the free transportation of pupils as follows:

1. It results in the attendance of a larger number of the children in the locality, particularly of those under the age of eight years and of those over fifteen years.

2. It brings about a more regular attendance of pupils of all grades of advancement.

3. It insures the engagement and retention of some teachers of higher qualifications and longer experience in rural schools.

4. It creates conditions for a proper classification of pupils and for such a grading of the schools as permits the pupils to be placed where they can work to the best advantage for their own improvement.

5. It permits the timetable to be so arranged that teachers can give each class and every dire t help and supervision.

6. It provides the beneficial influences of fairly large classes of pupils of about equal advancement (a) by more companionship; (b) by friendly rivalries to excel; (c) by children learning from each other, and (d) co-operating under careful discipline, and (e) by class enthusiasms.

7. It makes it convenient for boys and girls in rural districts to obtain a High School education without leaving home.

8. It leads to the erection of better school buildings and more satisfactory equipment in all the requisites of a good school.

9. It makes it practicable for rural schools to enrich their courses for all pupils by nature study, manual training, and household science, as well as by better music, and for advanced pupils by instruction in agriculture, horticulture and allied subjects.

10. It stimulates public interest in the schools and brings to the pupils of a township an institution in which all can have an equal interest and a worthy pride.

11. It may lead to an improvement of the public roads in the country parts.

12. It would facilitate the rural free delivery of the mail.

Contracts for the construction of water-works and sewerage systems in Hawkesbury have been awarded.

Municipal Legislation.



The British North America Act provides that in each Province the Legislature may exclusively make laws in relation to municipal institutions in the Province. In Ontario municipal law is the result of a gradual development that can be traced from the parish and Town Officers' Act of 1793 to the District Councils' Act of 1841 and the Baldwin Municipal Act of 1849, which gave us municipal government in the general form that we have to-day.

The revised statutes of Ontario 1897 contain a complete consolidation of the general laws of the Province. Those referring to municipal matters, in whole or in part, are as follows :

- Chap. 3 Territorial Division of Ontario for Municipal and Judicial Purposes.
- " 4 Provisional County of Haliburton.
- " 5 Establishment of Provisional Counties in Muskoka and Parry Sound.
- " 7 Voters' Lists.
- " 40 Municipal Drainage Aid.
- " 41 Aiding Tile, Stone and Timber Drainage.
- " 44 Registration of Births, Marriages and Deaths.
- " 61 Jurors and Juries.
- " 65 Lunatics.
- " 87 Police Magistrates.
- " 102 Payment of Criminal Justice Accounts by Counties.
- " 180 Surveyors.
- " 193 Road Companies.
- " 199 Companies for supplying cities, towns and villages with gas and water.
- " 201 Companies for Steam and Heating or for supplying Electricity or Natural Gas for Light, Heat or Power.
- " 208 Street Railways.
- " 209 Electric Railways.
- " 223 The Municipal Act.
- " 224 The Assessment Act.
- " 225 Municipal Institutions in Territorial Districts.
- " 226 Municipal Drainage
- " 227 Municipal Arbitrations.
- " 228 Municipal and School Accounts.
- " 229 Provincial Municipal Auditors.
- " 230 Calling and holding of Public Meetings.
- " 231 Exemption of Firemen from Certain Services.
- " 232 Public Libraries.
- " 233 Public Parks in Municipalities.
- " 234 Power of Cities, Towns and Villages to provide gas and other means of Lighting and heating.
- " 235 Construction of Waterworks by Municipalities.
- " 236 Traveling on highways and bridges.
- " 237 Double tracks in Snow Roads.
- " 238 Exemptions from Toll.
- " 239 Purchase of Toll Roads by Municipalities.
- " 240 Snow Fences.
- " 241 Crossing of Railways by Streets, Drains and Water Mains

- Chap. 242 Use of Traction Engines on Highways.
- " 243 Planting Trees on Highways.
- " 244 Travelling Shows, Circuses and other Exhibitions.
- " 245 Licensing the Sale of Fermented or Spirituous Liquors.
- " 248 Public Health.
- " 249 Vaccination and Inoculation.
- " 250 Slaughtering of Cattle, Inspection of Meat and Milk Supplies of Cities and Towns.
- " 251 Prevention of fraud in the manufacture of Cheese and Butter.
- " 252 Prevention of fraud in the Sale of Milk.
- " 253 Prevention of fraud in the Sale of Fruit.
- " 259 Protection and Reformation of Neglected Children.
- " 263 Regulation of Egress from Public Buildings.
- " 271 Protection of Sheep and Tax on Dogs.
- " 272 Pounds and Pound Keepers.
- " 273 Contagious Diseases among Horses and other animals.
- " 276 Filling up Abandoned Oil Wells.
- " 279 Preventing the Spread of Noxious Weeds and of Diseases affecting Fruit Trees.
- " 280 Yellowed and Black Knot in Fruit Trees.
- " 284 Line Fences.
- " 285 Ditches and Watercourses.
- " 286 Ditches and Watercourses on Railway Lands.
- " 292 Public Schools.
- " 293 High Schools and Collegiate Institutes.
- " 294 Separate Schools.
- " 296 Truancy and Compulsory School Attendance.

Notwithstanding these numerous statutes and the care with which they were enacted, every session of the Legislature results in some new development calculated to improve a system of local government, said to be "the best in the world".

SPECIAL LEGISLATION.

Municipal corporations are administrative bodies deriving their authority from the Legislature. They cannot do any act or make any contract or incur any liability not authorized thereby or by some Legislative Act applicable thereto. The necessary result of such a rule of law with the accompanying strict construction which is usual, is that municipalities often apply to the Legislature for an increase of power which it is desired to exercise. These applications are brought before the Legislature in the form of Private Bills and during the past five years, 182 have been passed. They relate to almost every phase of *municipal progress and mismanagement*.

Most of the Special Legislation is to extend the borrowing power of municipalities. During the past five years, debentures, aggregating nearly Six Millions of Dollars, were authorized, being for :

Bonus to Railways	\$ 12,000
Bonus to Industries	1,332,500
Public Improvements and Utilities	3,013,638
Sinking Fund Deficiencies	89,513
Other Purposes	1,350,561

A reference to the statutes is necessary to ascertain full particulars of Special Legislation enacted. The following list will enable our reader to form some idea of the subjects dealt with :

- Consolidate Debt.
- Limit Borrowing Powers.
- Confirm Agreements, fixing location of Railways and Industries.
- Exempt from Taxation.
- Joint Municipal Ownership.
- Fix Assessment for term of years.
- Confirm and legalize By-laws.
- Authorize development of Electric Energy for various purposes.
- Vary Provisions of Local Improvement Sections of Municipal Act.
- Adjust School Rates.
- Commute Taxes.
- Fix School Taxes.
- Declare Council eligible for Election where sinking fund not provided.
- Reduce area of towns.
- Provide for Maintenance of Boundary Lines.
- Authorize Joint Maintenance of Bridges, not within general Act.
- Provide for Special Waterworks Management and Regulations.
- Authorize Municipality to take stock in Water or Power or Industrial Company.
- Establish a travelled road not on original allowance.
- Confirm Local Improvement By-laws and Assessments.
- Confirm Debenture By-laws.
- Extend time for Debenture payments by new issue.
- Confirm Assessment Roll.
- Incorporate Village with larger territory than general Act allows.
- Incorporate Cities with such special provisions as local conditions seem to require.
- Authorize Sale of Land.
- Authorize appointment of Assessment Commissioner and of one person as Treasurer and Collector.
- Authorize Council to prescribe duties of Assessor, and Collector.
- Authorize Council to guarantee mortgages in which sinking fund invested.
- Confirm Drainage By-laws and Assessments.
- Change name of Corporation.
- Determine proportion of debt on division of townships.
- Correct errors in returns for arrears of taxes and validate tax sales and all proceedings precedent thereto.
- To authorize Protestant Separate School Board to mortgage premises to secure loan.
- Dissolve Union School Sections and confirm award of Arbitrators.
- Make special provision re Collector's notice.
- Provide for Hospital Management.
- Confirm Irregular Procedure for collecting taxes.
- Consolidate Floating Debts.
- Authorize guarantee of electric railway and industrial bonds.
- Authorize purchase Drill Shed Site.

Authorize Sunday Cars.

Authorize Mortgage loan in lieu of bonus.

To Incorporate Summer Resort Village with special provision as to elections, officers, etc.

Fix rate of assessment and taxation of farm property in towns or villages.

Special Legislation in the interests of large cities may also be found in the general Acts, being framed so as to apply in future to other corporations, which may by the growth of population come within their application.

In the Legislature all municipal Bills are referred to a Committee, appointed at the beginning of each Session. This is always very large and at last Session consisted of seventy-three members, practically the Whole House, with the Hon. E. J. Davis, Commissioner of Crown Lands as Chairman. This Committee is assisted by a Clerk who is always a Lawyer. Members urge the passing of the Bills they have introduced and municipalities interested are usually represented by some members or officers of the Council.

A Bill may be dealt with very quickly or it may be opposed and discussed for days. It is not surprising that some Acts appear to have been passed without the careful consideration that should attend Legislative control. Members of the Legislature are not municipal experts nor have they time for the consideration of the details of all Legislation proposed.

CENTRAL CONTROL.

It is necessary that there should be some control of municipal corporations although opinions differ as to how it should be exercised. The Legislature recognizing the necessity for a change has been gradually introducing a better system of supervision and control over some branches of local government, which has proved most beneficial.

The *Provincial Board of Health*, established in 1881, is a central administrative authority, composed of experts having power:

1. To supervise the health boards of the Province.
2. To appoint health officers.
3. To issue regulations, subject to approval of the Lieutenant Governor-in-Council, for the prevention of disease, which, after publication in the Gazette have the same effect as if enacted by the Legislature.
4. To institute proceedings for the abatement of a nuisance when the local board refuses or neglects to act.
5. To approve of all plans for the establishment of water supply or sewage systems before they can be lawfully adopted by the councils of cities, towns or villages.

The *Provincial Municipal Auditor* is an administrative officer, having the general supervision of books and accounts of the municipal and school corporations of the Province, with power to frame rules respecting the manner in which the accounts of municipalities shall be kept

and audited, and the number and form of books of account to be used. After publication in the Ontario Gazette, these rules have the same force as law.

The *Railway Committee of the Executive Council of Ontario*, composed of three members, with the Commissioner of Public Works as Chairman, has jurisdiction over Electric Railways and street railways, and authority to approve of municipal by-laws relating thereto. Any one may appeal to the committee against the provisions of an Electric Railway By-Law prejudicially affecting his property.

The report of the Provincial Assessment Commission includes a recommendation for the appointment of a Provincial Board of Assessment Commissioners to assess the lands of railway companies and companies using the highways and to report annually in reference to the manner in which the assessment laws are enforced. The suggestion recalls the State Boards of Equalization of the United States. The Commission also refers to the necessity for a Local Government Board as follows:

"Municipalities would seem to be already too inclined to undertake without adequate technical knowledge, local works and enterprises in the name of permanent improvements in the over-sanguine hope that increasing prosperity may cause the debts incurred for such enterprise to bear lightly on the taxpayer. Immediate liquidation of debts for matters not in the nature of permanent improvements should, at all events, be a rule in municipal administration, but it may be doubted whether that is a rule at all generally followed. On the contrary, it is to be feared, that the debenture debt of many municipalities, if examined, would be found to include sums which should not have been carried over to swell the tax of future years.

Some governmental supervision of contemplated permanent improvements might with public advantage be provided, (as under the Local Governments Acts in England) so as to require, as a condition precedent to the undertaking of such enterprises, the previous approval of a properly constituted Governmental Board."

All proposed municipal Legislation should be considered and reported by a Board of Experts, before it is finally enacted.

The system of central control should be further extended so as to safeguard the interests of the Province as a whole and preserve freedom of municipal action. The English method through the Local Government Board involves, notwithstanding the central administrative control, a larger measure of home rule than Ontario municipalities now enjoy. The result has been to reduce special Legislation to a minimum and increase enormously the efficiency of local government.

A MUNICIPAL GOVERNMENT BOARD.

To meet conditions existing in Ontario, we are in favor of the appointment of a Special Board composed of a representative from the Provincial Board of Health, The Provincial Municipal Auditor, The Provincial Instructor in Road Making, The Secretary of the Bureau of Industries and such other experts as may be necessary, with the Attorney General as Chair-

man. The administrative power of the Board to be defined by the Legislature, and such direction given as will make it largely educational and supervisory, with authority for inspection, advice and report in reference to false methods, frauds and maladministration of the general laws, and when officials are found to be incompetent or dishonest, to inform the removing authority. Additional powers might be conferred:

1. To regulate the borrowing powers of municipalities.
2. To approve of the plans for public works, street improvement, the location of street railways, etc.
3. To consider and report on all municipal bills, public and private, introduced in the Legislature.
4. To assist in determining municipal issues in accordance with municipal, not political considerations.

A local government board would tend:

1. To secure the efficient enforcement of municipal laws.
2. To furnish the public information regarding the performance of local functions in such comparative form that it would be of great service to local officials.
3. To stimulate local action and independence by giving experience of others, and enabling citizens to criticize local officials.
4. To guide by accurate and full information, public opinion on the various questions arising in connection with every branch of municipal government.

The Evil of Municipal Ownership.

The self respecting, self-dependent spirit should animate American workmen. This is the spirit which has made the American workman the best workman in the world, and has made American industry the most productive. Our national progress and our national prosperity have been built up on the principle of encouraging and giving free scope to individual effort, and minimizing the scope of government interference with individual effort or with the operation of natural economic laws. To increase the scope of government provision is to undermine our ancestral habit of self-reliance.

It is hard enough to maintain this spirit in our own native population. It is still harder to maintain it with the great influx of Continental and Eastern migrants, who are accustomed to a different point of view and to look to government as the "Good God" from whom all bounties should be received and expected. We must teach these foreigners, who come to us from a weaker civilization, to rely on their own strong arms as did the builders of this nation.—From an article by Robert W. DeForest, in current issue of *Municipal Affairs*.

An acetylene gas plant is under construction at North Bay.

The Duties of a Clerk to His Constituents.

Paper read by W. G. Francis, Clerk, West Oxford, at a meeting of the Oxford Municipal Officers Association, County of Oxford.

The duties of a clerk to his constituents as laid down by the statutes are in a measure somewhat vague. At the same time every turn of the Legislative machine adds additional duties.

If the council was asked to engage a clerk by by-law, to state in that by-law, what were his duties, I doubt very much if the most of councillors could formulate such a one.

My experience has been that councils do not acquaint themselves sufficiently with the duties of the office in order to know what the clerk has to do. That attending the meetings of the council, making out the voter's list, preparing the collector's roll and perhaps a few other little duties, is about all the clerk has to do. My experience and yours has told us that there are a great many things besides what I have mentioned. A clerk in order to be useful to the municipal council for which he works must needs be well up with his work, to keep himself well informed as to all changes or amendments to the statutes so that he may be in a position when required to inform the council who are not supplied with the statute books of any charge that has taken place. Further that as clerks often have to prepare by-laws without the aid of legal advice they must be acquainted with the laws in order to be able to do so. I think it is more than councils should expect that a layman should draw up all by-laws without some legal assistance, if he thinks it necessary. The statute grants power to councils to pass by-laws for certain purposes, such as (in townships) for drainage, governing and regulating stock running at large, public morals, height and description of lawful fences, and others too numerous to mention. It usually falls to the lot of the clerk to prepare these by-laws for which the councils do not pay any extra, except what the engineers allow for drainage by-laws, which is generally about what the work of preparing the by-laws is worth, not allowing anything for placing the tax upon the collector's roll for the number of years the debentures have to run or for preparing debentures. I think it the duty of the member who introduces a by-law, to prepare it, or if the duty is delegated to the clerk he should be paid for it. There is one matter about which I think the ratepayers do not use the clerk right. A good many of them think that the clerk is not only clerk of the council, but that he is theirs also, and in case of one ratepayer having a disagreement with his neighbor as to the proper kind of fence between their properties, or the cattle of one trespassing on the property of the other, or getting up of a petition for drainage or other purposes, the rate-

payer in nearly every case at once goes to the clerk to get things in shape that they may proceed legally, about the matter in complaint, oftentimes taking up as much as a half day or more, with the result that the clerk is requested to fill up all necessary forms for them. After such is done the said party sometimes says thank you, not giving the least thought to the fact that he has trespassed upon the time of the clerk for his private purposes. I think it the duty of every clerk after he accepts the position to do his work in a careful and accurate manner, especially in the preparation of the collector's roll, in order that the council may not be put to the trouble of passing resolutions to correct errors made therein. At the same time should such error occur it necessarily gives trouble to the party against whom the error occurs of having the same corrected, also giving the collector more or less annoyance. I have made it a rule to prove every page of the roll by the rate on the total of each, thereby making a recapitulation of the whole and can give up the roll to the collector with the satisfaction of knowing the same to be correct. The voters list is another matter that should receive careful preparation, I do not think there is any thing that will ruffle the temper of a ratepayer more than to go to the poll and find that his name has been omitted from the list, thereby depriving him of his vote. The copying of the assessment roll for the use of the public should not be a duty of the clerk.

A tabulated statement is all that is necessary for the use of the county council, that body only dealing with the totals of the assessment, the only parties benefited by the copy are money lenders and lawyers who wish to obtain the assessed value. I do not object to the work entailed but consider that as the roll is for the use of the public that the county council should make a grant and pay the clerk what it is worth and not the local municipalities.

The local Legislature is continually requesting information from the clerk or treasurer of the municipality to be furnished on forms supplied by the departments. I think it would be a good thing if the Legislature would also require a statement as to the amount of time that he has to give to the duties of his office and the remuneration. Of course I am aware that it is our own fault that we work so cheaply, as we are at liberty to quit when we chose to do so. One thing that keeps the salary of a clerk down is the fact that there are always some ready to take up the work no matter whether they are suitable for it or not, and this has its effect. The same may be said of any office in the gift of the electorate, but why cannot the Legislature protect the municipal clerk as it has the sheriff, registrar and others. There is something in the work that seems to make a man stick to it even when he knows it is not paying him to do so, perhaps it is the fact of his knowing that he keeps the other fellow out.

After the Election.

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 fourteen days from the time when the ballot-papers are received by the clerk. Sub-section 2 of section 189. In computing the fourteen 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 186. 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.

DISCLAIMER.

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. The 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 with the law.

Engineering Department

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

Concrete Culvert.

The accompanying cross-section of a concrete culvert shows a cheap but durable form of structure, suitable for certain locations, more especially where not much distortion by frost may be expected, and a firm base for the side walls can be obtained. The cost would range from \$3.50 to \$5 per lineal foot of culvert, according to the availability of gravel, amount of excavation and other details. Thus a 20-foot culvert would cost from \$70 to \$100, and a 30-foot culvert from \$105 to \$150. It can be adapted to any location where stone masonry walls with a flag-stone top could be used, and is a parallel case, in which artificial stone or concrete is used in place of natural stone.

In this type of culvert, the principal matter to guard against would be a break in the cover stone. There is no difficulty for short spans up to at least six feet in proportioning the thickness of this cover for any possible load to which the culvert would be subjected. The principal cause of failure would arise from the displacement of the side walls by frost, which might break the cover stone; or expansion from heat in summer might be another cause. Both of these difficulties would be overcome by having a complete separation between the cover stone and the side walls, so that the cover stone would be merely resting on them, and not united with them. This would permit a certain amount of play for the abutments, and would provide for contraction and expansion. The objection to this is that there will be a weight on the side walls from the embankment, and to have them united with the cover would counteract this pressure.

If the situation of the culvert and the nature of the soil is such that it appears advisable to have the cover and side walls united, this can be accomplished by laying the cover before the concrete on the top of the side walls has become set.

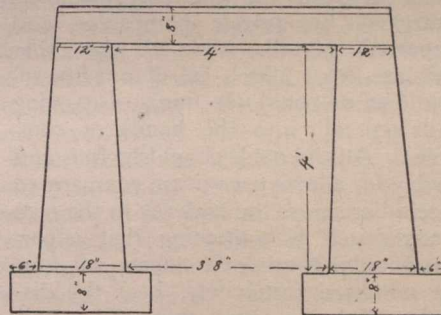
Care should in every case be taken to see that the side walls are carried to a sufficient depth to a secure foundation. The depth indicated on the drawing is sufficient only in favorable situations, where a layer of hardpan, firm gravel or rock is close to the surface. The greater the span the more necessity there is for a deep or solid foundation.

For culverts of greater span, say six or eight feet, the strength of the cover stone would be much increased by fastening iron bars length-ways with the tops of the walls, and to this attaching barbed wire, stretched back and forth across the culvert, and which should then be fully imbedded in concrete, as close as possible to the bottom of the cover stone.

It is better that a layer of earth six inches or more in depth should be over

the top of the cover stone. If this is impossible, and the top of the culvert must be level with the road surface, the cover stone should have a finishing coat rich in cement, in the proportions of one part of cement to two of sand. Otherwise a culvert of this description may be made throughout of Portland cement and gravel mixed in the proportions of one of cement to six parts of gravel. The following is a suggested specification for such a culvert, which should be modified to suit special circumstances:

(1) The culvert when completed shall be in all respects in accordance with the plan hereto attached. Should it be necessary to extend the side walls to a greater depth to a secure foundation, they shall have a top width of twelve inches as indicated, an inside batter of one-half inch to the foot, and an outside or frost batter of one inch to the foot, the footing to project six inches beyond the bottom of the wall.



CONCRETE CULVERT CROSS-SECTION.

(2) Sufficient earth shall be excavated to permit free access to the work, and the proper placing and removal of the framework. Where the excavations furnish more material than is required for the embankment, the surplus will be used to increase the width of the embankment, or otherwise removed as may be directed.

(3) The abutments are to be erected within a substantial and well constructed framework of well-fitted lumber, closely boarded up against the work as it proceeds. Care shall be taken to make a smooth, regular surface, such that moisture will not find lodgment. The concrete shall be perfectly rammed into place so that all surfaces shall be smooth, without cavities, when the casing is removed. The framework shall not be removed in less than fourteen days from the completion of the work.

(4) All cement employed in the work must be of a favorably known brand of Portland Cement, and approved by the superintendent in charge of the work. It shall be delivered in barrels or equally tight receptacles, and after delivery must be protected from the weather by storing in a tight building or by suitable covering. The packages shall not be laid directly on

the ground, but shall be placed on boards raised a few inches from it.

(5) The concrete shall be composed of gravel and Portland Cement mixed in the proportion of one part by measure of cement to six parts of gravel. The concrete shall be mixed on a platform placed close to the work by first spreading evenly a layer of gravel, upon this shall be spread a proportionate quantity of cement, and the two thoroughly intermixed in a dry state. To this sufficient clean water shall be slowly added, and the whole again thoroughly mixed and brought to the consistency of a stiff mortar.

(6) Should the gravel contain an excessive amount of sand, loam, or other objectionable material, it shall be screened to remove such sand and earthy matter. The concrete shall then be composed of one part by measure of Portland cement, two parts by measure of approved sand, and four parts of the screened gravel. It shall be mixed on a platform close to the work, by first spreading evenly a layer of sand; upon this shall be evenly spread the proportionate quantity of cement, and the two thoroughly mixed in a dry state. To this water shall be added and the whole thoroughly mixed and brought to the consistency of a stiff mortar. The proportionate amount of screened gravel shall then be spread evenly over the mortar and thoroughly intermixed therewith. The concrete, when mixed as described, shall be immediately put in place and thoroughly pounded and rammed until it is perfectly and uniformly solid, moisture appearing on the surface.

(7) Should the cover stone of the culvert be on a level with and form part of the surface of the roadway, it shall have a wearing surface one and one-half inches in depth of sand and cement, mixed in the proportion of one part by measure of cement to two parts of sand, the sand to be clean, sharp, of varying sized grain and free from loam, earth or other impurities. The sand and cement shall be first mixed in a dry state, then sufficient water shall be added to properly moisten, and the whole shall again be thoroughly intermixed. This top coating shall be applied to the concrete base before the latter has set, so that a perfect bond between the two shall be secured. The surface shall be floated and trowelled until smooth and even, and shall be marked into blocks 4 inches by eight inches to give secure footing to horses.

(8) While the work is in progress it shall be so arranged that a steady supply of mixed concrete shall pass from the mixing box to the point where it is to be placed. At any time when the work is interrupted before its completion, or at the end of the day, a wet covering shall be placed over the last layer of concrete; before the work of depositing the concrete is resumed, this surface shall be thoroughly flushed with water to remove any foreign material which may have gathered thereon. No concrete shall be laid in wet or freezing water.

The Toll Roads Expropriation Act.

Toll roads now exist in comparatively few of the forty counties of Ontario, and the present indications are that these will, in a short time, vanish. The County of Wentworth was the first to take steps, and under the recent Toll Roads Expropriation Act, and the Highway Improvement Act, it has done away with practically all toll roads within the county, has established a system of county roads, and is now making application for its portion of the Provincial grant. Other counties in which steps are being taken towards the abolition of tolls are Carleton, Elgin, Frontenac, Middlesex and Oxford.

The roads owned, as a general thing, by private companies, are roads subjected to much travel, and usually accommodate the people of more than one township. For this reason it is generally difficult to have these roads freed by mutual consent. Foreign townships are averse to being taxed for keeping up what they consider a road in another township, although, in practice, through the payment of tolls, many of them are doing so.

Again, a large section of the people in the township through which the toll road is located may be averse to assuming the responsibility of keeping up that road within their limits when, as they now content, it is being largely maintained by tolls collected from outsiders. When these roads are not used exclusively by the township in which they are located, it is hardly fair to impose upon them the expense of keeping up these main arteries for the accommodation of heavy and extensive traffic collected from elsewhere.

The weight of this theory, however, is much less than is generally supposed, as the cost of maintaining a toll gate and keeper, and the dividends paid to owners of the road, usually amount to considerable, so that a toll road, even for one township, is apt to be an expensive matter.

The collecting of tolls for the purpose of maintaining the road at the cost of the users, may have some argument in its favor. The principle involved is that the users only are benefited, and that it matters not from whence the traveller comes, he must pay, whether he is from the township in which the road lies, an adjacent township or another county.

That the users of the road are the only ones benefited cannot be supported, because every individual in the community is affected by the uses made, and the users of the road.

Generally speaking, a distinction cannot be drawn between the user of the road and those whom he serves. But the maintaining of a road by tolls may in certain cases relieve municipalities from the injustice that they would suffer by obliging each township to maintain its own roads regardless of location, conditions, or who the users may be. For these reasons, where roads have been freed of tolls, their condition, which is usually moderately good, has often been

neglected and allowed to go out of repair. All these objections and difficulties may be overcome, a proper system of economically maintaining these roads in good condition, an equitable system for adjusting the cost of maintenance, can be established through the county council.

The many reasons, profitable to the rate-payers, that may be given in support of a county council's maintaining certain roads in every part of the county, are so convincing to the student of the question that one is surprised to find that there should be any hesitation in adopting the county system. Much is often sacrificed by considering these matters, not from the standpoint of the whole community, but from that of the individual township. The county, as a whole, has duties and responsibilities, such as the maintenance of large bridges on certain lines, the maintenance of roads for joint use, etc., while it is fair to rest the responsibilities for minor roads upon the townships.

It should be more agreeable to place main roads in the care of a county council, a representative body of the rate-payers, than to hand them over to the care and management of private corporations. There is no good reason why a certain few of the roads in a county should be controlled by private companies, and supported by tolls, while all the other roads are free. We boast of our free institutions, we could not think of passing roads generally into the hands of companies. All the roads should be free, and the day for allowing a private company to place a bar across the highway in the face of any citizen is something that is permitted only because it effects so few. Few counties, fortunately, bear the distinction of being those that still permit this treatment of a section of their people. Roads should be free—tolls should be abolished. Main arteries should be maintained by the county council. To do this little difficulty should be experienced. The Toll Roads Expropriation Act provides an easy method of fixing a fair valuation of the roads. It also provides for an equitable adjustment of the cost by assessing it against the whole county, if the whole county is interested; by confining the assessment to a section of the county, if only a section will be benefited; or by paying over to any townships not materially or only slightly benefited by the purchase of these roads, such a sum by way of bonus, as may be deemed a fair equivalent for the amount which such municipality or municipalities will be required to pay towards the purchase of the roads.

The Act appropriating one million dollars, to aid in the improvement of highways, provides for the county council laying down a system of main roads, which will fairly serve every part of the county. This plan may comprise the toll roads and such other roads throughout the county, as the county and township councils may agree upon as being the roads that will best serve the requirements of

traffic. The system does not require to be a connected one, nor must it be designed to lead the traffic in any fixed direction, but may be the particular road or roads in the township upon which the councils think the money should be spent to serve the best purpose. The Act does not attempt to define the roads, but leaves this entirely in the hands of the councils, and whatever roads they agree upon as being the roads upon which the money should be expended, such plan will be accepted.

Even the mileage is not limited, except in this, that the mileage assumed in each township must be as nearly as practicable in proportion to the area. This is done for the purpose of providing that each township will receive its fair share of the good roads.

The two acts may be united in one by-law, as was done in the County of Wentworth, where they have framed their by-law laying down a system of county roads, taking over all the toll roads, and providing for the improvement of others. Similar by-laws are now before the people of Frontenac and Carleton counties.

Under the Toll Roads Expropriation Act, the first step is for the council to procure a valuation of each road, and to submit an offer to the owners. If a price cannot be agreed upon, the council may then pass a by-law appointing an arbitrator, a copy of which is to be served on the Toll Road Company.

Having fixed a price for the roads by arbitration, the council can pass a by-law for raising the necessary amount by the issue of 30-year debentures. This by-law may or may not be submitted to the people.

In the case of townships which would not be benefited by the abolition of tolls, amounts may be agreed upon to be paid to each as compensation for the amount they will be assessed in the county rate. Or the arbitrators may determine whether or not the by-law should be sectional, only certain townships or parts of townships being assessed.

Under section 12 the council may collect tolls for a period of not more than ten years, the amount so received to be applied to the payment of the debentures.

In Wentworth, the abolition of toll roads was combined with a plan of county roads under the Highway Improvement Act, whereby a provincial grant is made towards road improvement.

The matter was first taken up for discussion in 1901, and a Good Roads Committee was appointed to deal with it. This committee reported at the session of December, 1901. At a session in January, 1902, and at a session in March, 1902, held for this special purpose, at which the first by-laws were passed—those dealing with the expropriation of certain roads—the case of three townships called for a good deal of consideration, these having recently bought a toll road within their limits, which they were maintaining. This matter was arranged by

including the principal part of this road in the county roads plan, and paying to the several townships the amounts specified in the by-laws.

The various steps taken by the County Council were as follows:

1. The council, after considerable discussion, agreed upon a plan of county roads, which included all the toll roads within the county.

2. After securing a valuation of the toll roads by the County Engineer, offers were made to the various companies.

3. The county's offer being accepted by only one company, a by-law was passed affecting each of the other toll roads under the Toll Roads Expropriation Act.

4. A copy of these by-laws was sent to each of the companies and municipalities interested, and arbitration proceedings were undertaken in all cases before the County Judge, as sole arbitrator.

5. By-law No. 476, re a system of county roads under the Highway Improvement Act, was prepared and given its first and second readings.

6. This by-law was submitted to the Township Councils, and the Township Councils approved in all cases but one.

7. By-law No. 477 was prepared and given two readings, this by-law being under the Toll Roads Expropriation Act, providing for raising money by the issue of debentures.

8. By-law No. 477 was submitted to a vote of the people and carried.

9. Both by-laws, No. 476 and No. 477, were given the third readings at a special meeting of the council, October 30th, and the toll roads are now being taken over.

Before submitting the latter to a vote of the people, about 2,000 copies of the by-law were printed and distributed by mail throughout the county. The councillors also held meetings in their various divisions, assisting one another as much as possible, and by this means insured that the by-law was not misunderstood by the rate-payers. The majority for the by-law was 956.

Municipal Port Arthur.

Port Arthur has, for a number of years, had the distinction of being the only municipality in Canada having an electric street railway under municipal control, and in connection with this, it has conducted an electric lighting plant.

The works are operated by water-power developed this year, having previously been operated by steam. The council has now before it the report of an engineer on a municipal waterworks system. The most recent acquisition has been, however, a municipal telephone service, inaugurated on November 19th last. The service commenced with 110 telephones, others are being put in as rapidly as possible, and it is expected that the year will be commenced with 200 instruments installed. The central station has an equipment for 280 telephones.

The Good Roads Movement in Canada.

The road question is one which is being every year brought more prominently before the Canadian public. The origin of what is known as the good roads movement has been traced to various sources by various writers. The bicycle, which a few years ago was so popular for long distance journeys, has been credited with much in this respect. Some suggest that the marked contrast between the roads of this country and those of the Motherland, was an original incentive, and unquestionably many of those who have journeyed to England, or Scotland or France, are among the staunchest good roads advocates. Railway companies, manufacturers of roadmaking machinery and other interests have been pointed to as factors of the movement for better roads. Of later years, auto-mobile clubs have joined the ranks of those asking for better roads and the proposed rural mail delivery promises further aid, as its success is understood to be wholly dependent upon good roads. These, however useful, have been very largely but surface features to the stronger under-current, and the great sustaining force of the movement has been the Canadian farmer, upon whom devolves the burden of country road construction and who is most directly benefited by road improvement.

Good roads associations have been formed in almost every province of the Dominion, those most active being in the Provinces of Ontario, Quebec, New Brunswick and British Columbia, while more or less consideration has been given the subject by all Provincial Governments. Ontario, however, is the leading Province in this movement, both as regards an active public interest organized in good roads associations, and in Governmental action.

The first definite step in connection with this movement was taken in 1894, when a good roads association was organized for Ontario. A large number of delegates attended the meeting, representing county councils, township councils, farmers' institutes, dairymen's and other associations. A constitution and by-laws were framed, and a careful campaign was launched. Mr. Andrew Pattullo, M. P. P., of Woodstock, was selected as president, and Mr. K. W. McKay, county clerk of Elgin, as secretary. This was the parent association that fought the early battles for road reform.

Realizing the importance of good country roads as a factor in transportation, and recognizing their value to the farming community, the Ontario Government in 1896 appointed an expert in road construction to the office of Provincial Highway Commissioner, now a branch of the Department of Public Works. With an annual expenditure on road construction, aggregating three and one-half million dollars being made by municipalities of the Province, there was much need for skilled direction of this large outlay, if only to prevent waste.

By means of literature on the subject, township councillors and others having supervision of road building throughout the Province, have been clearly instructed as to the best means to adopt in obtaining economical and permanent results. Public meetings have been held in a large number of townships, addressed by Mr. A. W. Campbell, the commissioner of Highways, at which roadmaking in all its branches has been discussed. These meetings, with rare exceptions, have been largely attended, and a strong interest in road improvement has been aroused, which, directly and indirectly, is turned to practical account on the roads of the districts thus visited, and in the system of road management. Throughout the Province there has been a general improvement as regards methods of draining roads, grading them, applying gravel or stone, construction of culverts and bridges and the roadmaking implements used.

To the end of 1901, there were seventy-three townships which had abolished or commuted statute labor, in whole or in part. By how many more this will have been augmented at the end of 1902, definite information is not available, but reports indicate that a large number of townships have made and will make the change. Of these seventy-three townships seven have wholly abolished the system, and for road purposes collect a rate on the township system. Forty-eight commute all statute labor at a rate per day, and the eighteen remaining townships have partially commuted.

The new methods of doing road work, of making and maintaining roads, and the new system of management is no longer an experiment. Township after township has made the change, and wherever it has been given a fair trial in a business-like way, the results have been a success beyond expectation. The universal testimony from townships where statute labor has been removed is that the roads improve much more rapidly than in surrounding municipalities where the old system is retained. In some cases it is affirmed that one year of the new methods has been worth five years of the old system in actual improvement to the roads.

In 1901, a second road organization was formed, known as the Eastern Ontario Good Roads Association. Of this Mr. J. C. Bradley, warden of Carleton, is president, and Mr. H. B. Cowan, editor of the Ottawa Valley Journal, is secretary. This association in the two years of its existence has been exceedingly active, and has achieved excellent results. Its chief work has been in connection with its "good roads train" by means of which short sample pieces of road have been constructed in each of ten eastern counties. Manufacturers of roadmaking machinery supplied, free of cost, an outfit consisting of a rock crusher, a steam roller, a grader, wagons, minor implements and expert workmen. Railway companies transported this outfit without charge. County councils each contributed a small sum toward

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the work, and the township municipalities in which the work was done supplied stone on the ground, common labor and teams. In this way the practical demonstration to the people of the eastern counties of what machinery will do, how it should be operated, and how good roads should be made, was a marked success.

Following upon this, in September last, an association for Western Ontario was formed, the meeting for organization being held in Toronto. Of this association, Mr. Geo. Gerrow, warden of Ontario county, was elected President, and Mr. J. E. Farewell, clerk of Ontario county, was appointed secretary. Of this organization, composed principally of progressive municipal councillors, much may be expected in the west.

The most important development of the good roads movement in Ontario has been the appropriation of one million dollars by the Legislature to aid in the improvement of country roads. The motive for this step has very largely been to encourage county councillors to assume the management of the most heavily travelled roads in each county, thereby forming them into one class, in the construction and maintenance of which the most efficient superintendence, plans, methods and machinery can be employed. One third of the cost of constructing or reconstructing all roads assumed under a county system will be paid by the Provincial Government, and the Act is so framed as to give county councils the first opportunity to accept this aid. Should any counties fail in this a proper proportion will be given to townships fulfilling certain prescribed conditions. A sufficient period has not yet elapsed to permit an estimate of the extent to which the Act will perform its mission, but at the present time county councils are everywhere interesting themselves in the matter.

By-laws have passed all stages in two counties, Lanark and Wentworth, the initial expenditure of the former to be, in addition to the Provincial grant, \$97,000; and of the latter, \$98,000. Hastings and Wellington already have systems of county roads, which they propose to bring under the Act, by laws are under consideration in Simcoe and Carleton counties no estimate being given in the former case; but in Carleton the sum of \$150,000 is proposed. Action looking towards systems of county roads has been taken by the county councils of Elgin, Frontenac, Prince Edward, Lennox and Addington, Huron and Middlesex.

Just as changes with respect to township road making and management have been gradual but universal, so the results of education with respect to county roads may be expected to be general but progressive, and the adoption of county systems will be brought about with increasing rapidity. The seed sown in the early days of the movement is but now maturing and the time of the harvest has come. The forces at work on behalf of improved roads are many, and the means of bettering the roads are various, but the great object to

be attained at the present time is good management, in order that all the energy available may be utilized to the best advantage.

Statute Labor.

At the last municipal elections many by-laws for the abolition or commutation of statute labor were submitted to a vote of the people, being carried in numerous cases. Wherever rightly placed before the people, a substantial majority should and can be procured for these by-laws. The people of Ontario, almost without exception, want good roads. They are very few indeed, who do not want better roads than they have at present. While there are some who always object to a change of any kind, who seem born to oppose progress of any description, they are and always will be in the minority. The mass of the people want better roads, and they want a better system of maintaining them.

It merely remains to show them in a plain manner, not merely the faults of our present system, and the defects of our roads, but what plans are to be adopted that will effect an improvement. To place these matters before the people should be the work of municipal councillors, and where statute labor by-laws have been defeated, there is safe evidence that councillors have not made the most of their opportunities.

Some by-laws have not been successful because the people feared that the change would create wholly new and expensive methods. On the contrary, it is plainly a measure of economy, securing the best possible results with the present expenditure. Farm help is now scarce and expensive. There are few farmers who, during the summer season, cannot better afford to pay fifty cents or seventy-cents a day for statute labor, than to leave their farms to work on the road. If there are those who wish to work on the road, they can be given ample opportunity to do so, and to even work out more than enough to pay their tax. This is particularly helpful to the poorer farmers, in need of a chance to earn a little money. The systematic grading of roads, operation of the grading machine, draining the roads, building concrete culverts, hauling stone or gravel by the cord, or letting work in small jobs throughout the township, afford all who prefer working to paying, a chance to earn back their tax. Others, at a busy season, when labor is scarce, will much prefer paying fifty or seventy five cents in consideration of their roadwork.

It is sometimes feared that all the money will be spent on leading roads, or in one section of the township. The work, however, is kept in the hands of the council, and their practice is very different. It is the general rule that the commutation money from each road will be required for and spent on that road. But instead of scattering the expenditure over long distances, the good pieces

receiving as much attention as the bad, work is concentrated on the worst pieces first, ultimately making them equal to the best, and in that way making all good. By seeing that the worst parts of the roads throughout a township are fixed each year in a permanent manner, the improvement in a few years is so striking as to satisfy all.

Good Roads Pay.

The public road is one of the landmarks of civilization. The trackless forest or pathless plain answer every purpose of the savage, but the commercial pursuits and social intercourse of civilized people make necessary those travelled thoroughfares known as public roads.

The difference between a good road and a bad road is the difference between comfortable clothing and rags, between a full meal and a scant lunch. A good road is a thing of beauty and a joy forever, while a bad road is an abomination. A good road needs no friends; a bad road never had any.

Bad roads are expensive from any point of view. Each year they cost this country more money than would build a first-class highway half across the continent, to say nothing of the annoyance and discomfort which must be experienced by the millions who are obliged to use them. Good roads are a paying investment. They increase the value of every acre of farm property, save time, wear and tear on wagons, harness and horseflesh, and make it possible for country people to enjoy privileges that would otherwise be beyond their reach.

Waterworks and Public Lighting.

The contract for installing a waterworks system at Sturgeon Falls has been let for about \$40,000.

An extension of the North Toronto waterworks system is under consideration.

Stratford proposes to purchase the local waterworks from the company now operating it for \$95,000.

Waterworks are proposed for Elmira, to cost about \$14,000. The supply will be taken from the River Canagigue, and the system will include pumping station, mains, receiving wells, and an elevated tank of 60,000 gallons capacity.

Oshawa has before it a new report on waterworks and sewerage systems for the town. A gravity system of waterworks from a spring creek will cost \$160,000; pumping from Lake Ontario, \$118,000; pumping from the creek, the water to be filtered, \$140,000. The gravity system is regarded favorably, owing to the less annual cost of maintenance. It is proposed to treat the sewage by means of septic tanks.

The Council of Strathroy has under consideration the purchase of the water and electric light works from the local company, the latter having submitted an offer, amounting to an advance of 10 per cent. on the cost price.

Question Drawer.

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

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

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

Notice of Opening Road.

1—W. D.—Our council gave the notice required by posting and publication in a newspaper for four weeks as follows: Notice is hereby given that it is the intention of the municipal council of the township of H. at its next meeting 9th. August 1902 to pass a by-law to open up a road on the blind line between lots 6, 7, 8, 9 and 10 on the 11th concession, and lots 6, 7, 8, 9 and 19 on the 12th. concession, deviating from the said blind line where necessary.

July 7th., 1902.

W D., Clerk.

1 Is this notice all that is required by subsection a, section 632, chapter 223, or must the surveyor's description of the proposed new road be printed in the notice?

2. If the parties objecting attended meeting according to notice, and the survey had not been made and the by-law was not then passed, would it be necessary to give further notice before passing the by-law subsequently?

The new road keeps to the line generally, but deviates its width on adjoining lands in some places. The question of compensation must be settled by arbitration where parties cannot agree, but objection is made to the road being constructed, and we wish to keep to the strict legal procedure.

1. We are of opinion that this notice contained all that was necessary to comply with the provisions of Sec. 632 of the Municipal Act. It would be better, however, to insert in notices of this kind the description of the road, as it is intended to set it forth in the by-law when passed.

2. Since the by-law for opening the road was not passed at the council meeting mentioned in the notice, and from the material then in the hands of the council, parties interested could not obtain definite information as to the exact location of the proposed road, a new notice should be given, under Sec. 632, of the meeting of council at which the by-law will be considered and passed.

Qualification of Voters in Territory Annexed to Town.

2—J. P. N.—The Ontario Government on petition have annexed a portion of the township of S. D. to the town of P., the change to take effect on the 1st. day of January 1903. Forty voters are affected thereby and we would like to know where they should vote at the next municipal elections. Some of the town officials claim that they can make a supplementary list and let them vote in town, but as they have paid their taxes in the township are on the voters list, and will be on the poll book, we think they are entitled to vote there especially as they will not be residents of the town on nomination day, December 29, when the election really begins, otherwise they would have a right to nominate a candidate in S. D. but not to vote for him and no right to nominate in P., but the right to vote. Please tell us where they should vote.

They should vote in the town. Section 96 of the Municipal Act provides

that "in case of a tract of land being added to a town, the first election, under the proclamation by which the change was effected, shall take place on the first Monday in January next after the date of the proclamation by which the change is made; but the nomination of candidates, and the election of such as are unopposed, may, and shall be proceeded with at the same time and in the same manner as if the change had gone into effect on the last Monday of the month of December preceding such first election, or on such day as the nominations may lawfully be held upon." Section 91 of the Act provides that "where any territory is added for municipal purposes to any town, etc., and an election takes place before voters' lists including the names of the persons entitled to vote in such territory are made out for such enlarged town, or before such lists are certified by the county judge then all persons who would have been qualified as electors in such territory, if the same had remained separate from the town, etc., shall be entitled to vote in the town at such election."

Expenses of Investigating Cases of Small-Pox.—Repeal of Local Option By-Law.

3—W. D.—Will you please let me know if our local Board of Health can charge our village council for horse hire, to go and look up a case of small-pox? Our village is incorporated, in township of K. county of G. On the 9th July a report came in some way that a young girl had left who was supposed to have been visiting where there was small-pox. She was sent home from school and was supposed to have come to our village. On hearing this, the Board of Health met and ordered D. J. R., one of the board, to hire a horse and go seven miles from our village in the township of R., county S., to hunt up the girl. Can they collect pay for looking up a case of small-pox out of their town?

2. We have had a Local Option By-Law in force in our village for the last nine years. It has been voted on every three years since and is still in force. The last vote was taken on the 1st Monday of year 1899. Can the present council grant a vote to be taken in January 1903? The full three years will be up on January 5th, 1903.

1. A Board of Health has been given extensive powers by the Ontario Public Health Act in discovering and taking steps to prevent the spread of contagious diseases. It seems to us quite proper, and greatly in the interest of the public welfare, that such should be the case. It is better that a few dollars should be spent perhaps, as it may turn out, usefully, rather than that the general health of a community be endangered by the breaking out of an epidemic. If the members

of the Local Board of Health thought it necessary in order to properly investigate this case, and locate the person alleged to have been infected or affected with small-pox, to hire a horse, the Board, or any two of its members, may give an order on the Township Treasurer for what it cost, and the Township Treasurer has no alternative other than to pay it. (See Sec. 57, of the Public Health Act, R. S. O., 1897, Chap. 248.)

2. You say the last vote was taken on the "first Monday of the year 1899." The three years after the taking of this vote would therefore expire in January last (1902), and a by-law for the repeal of the by-law might have been submitted to the electors any time this year (after the expiration of the three years in January last). If the three years after the last submission of the by-law will not expire until 5th January next, the matter should be left to be dealt with by next year's Council.

A County By Law for the Purchase of Toll Roads.

4—A. S.—Some years ago the township of B bought all the toll road within said township and paid for it herself. This year the county council of W of which B is a township, submitted a by-law to the people, a copy of which I enclose. When the vote was taken the townships all gave a majority in favor of the by-law, excepting B which gave a majority against it, for the reason that we were contributing about \$9,000 more towards the scheme than we were getting in road improvement. We also consider that the money proposed to be expended in our township is unfairly divided, as some sections are receiving from \$1,000 up to \$1,500 per mile, while other sections equally as important are receiving only \$200 per mile. Those who favored the by-law in B argued that, if said by-law were defeated, the county council would then purchase all the toll roads in the county at a cost of \$63,000, and that B could be compelled to pay her share although she had previously paid for her own toll road. The total area of county W is 272,573 acres and of township B is 69,996 acres. The total assessment of county is \$146,516 98 and of township B \$2,883,835.

1. Is there any redress for township B since the by-law has carried after B giving a majority against it?

2. If so, how should B proceed?

3. Has the county council power to purchase the toll roads in the county without first getting the consent of the people?

4. Could B be compelled to pay its share of the \$63,000 after having paid for her own toll road?

1. If the proceedings preliminary and leading up to the passing of this by-law were taken in accordance with the provisions of Chaps. 32 and 33 of the Ontario Statutes, 1901, as amended (as to the latter Act by Chap. 35 of the Ontario Statutes, 1902), we do not see that any legal objection can be taken to the validity of the by-law as passed. The mere fact that one Township in the County gave a majority against it will make no difference, so long as a majority of the ratepayers in the whole County voted in favor of it, as was the case in this instance. All the facts mentioned were doubtless before the County Council when the by-law was framed, and, in their judgment, it contains the conditions the

Councillors considered most favorable to the interests of the several municipalities concerned. In adjusting the liability to pay for the purchase of the toll roads amongst the different municipalities, the County Council made provision for the payment of \$2,100 to the Township of B., as authorized by Sec. 9 of Chap. 33, as enacted by Sec. 2 of Chap. 35, of the Ontario Statutes, 1902. This fact is not mentioned in your questions, but it appears in the by-law.

2. Our answer to question No. 1 renders it unnecessary to reply to this.

3. Yes. See Sec. 2 of Chap. 35, of the Ontario Statutes, 1902.

4. Yes, and in this case the County Council appears to be paying this Township \$2,100 to aid them in doing so.

Powers of Council to Remit Taxes—Personal Liability of Councillors.

5—J. W.—A certain party in the township appealed to the court of revision against some parties being assessed too low. The court thought they were assessed as high as the rest of the township and did not raise them. He then appealed to the county judge of their being assessed too low and the judge raised them. Now, the parties want the council to remit the taxes levied on the amount raised.

1. Is it lawful for the council to remit it?

2. If they remit it and the party enters an action against the council for remitting it and gains the suit, would the municipality or the council personally be at the loss and have to pay the costs?

1. No.

2. The council has no right to remit these taxes and if they do so they would probably be held liable as for an illegal payment of corporation funds. If a council can do that sort of thing a county court judge's decision would be practically worthless. Costs are usually in the discretion of the judge who tries a case and we cannot anticipate what disposition the judge who tries the case would make of the costs. If the suit were brought against the municipality and was successful it would be for the judge to say whether the municipality should pay them or not. He would have no power to order the councillors to pay them unless they were made parties to the suit, that is sued along with the municipality.

Payment of Commutation Money by Persons Unassessed.

6—X.—Our municipality, a rural township, intends to pass a by-law to commute statute labor by which all ratepayers will be charged forty cents instead of each day's work and the amount placed on the collector's roll same as other taxes.

1. How will we get at those who are assessed for one day's work each under the Manhood Franchise or Suffrage Act?

2. Should the forty cents be accepted from them in lieu of the day's work or should they work out their poll tax under the commissioner?

1. We presume you refer to parties in the township liable to one day's statute labor on the roads and highways under the provisions of section 100 of the Assessment Act. The enforcement of

payment of the commutation money is provided for by sub-section 1 of section 107 of the Act.

2. The 40 cents should be accepted in lieu of the day's statute labor.

Village Treasurer May Also be Clerk.

7—C. E. M.—Can the treasurer of this village hold both office of treasurer and clerk?

Yes.

Payment of Purchase Money for Toll Roads.

8—W. P. A county is required to pay \$4,000 by an arbitrators award under the Toll Roads Expropriation Act 1901-2 for a very small portion of a toll road which is not used by ratepayers except by residents of one or two townships. Will it be legal if the county pay the amount of the award and reimburses itself by subsequently levying special rates on the townships interested? If not, what course would you recommend?

It is not stated whether the arbitrators in their award, reported "whether, in their opinion, the by-law of the county council should be a SECTIONAL by-law applied to such of the municipalities as, in the opinion of the arbitrators, should pay for the road." If the arbitrators have so reported, section 10 of chapter 33 of the Ontario Statutes, 1901 (as amended by section 3 of chapter 35 of the Ont. Stats., 1902) provides that in such case the by-law of the council for raising or providing money for the purchase next herein after mentioned, may, if the council think proper, name the municipalities, or portions of municipalities, which shall be liable to repay to the county the amount paid for the purchase of the road or abolition of tolls, and may also fix the amount for which each said municipality shall be liable. Such by-law shall provide for assessing and levying upon all the rateable property in such respective municipalities or portions of municipalities, the annual sums necessary to meet the debentures and interest thereon as the same fall due, and, if necessary, to form a sinking fund for that purpose, and may be passed by the county council without submitting the same for the assent of the electors." If on the other hand the arbitrators did not report in the manner provided by section 10 we do not think the council can name the municipalities which shall be liable to repay to the county.

Council Should Either Build Bridge or Close Road.

9—H. C.—We have a river running through our township and there is a bridge on every road but one. Can the people living on that road compel the corporation to build one or not? There is a good road down to the river and people who don't know drive down and have to turn back. There are farmers that have land on each side of the river and when the water is high they have to drive around five miles to get to it.

The people residing upon this road cannot compel the Council to build this bridge. It is optional with the Council whether it does this or not. If, however, the Council does not deem it necessary or advisable in the general public interest to build this bridge, it should take steps

under Secs. 632 and 637 of the Municipal Act, to close the road leading to it. As long as the road remains open it is a tacit invitation to the public to use it, and the municipality would be responsible in damages to any person who sustains injury by reason of the absence of the bridge.

Rights of Natural Gas Co. to Use Highways—Qualification for County Councillor of Inspector of House of Industry.

10—NATURAL GAS.—1. A natural gas company applied to council of township for franchise to pipe gas across streets and out of said township. Reeve claimed solicitor informed them that they could not prevent them taking gas across streets and out of township. Could the council prevent said company from piping across the streets or could the company force a right of way by the courts?

2. Inspector of House of Refuge appointed by by-law of county council, salary \$100 per annum. Inspector gets county council to pass resolution as follows:

Moved by

Seconded by

"That in case of a vacancy occurring in the inspectorship of the County House of Refuge the standing committee shall have power to appoint another inspector temporarily until first meeting of county council. Inspector is candidate for county council and resigned to standing committee about a month ago. Can he be a legal candidate? If so, to whom should he hand his resignation? Does the resolution simply give committee power to make appointment in case of death?"

1. Sec. 1 of Chap. 200, R. S. O., 1897, provides for the formation of companies for supplying natural gas for the purpose of light or heat in any city, etc., township or other municipality. Sec. 3 of this Act provides that "every such company may construct, etc., works for the production, sale and distribution of natural gas, etc., for purposes of light, etc., and may conduct the same by any means through, under and along the streets, highways and public places of the city, town, or other municipality, but as to such streets, highways and public places only upon and subject to such agreement in respect thereof, as shall be made between the company and the municipality, and under and subject to any by-law of the Council of the municipality passed in pursuance thereof."

2. We do not know whether the contract between the Inspector and the Council entitles him to terminate it. If it does not, he must get rid of it before nomination day in order to be eligible as a candidate, and if the terms of the contract do not enable him to put an end to it, he must get the consent of the Council to do so, and it must be terminated before nomination day.

Candidate May Resign Without the Consent of His Mover or Second.

11.—J. W. S.—If a ratepayer is nominated for reeve or councillor and does not wish to stand and wishes to withdraw his name, can he do so without the consent of the mover and second, or is it necessary for them to consent to his withdrawal?

A person nominated can legally resign his candidature for the office for which he has been nominated WITHOUT the consent of his proposer and seconder. If he resigns *at the nomination meeting*, his resignation need not be in writing, but if he files it after the nomination meeting is over, it must be in writing and signed by him in the presence of a witness. (See sub-section 2 of section 129 of the Municipal Act.)

Auditor for 1902 Qualified as Councillor for 1903.

12.—RATEPAYER.—Will you kindly inform me if an auditor, who was appointed in January 1902, and does not resign can legally qualify as councillor for 1902?

An auditor of a municipality for the year preceding nomination day is not mentioned as one of the officials of a municipality, disqualified for membership in the council of the municipality in the year following his appointment, by section 80 or elsewhere in the Municipal Act. Your municipality being a township, the auditor's duties are performed when he audits the books of the township for the year preceding his appointment. If the auditor has been paid his salary there are no reciprocal obligations thereafter existing between the auditor and the municipality. We are of opinion that no objection can be successfully raised to the qualification of a proposed candidate on this account.

Public School Trustee not Qualified as County Councillor.

13.—J. S.—I notice by answer to question 509 in last issue of the WORLD that a public school trustee must resign if he is a candidate for the municipal council. Does this apply to a candidate for the county council? I am a candidate for re-election to our county council and am also a rural school trustee and would like to know what I should do in the matter.

Reading the amendment provided for by section 5 of chapter 29, of the Ontario Statutes, 1902, into sub-section 1 of section 80 of the Municipal Act, the latter would provide that "no member of a School Board for which rates are levied" shall be qualified to be a member of the Council of ANY municipal corporation. A rural School Trustee is a member of a School Board for which rates are levied, and a County Council is a Council of a municipal corporation. Therefore, we are of opinion that this person will be disqualified for membership in the County Council, unless he resigns his office of rural School Trustee and has his resignation accepted by his colleagues on the Board prior to nomination day (22nd December inst.)

Legislation Authorizing the Laying of a Pipe Line.

14.—J. Y. C.—The council of this township has granted to the Pipe Line Company a free franchise for laying pipe on the side of the road (on top of the ground) for the purpose of conveying oil from the oil wells to the railway station. If the council had not granted the franchise and would not, would the Dominion or Provincial Government have power to compel the granting of same?

We do not see what the Dominion Government would have to do with a matter of this kind, but the Provincial Government could enact legislation granting this power or privilege, if it saw fit to do so.

Claim for Compensation for Land Expropriated Must be Enforced Within a Year.

15.—E. R. S.—1. Does the lapse of eight or ten years outlaw any claim upon the township council for lands taken by them for road purposes and for which I have received no recompense?

2. Would it be best to sue the reeve personally, as it is through his maladministration that I have not been paid?

1. Yes. Section 438 of the Municipal Act, as amended by section 27 of the Municipal Amendment Act, 1899 (chapter 26 of the Ontario Statutes, 1899), requires a claim of this nature to be made within one year from the date when the land "was entered upon, taken, or used."

2. You have now no remedy against the Reeve or any other individual, or the Council. If the Council for any reason whatever refused to compensate you when asked to do so within the year, you should have taken proceedings to compel them to do so, within the year, or within one year from the date of the passing of section 27 of chapter 26, of the Ontario Statutes, 1899.

Powers of Council to do Business After December 15th.

—Qualification of Member of School Board.

16.—SUBSCRIBER.—1. Can a council legally pass and pay accounts between December 15th. and December 31st. in any year, or does the Act mean there is no power after December 15th.?

2. Can a man sit as a member of the school board and a member of the municipal council at the same time?

1. A municipal council can legally pass and pay necessary accounts up to and including the 31st day of December, but not afterwards. Section 328 of the Municipal Act provides as follows: "No council of any local municipality shall, after the 31st day of December in the year for which its members were elected, pass any by-law or resolution for the payment of money, or which involves directly or indirectly the payment of money, nor shall they enter into any contract or obligation on the part of the municipality, nor shall they appoint to or dismiss from office any officer under the control of the council, or do any other corporate Act after said day, except in case of *extreme urgency*, but the council may, before the 31st day of December, do any necessary business which, having regard to the circumstances, may be done at such time, and which they are authorized to do at their last meeting"

2. Sub-section 1 of section 80 of the Municipal Act as amended by section 5 of chapter 29 of the Ontario Statutes 1902, provides that "no member of a school board for which rates are levied shall be qualified to be a member of the council of any municipal corporation."

Amending Drainage By-Law.

17.—J. E. H. Can a council amend a drainage by-law to collect more for expenses than ten per cent of cost which engineer allowed in original by-law? If not, where will it come from? The expenses will overrun the amount allowed.

If the necessary and legitimate expenses of and incidental to the passing of a drainage by law exceed the amount of the Engineer's estimate for the purpose, the Council is empowered by section 66 of the Municipal Drainage Act (chapter 226 R. S. O., 1897) to amend the original by-law from time to time to provide for the levy and collection of the additional sum or sums required.

Enforcing Payment of Fees of Non-Resident Pupils.

18.—J. H. M.—For the last few years a settler out of an adjoining municipality and school section has been sending his children to our school and we have asked the trustee board of his section to pay us so much a year out of this man's taxes for his children coming to our school, but they have refused to do so. The School Act says the trustees may pay out of the taxes to the section to which the children go. Please let us know if his "may" in said section is compulsory and how can we get any remuneration for said pupils attending our school?

We do not find the law as to this matter, as you state it. Section 95 of the Public Schools Act, 1901, contains the law applicable to this case. Sub-section 2 provides that "the parents or guardians of the non-resident children shall pay to the Trustees of the school to which their children have been admitted such fees annually as may be agreed upon," etc. If no mutual agreement can be arrived at, the Trustees of the school which the non-resident pupils attend should refuse to admit them until a settlement is made with the parents or guardians as to the fees they are to pay. Sub-section 5 makes provision for the remission to the parents or guardians of such children of as much of the taxes chargeable upon them for school purposes as would be at least equal to the fees paid to the neighboring section for the non-resident pupils. Under the latter part of sub-section 3, it is not compulsory upon the Trustees to remit the fees paid by parents who send their children to a neighboring school, but under sub-section 5 they are bound to remit the fees

Preparation of Voter's List for Election of School Trustees.—Clerk's Remuneration.

19. A. E. N.—I am requested by public school trustees of school section No. — to prepare list of voters of all persons entitled to vote at the annual election of trustees. I desire to know:

1. What persons are entitled to vote at said school meeting for election of trustees?
2. Are tenants paying rent entitled to vote at said meeting?
3. Are farmer's sons entitled to vote?
4. Is any remuneration fixed by statute for township clerk in preparing such voters list?

1. Section 13 of the Public Schools Act, 1901, provides that "every ratepayer of the full age of twenty-one years, who is

a public school supporter of the section for which such person is a ratepayer, and every person qualified to vote as a farmer's son under the Municipal Act, shall be entitled to vote at any election for public school trustee, or on any school question whatsoever."

2. Yes, if a public school supporter in the section.

3. Yes, if a public school supporter in the section.

4. No. See sub-section 9 of section 15 of the Act.

Power to Fence in Alley in Village.

20—T. P. D.—On Main Street of this village there has been an alley way open for more than forty years, where ingress and egress has been carried on for that length of time, if not longer. The stores on each side of the alley way have enjoyed the privilege of taking in their goods and other necessary things for the above length of time. The present owner now puts a close board fence across the alley way and says that he has the right to do so.

1. Can he close the said alley way from the public?

2. And if not, what steps can be taken to remove the fence across the alley way?

1 and 2. Assuming that nothing has ever been done by way of statute labor or the expenditure of public money upon the alley in question, we do not see how the public can be interested in it, but every person owning land abutting upon it may have acquired an easement over it by user for a period of over 20 years, and any person who has had such user can compel the removal of the fence. The Council, however, representing the public at large, cannot interfere with it.

Town Council May Appoint Auditor to Audit Accounts Monthly.

21—J. M. H.—Is it legal for a town council in appointing auditors to authorize them to make a monthly audit of the treasurer's books instead of doing so at the close of the financial year?

Yes. See sections 9 and 10 of the Municipal Amendment Act of 1898, being chapter 23 of the Statutes for that year.

Power of Police Trustees to Take Gravel From Highway.—Law as to Traction Engines.

22.—J. A. S.—Our village G. is a police village. The police trustees opened a gravel pit in the village on one of the back streets. The ratepayer owns the land on both sides of the street. Now the police trustees have received a letter from a lawyer asking for damages. Is the municipal council responsible or the trustees? What is the law on opening a pit as to damages or can they be collected?

2. We have had trouble with traction engines. One man has a drilling outfit. It is a regular train, first the engine, then driller, then his wagon with pipes and tools. He broke through culvert which was plenty strong enough to hold any ordinary load drawn by team. Now is the council responsible for all repair?

1. If the excavation upon the street has caused damage to the lands of the adjoining landowner, the Trustees, who authorized the excavation, are responsible for such damages. Power is conferred upon the Council of a municipality to remove

gravel or stone from a public highway, and if the Council authorized the taking of gravel from the street the landowner would not have a right of action for damages, if he sustained any, unless he could prove negligence, but would have to arbitrate the question under the provisions of the Municipal Act.

2. We do not think that the engine in question is a traction engine within the meaning of chapter 242, R. S. O. 1897, but the owner of the engine must prove negligence against the municipality in order to recover damages.

Mode of Ascertaining Amount of County Council Grant for High School Maintenance.

23—CLERK.—Suppose that in a certain high school, the cost of maintenance is shown to be \$3,000, Legislative grant, \$650, total number of pupils 105, total county pupils 50, no fees, how much should the county council raise to comply with the law? Give your method of working it out.

The following statement for Aylmer Collegiate Institute for 1902 will give you the information required.

AYLMER HIGH SCHOOL STATEMENT, 1902.

	Average Total Attendance.	Average County Pupils.
1899	93	39
1900	89	42
1901	89	46
	271	127
Average	9.03	42.3
		—4684%
	Cost Maintenance.	Government Grant.
1899	\$ 4,334 96	\$ 868 96
1900	4,426 58	948 31
1901	4,497 09	881 90
	\$ 13,258 63	\$ 2,699 17
Average,	4,419 54	899 72
	899 72	
	\$ 3,519 82	$\times 4684\% = \$1,648 38$

In addition to government grant, examination fees received are deducted from cost of maintenance.

Payment of Account for Fuel for Town Hall Used at Referendum Vote.—Of Accounts for Medical Attendance on, and Fumigation of House of, Small-Pox Patient.

24—X.—The following accounts were presented at last meeting of council:

a. A bill for fuel used in town hall on polling day of referendum vote.

b. A bill for medical attendance (one visit) on small-pox patient. This medical doctor was the regular doctor attending the said patient and was asked by a member of the council whether quarantine could be raised. He therefore made a visit and presents bill for same.

c. A bill for fumigating home of said patient done at the request of a member of council. As the party quarantined is well able to pay all expenses, I hold that section 93, chapter 245 R. S. O. justified council in refusing payment in the case of b and c and that there is nothing in the statutes justifying payment of the first account. Am I right?

(a) The Council of the municipality is liable for and should pay this account. (See section 92 of the Liquor Act, chapter 33 of the Ontario Statutes, 1902, and item 11 of schedule B, appended to said Act.)

(b) If the person afflicted, or his parents or other person or persons liable for his support, are able to pay this account, they should do so, and the Council is in no way responsible, and should not pay it. (See section 93 of the Public Health Act, R. S. O., 1897, chapter 248.)

(c) For the same reason as that given in our answer to question (b), the Council is not responsible for and should not pay this account. (See sections 81, 82 and 83 of the Public Health Act.)

Auditing of Municipal Accounts by Committee of Council and Payment of Members of Committee.

25.—J. S. F.—Would you kindly look up question No. 403 in September number by W. M., then look at question No. 488 by S. W. As I am aware that both these questions refer to one and the same matter I would respectfully inform you that question 488 by S. W. is not correctly stated. Question 403 is correct as far as the action of our council is concerned. Your answer to question 403 is not plain to some. You quote section 307 of the Municipal Act. Instead of the council as a whole (five members) "finally auditing" and "allowing accounts," we appoint two members of our council to check over the auditor's work and report to the county. Now I hold these two can do the work better than the whole board and especially when we have members who can neither read nor write. What would be the use of "submitting" accounts to them? And when the council approves of the work, as done by two members, is it not the council who have done it? Would it not be silly and expensive for a council to sit in session re-auditing auditors' report until each individual member had satisfied himself by examination of accounts that they were correct or otherwise? In question 488, the statement "The council did not accept the auditors' report but made order and paid the auditors" is not a correct report. The council did accept statement of auditors, and then appointed two of their number to examine the accounts according to section 307. Was the council right or wrong? or should their whole number be a board of audit?

If the Council appoints one or more of their number as a committee to examine the auditor's report, and adopt or reject the report of such committee, this would, in effect, amount to an adoption or rejection of the auditor's report by the Council, and would be a substantial compliance with the provisions of section 307 of the Municipal Act. The Council, however, may pay the members of this committee remuneration for the services thus performed if they have passed the By-Law required by section 538 of Municipal Act. See also section 326 which gives council power to make regulations governing the proceedings of the council, etc., without this our former answers based wholly on the statute law are correct.

Resolution Providing for Collection of Additional Percentage on Unpaid Taxes.

26 J. A. S.—On the collector's schedule or receipt is "all taxes must be paid by the 14th. of December in each year or an additional charge

of 5% will be put on all taxes unpaid by said time, by order of council." Now this was a resolution not a by-law. This has been on the collectors receipts for some time or years but has never been put in force. Now the council instructed the collectors to collect the 5% after the 15th. as the 14th. came on Sunday. There has always been trouble in getting the taxes all collected, some taxes not being paid until July of next year. Will this law stand if we have trouble? The collectors were instructed at the November meeting, by motion, to collect it, and it was inserted in the minutes of that meeting.

Section 60 of the Assessment Act (as enacted by section 4 of chapter 27, of the Ontario Statutes for 1899) provides that the Council may BY BY-LAW allow a discount for the payment of taxes on or before a day or days therein named, and may impose an additional percentage charge (as the Council has attempted to do in this case) for non-payment of such taxes, etc. The Council cannot legally enforce payment of the additional percentage in this case submitted. As the Council did not pass a by-law in this case, the collector cannot lawfully collect the additional 5 per cent.

Qualification of Assessor as Councillor.

27—CLERK.—A person having acted as assessor of the municipality for the year 1902, and having been settled with in full for his services, would he be eligible to be elected as a councillor to serve during the year 1903? If not, what chapter and section touches on the matter?

Unless this person resigns his office of assessor and has his resignation accepted by the Council prior to NOMINATION DAY, he will be disqualified as a candidate for Councillor. Sub-section 1 of section 80 of the Municipal Act provides that "no ASSESSOR, etc., shall be qualified to be a member of the Council of any municipal corporation."

Appointment of Municipal Officers by Tender.

28—H. C. G.—Our Council appointed their collector and made the appointment without regard to advertising or asking for tenders for the vacant office. Some of our ratepayers say that the vacancy should be advertised and applications for same asked for, and that the Council overstepped their bounds in making the appointment otherwise. Kindly give your opinion and reference to the proper Statutes relating to said appointment.

A Municipal Council has no right to advertise or ask for tenders for the filling of the office of collector, or any other office in a municipality. It would be proceeding irregularly, illegally and in direct contravention of the Statute if it did so. Sub-section 2 of section 320, of the Municipal Act, provides that "No Municipal Council shall assume to make any appointment to office, or any arrangement for the discharge of the duties thereof, by tender, or to applicants at the lowest remuneration."

Payment of Extras to Bridge Contractor.

29—J. N. R. Last year our Council let a contract, a stone abutment for a new bridge, early in the year. No water was flowing in the stream for two months. The contractor put off his work until late in the fall, then wet weather

set in and he had a good deal of trouble and extra work towards it. When completed the council paid him balance, and \$25 for extra and stone, after the 14th of December. The said contractor came before the Council at the special meeting, and claimed that he had lost heavily through the flood. Then they gave him \$100 extra, more than contract. It was kept away from ratepayers last year, and now it comes out on the statement. Can the Council do so legally?

If, in the exercise of their judgment, the members of the Council considered themselves justified under the circumstances, in paying the contractor the extra amounts mentioned, we do not see that they were acting illegally in so doing. Had they refused to do so, it would be a question as to whether the contractor could have succeeded in enforcing his claim against the municipality for the alleged extras.

Qualification of School Trustees.

30—A. O.—When should School Trustees resign positions so as not to void their election as Municipal Councillors—at municipal nomination, or before annual school meeting? Or would it not be soon enough when elected? Would being trustee disqualify them,

1. From being nominated?
2. From being elected?

Could they run the gauntlet of election before being compelled to resign, or must they elect which place they are going to run for?

1 and 2. A candidate for any municipal office must possess the necessary qualification "at the time of the election." (See section 76 of the Municipal Act.) The "time of election" begins on nomination day, therefore any candidate nominated must be qualified at the time of his being placed in nomination. Any person who is now a member of a School Board for which rates are levied must resign his membership of such Board, and his resignation must be accepted by his colleagues on the Board PRIOR TO NOMINATION DAY, in order to qualify as a candidate for Councillor in his municipality. (See also section 80 of the Municipal Act, and section 5 of chapter 29 of the Ontario Statutes, 1902.)

Declaration of Election, When Council, by Resignations, Elected by Acclamation.

31—D. D.—If candidates resigning after nomination meeting leave the exact number required, when and where does the clerk declare the remaining candidates duly elected? I think the Act does not supply this information.

That part of the Municipal Act referring to this matter is sub-section 4 of section 129. It provides that if by reason of the filing of resignations within the time and in the manner mentioned in the Act, the number of candidates remaining proposed does not exceed the number required by the Act to be elected, THEN the Clerk, or other returning officer shall declare such remaining candidate or candidates duly elected to such office. This declaration should be made within a reasonable time and as soon as possible after the time for filing resignations has expired, and in such a manner as the Clerk or other returning officer deems to

be most public, usually by posting a statement up on the door of the Town Hall and in his office.

One Set of Ballot-Boxes Sufficient for Voting on By-Law and at Municipal Elections.

32—W. B.—I observe by the December number of THE MUNICIPAL WORLD that voting on by-laws on the 5th. of January 1903 at municipal elections, that you require separate ballots and separate forms different from those used at municipal elections. As the town of L. will vote on a by-law on that date viz the 5th. of January, would you let me know if it is necessary to have two sets of ballot-boxes or if the ballot-boxes used at the municipal election are sufficient to contain municipal ballots and by-law ballots? Municipal ballots are sealed up in the ballot-box. The box is also sealed and cannot be opened for thirty days unless a recount is demanded. I do not see anything in your December number relating to that but thought I would ask the question.

One set of ballot boxes is sufficient when the Municipal elections and a vote on a by-law take place in a municipality on the same day. There is no provision in the Statutes requiring a Municipal Clerk or other returning officer to keep a ballot-box used at Municipal elections and returned to him by a deputy returning officer sealed for 30 days after an election. Sub-section 4 of section 177 of the Municipal Act requires a deputy returning officer to return "the ballot box and the said packets" (that is the packets containing the ballots, etc., which the previous section of the Act directs the deputy returning officer to securely seal after the ballots have been counted) to the Clerk of the municipality, as it is in this sub-section provided. Section 188 directs the Clerk of the municipality to retain for ONE MONTH all ballot papers received by him. The PACKETS containing the ballot papers, etc., must be kept sealed until destroyed, pursuant to the provisions of section 188 (unless they are opened pursuant to the authority of sub-section 6 of section 177, or sub-section 6 of section 189), but there is no legal necessity for keeping the BALLOT-BOXES securely sealed or fastened during all that time.

Assessment of and Collection of Taxes Against Cheese Factory.

33—A. B. C.—Township municipal assessor assessed a cheese factory. He did not let the company know that their property was assessed. This cheese company has been making cheese in said factory for years and it was never assessed before. Can the municipality compel the cheese company to pay the taxes? The value put on said factory by the assessor is about double the cash value of the assessable property of said cheese factory and the company had no chance to appeal against the assessment as they did not know they were assessed. The company is a joint stock one of farmers, ratepayers of said township and part of another township.

The cheese factory is assessable property, and it was the duty of the assessor to assess it. The owners must be assumed to know the law, and that they were proprietors of property liable to assessment and taxation. If the assessor did not serve them with notice, under section 51 of the Assessment Act, they should have examined the assessment roll when it was

returned to the Clerk, as they had a right to do under the Act, and if they were then dissatisfied with their assessment, should have appealed against it in the regular way. They cannot now escape payment of the taxes on their assessment. (See section 72 of the Assessment Act.)

Seizure of Fanning Mill Covered by Manufacturer's Lien.

34—C. E. W.—The tax collector seized and sold a fanning mill for taxes for the year 1891, which was covered with a manufacturer's lien. Was it legal for him to do so. The company forbid him selling it. Can the company claim damages from him? Can anything that is covered with a manufacturer's lien be sold for taxes?

The Collector can seize and sell only the interest of the person liable for the taxes on this fanning mill. Sub-section 2 of section 135 of the Assessment Act provides that Collectors can levy taxes with costs by distress "upon the INTEREST of the person assessed in any goods on the premises, including his interest in any goods to the possession of which he is entitled under a contract for purchase, or a contract by which he may or is to become the owner thereof upon performance of any condition." The Collector, to escape liability for damages, should release the fanning mill from seizure, if he is satisfied that the manufacturers' lien for unpaid purchase money is *bona fide*, or sell it, subject to the lien.

Qualification of School Trustees.—Payment of Rent of Polling Booths at Provincial Elections and Voting on the Liquor Act, 1902.

35.—J. H. R.—1. Is a public school trustee of an incorporated village disqualified from acting as councillor of said village?

2. At the last Provincial election there were two polling places in an incorporated village; one in the town hall and the other in a room rented for that purpose by the returning officer. After the election the returning officer sent the account \$4.00 to the council requesting payment. Is the council legally required to pay the account? At municipal elections there is only one polling place in this village.

3. Is the Provincial Government or the council of an incorporated village required to pay the rent for polling places used on the vote taken on the Liquor License Act of 1902, on December 4th.

1. Sub-section 1 of section 80, of the Municipal Act, as amended by section 5 of the Municipal Amendment Act, 1902 (chapter 29, Ontario Statutes, 1902), provides that "no member of a School Board for which rates are levied" shall be qualified to be a member of the Council of ANY municipal corporation. A School Board for an incorporated village is one for which rates are levied, and therefore a member of such Board is now disqualified for membership in the village council.

2. Section 203 of the Ontario Election Act (R. S. O., 1897, chapter 9), provides that "the fees in schedule B to this Act, in respect of the matters therein contained, and no others shall be allowed to the several officers therein mentioned respectively, for the services and disbursements in the said schedule specified." Item 18 of this schedule is as

follows: "For each polling booth, actual cost not exceeding four dollars, to be paid by the Township Treasurer on the order of the Deputy Returning Officer, unless the township council provides suitable polling places at their own expense." It is to be observed that item 18 applies only to townships, and items 19, 20 and 21 to cities and towns. It is a question, therefore, whether the statute would be held to apply, in this regard, to incorporated villages. It is, however, evidently the intention of the Act that accounts of all polling booths should be paid by the treasurers of the local municipalities in which they are respectively located, and we think that the actual cost of the booth, not exceeding the amount payable by other municipalities, should be paid by the village.

3. The charges for rent of polling booths in your village (other than the Town Hall) used on the occasion of the taking of the Referendum vote on the 4th December inst., must be paid by the Treasurer of your village, on the order of the Deputy Returning Officer. Section 92 of the Liquor Act, 1902 (chapter 33, Ontario Statutes, 1902) provides that "the fees in schedule B to this Act mentioned, in respect of the several matters therein contained, shall be allowed to the several officers therein mentioned respectively, for the services and disbursements in the said schedule specified." Item No. 11 of this schedule is as follows: "For each polling booth, actual cost not exceeding four dollars, to be paid by the city, town, VILLAGE or Township Treasurer (as the case may be) on the order of the Deputy Returning Officer, unless the Municipal Council provides suitable polling places at their own expense."

Number of Municipalities in Which the Office of Clerk and Treasurer is Held by the Same Person.

36—W. H. M.—How many municipalities are there in the Province in which the positions of Clerk and Treasurer are held by the one person?

The position of Clerk and Treasurer is held by one person in each of seventy-six townships and forty-five other municipalities.

Qualification of Members of Public and Separate School Boards—Qualification of Municipal Clerk as Member of School Board.

37—A. B.—1. Are members of Public and Separate School Boards in incorporated villages disqualified from acting as Reeve or Councillor of such village, there being only one public and separate school section in the village?

2. Can Municipal Clerk act as member of Public School Board in incorporated village of which he is the Clerk?

1. Members of Public and Separate School Boards in incorporated villages are "members of School Boards for which rates are levied," and as such are disqualified from membership in the Municipal Council. (See section 5 of chapter 29, Ontario Statutes, 1902, and sub-section 1 of section 80 of the Municipal Act.)

2. The Clerk of an incorporated village is not in terms disqualified from acting as a member of the School Board of his municipality (see sub-section 2 of section 56 of the Public Schools Act, 1901); but we are of opinion that the duties of the two offices are incompatible, and cannot both be held by the Clerk at the same time.

Procedure on Nomination Day.

38—G. M. D.—Kindly inform me if our nominations have been made according to statute:

1. Can a candidate be nominated by a person who has no vote in the County Council division for which the candidate was nominated?

2. Two nomination papers were signed by persons not present at the nomination meeting. Is it necessary for them to be present to make nominations legal?

3. What procedure must be taken to have nomination for such candidate disposed of?

1. No. The nominator must be an elector of the division for which the candidate is proposed.

2. Yes.

3. The nominating officer has no alternative other than to receive these nominations. He has no authority to constitute himself a judge to say whether a candidate has been legally nominated or not. This is a question that should be left for the decision of the judge before whom proceedings may be taken to unseat the candidate whose nomination is alleged to be illegal.

Voters' Qualification.

39—J. H.—1. R. S. is on the assessment roll and legally entitled to a municipal vote. By mistake his name was omitted from voters' list. Can he vote at the ensuing municipal elections?

2. The Imperial R. V. Co. are assessed, but not on voters' list. Can the manager of the company, whose name is neither on assessment roll nor voters' list, vote as representing company at municipal election?

1 and 2. Neither of these persons has any right to vote at the ensuing municipal elections. Section 89 of the Municipal Act provides that "Except in the case of a new municipality, which has no assessment roll, no person shall be entitled to vote at any election, unless he is one of the persons named in the proper list of voters, etc."

Disposition of Levy Made by Mistake.

40—W. D.—1. In our township, by a mistake we have collected \$600 in taxes for county purposes more than the county called for. Could any rate-payers legally refuse to pay the extra rate?

2. Will it be legal to pay back the extra rate to parties that have sold their properties and are leaving the township?

1. Yes.

2. Yes, provided they have paid their taxes, including their respective shares of the illegal levy.

Qualification of Councillors.

41—S. W.—Referring to question 488, in the December number of THE WORLD, could the Reeve and Councillor that were appointed

nomination meeting, their respective resignations should have been in writing as required by subsection 3 of section 129 and filed with the clerk of the municipality previous to nine o'clock p. m. on the 30th of December. A and B not having done this, are still in the field for the reeveship, and a poll must be held on Monday, January 5th, 1903, with their names on the ballot to decide this issue between them.

The Two Classes of Municipal Reforms.

The reforms which are destined to give us the model twentieth century city may be divided into two main classes, namely political reforms and Economic and social reforms. Disproportionate attention has been given to political reforms which are less fundamental than the economic and social reforms. Among the political reforms which are coming we may mention an extended use of the referendum. The people are going to insist upon voting upon an increasing number of measures. Very generally they now vote upon questions of indebtedness. They will hereafter vote upon other measures of equal importance, such for example as the question of franchise for public utilities.

Such measures are likely to be taken, either by proportional representation or otherwise, as to secure a representation of all classes and elements in the Legislative branch of the municipal government. In a general way the aim of political reform will be to unite a large degree of local liberty and a wide scope of municipal action with suitable central control. Constitutional restrictions and Legislative interference in municipal affairs will be greatly lessened, but state boards of control will be multiplied, and this is the way in which evidently the problem will be solved.

We have state boards of health which exercise control and supervision in local affairs. One state has a board of municipal accounts, which without interfering with any legitimate local action, renders valuable services to the cities of the state. Another state has a state sewerage commission, which must approve all new sewerage plants. In some cases state boards have more or less to do with local transportation corporations. Massachusetts has a state gas commission.—*Professor Ely, of Wisconsin University in "The Coming City."*

The electors of the Town of Essex voted recently on a by-law to grant a \$15,000 bonus to Mr. E. J. Philip, who is going into the manufacture of automobiles, gasoline engines and steam specialties. The by-law had a walk over, there being only two votes against it.

The Modern Telephone Co. have signed contracts for the establishment of a rural telephone service, embracing in its circuit Markham, Locust Hill, Whitevale, Green River and Brougham. About thirty farmers will be benefited by the service and have 'phones.

Municipal Ownership and Operation.

From "A Municipal Program" Published by the National Municipal League of the United States.

The methods which have been most advocated for the management of municipal properties and services may be classified under two heads, viz:

Those which are equivalent to a lease for a period of years, and those which involve the direct control and operation by the local government.

The principal arguments in favor of the lease system may be stated briefly as follows:

1st. That it is the quickest and easiest method for a city to obtain large sums of money or large annual revenues without borrowing, and that the success of this method will be in proportion to the length of the periods for which the franchises are granted.

2nd. That with city management there is sure to be a great deal of fraud and corruption in the procurement of labor and materials.

3rd. That municipal officials and legislators are so generally ignorant, negligent, or corrupt that they are incapable of conducting the public business with intelligence, efficiency, and economy.

4th. That by carefully drawn leases and agreements the city's interests can be fully protected and its revenue assured and increased.

5th. That under our form of government the requirements of party politics and the frequent changing of public employees make it impossible for the people to secure as good service at as reasonable rates as a private corporation.

6th. That under municipal operation the employees and patronage will be used for political, partisan, or factional purposes, to such an extent that the spoils system will be greatly strengthened, and it will become much more difficult for the people to overthrow a political machine.

The advocates of municipal ownership and operation reply to these arguments:

1st. That even if we should ignore the influence of a full treasury in encouraging folly and extravagance, it would still be true that neither the raising of money nor obtaining an income can justify a city in depriving its citizens and their posterity of the control of matters essential for their own service and protection, or in selling important privileges for much less than they are worth, or in granting them to persons whose private interests will thus be made adverse to those of the public.

2nd. That as such arrangements are practically certain to be unfair to the city, the evils which they will inflict upon the people will be much greater if the grants are made for long periods than if they are limited to short terms.

3rd. That in aggregate amounts and in multiplicity and variety of direct and indirect methods the bribery and corruption chargeable to corporations seeking and enjoying municipal franchises are undoubtedly far in excess of the totals of similar evils from all other sources combined, and that the way to abolish bribery is to abolish the corporations which do the bribing, by adopting the policy of municipal operation in every conceivable case.

4th. That if the city's representatives are unfit to conduct a business from year to year, it would be the height of folly to entrust them with the vastly more difficult and responsible task of selecting and installing a management which could not be changed for a long period of years.

5th. That in making a lease for fifty years the bribes are much larger, and the necessity for expert knowledge, shrewdness, sagacity, foresight and honesty is much greater, so that the damage resulting from the lack of suitable qualifications in the city's representatives is likely to be very much more than fifty times what it may be under a management that is limited to a single year and can then be changed by the voters if it is unsatisfactory.

6th. That under existing conditions the chances of any city obtaining a fifty years' or other long term agreement which will be entirely fair and desirable for the people, or of securing what might be even more difficult, a full and satisfactory enforcement of such an agreement if one could be made, seem to be too slight for serious consideration.

7th. That even if it was practicable to secure such an agreement and its continuous enforcement, its effect upon the character of the local government must necessarily be exceedingly injurious. A bad servant who can be dismissed is much better than a master from whom it is impossible to escape. Republican institutions are based upon the principle that the people should have the power to change their rulers without resorting to assassination or revolution, and a long lease of an important municipal service is simply the substitution of a limited monarchy for a popular government, so far as it relates to that particular function.

8th. That as the character of every republican government must depend in the last analysis upon the active interest of the voters, it is obvious that every lease or agreement which ties the hands of a local government and lessens its ability to serve and protect the voters must tend to diminish their interest in supporting or improving it. While it is not possible to strip a city government so entirely of power as to make it incapable of attracting the efforts or serving the purposes of bad men, it is possible to render it so powerless to accomplish good or restrain evil that the average citizen can no longer be induced to take an active interest in it.

Legal Department.

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

Toronto Junction Public School Board vs. County of York.

Judgment in action tried without a jury at Toronto. Action for a declaration that defendants are liable under the provisions of the Public Schools Act to contribute towards the support of the South York County Model School, situated at the town of Toronto Junction. Held, that the plaintiffs are entitled to the declaration as prayed. Toronto Junction is territorially within the limits of the County of York, but it is a separate town within the provisions of the Municipal Act, and as a municipality is not under the jurisdiction of the County Council. Is Toronto Junction part of the County of York within the meaning of sections 83 and 84 of 1 Edw. VII., chapter 39, for educational purposes? That is to say, for the purpose of compelling the County of York to contribute to the maintenance of its Model School, set apart by the Board of Examiners as one of the Model Schools of the county. The County Board of Examiners is a board appointed by the Municipal Council of the county. That board must have as one of its members the inspector of any town (within the county) separated from the county. That board has jurisdiction within the county as to the subjects (limited in number) with which it can deal. The board can set apart at least one public school in the county as a Model School for the training of teachers. Such a school could be established by the board in a town (within the county), although separated municipally from the county. If the board could do this now it follows that this Model School in Toronto Junction, properly set apart as a county Model School, continues such, notwithstanding the separation of the town municipally from the rest of the county. The word "county" in the Act sometimes must be applied territorially and sometimes municipally. In this case the Model School is a county school, although in a separated town. Judgment for plaintiffs with High Court costs.

Bock vs. Township of Wilmot.

Judgment on appeal by plaintiffs from order of County Court of Waterloo setting aside verdict and judgment entered thereon for \$125, in action for damages for injuries sustained by infant plaintiff, S. Bock, 14 years old, and loss occasioned by his father, the plaintiff, D. Bock, by reason of a bank of gravel falling upon the said S. Bock, who was at the time in the employment of one Zimmerman. Bock was directed by Zimmerman, who was liable to do statute labor, to do as instructed by one Cassell, the pathmaster,

and it is alleged while so engaged was injured. The jury found in answer to questions that the infant was not guilty of negligence and did not undertake to work in the gravel pit with knowledge of the danger, and did not voluntarily undertake the risk; that the defendants were guilty of negligence, which consisted in the pathmaster allowing the boy to work in the gravel pit. The judge below held that the pathmaster was a fellow-servant with S. Bock; *Gilchrist vs. Carden*, 25 C. P. 1, *Stalker vs. Dunwich*, 15 O. R. 344, and defendants were not liable. Held, that under the circumstances the relationship of employer and employed existed between the corporation and the infant. The infant was a servant in husbandry to Zimmerman, and was not hired by the defendants, who had no power to dismiss him, nor was he paid by them, and neither they nor their pathmaster gave any particular order; *Rouke vs. White Co.*, 2 C. P. D. 205, *Jones vs. Liverpool*, 14 Q. B. D. 800, *Donovan vs. Lain*, 94 L. T. Tour 436, and the action cannot be maintained under the Workmen's Compensation Act, but at common law the plaintiffs are entitled to recover, and on the findings judgment ought not to have been disturbed. Appeal allowed, with costs here and below.

Lloyd v. Walker.

Judgment on appeal by defendant from judgment of County Court of York in action brought to restrain defendant, the tax collector for the Township of Whitchurch, from selling under a distress warrant for arrears of taxes upon a certain farm lot in that township a quantity of building material, cedar posts, etc., found thereon and admitted to be the property of the plaintiff. One Pegg, the owner of the farm lot, mortgaged it in 1895 to the Independent Order of Foresters, and in July, 1899, the mortgagees in possession made an agreement to sell to plaintiff upon certain terms as soon as they had completed pending foreclosure proceedings. In the meantime, the plaintiff was to have possession, manage the property, etc., make sales, subject to approval of mortgagees, and to render them accounts. Pending the foreclosure proceedings, the plaintiff joined with the mortgagees in making a lease of a portion of the lot to one Kerr. The plaintiff was not assessed for the property, and the taxes were not charged against him by name in the collector's roll. Held, that the plaintiff was not at the time of seizure an owner within the meaning of R. S. O., ch. 224, sec. 135, subsec. (3). He had no estate in the land, and no possession, as agent for the mortgagees, and was only to become entitled to an estate upon the

happening of an uncertain event. Per Britton, J.: A mortgagee in possession would be an "owner," and so would a person who went into possession under an absolute agreement to purchase, but the plaintiff is not. Appeal dismissed with costs.

Holden vs. Township of Yarmouth.

Judgment (H.) in action tried at St. Thomas brought by the plaintiff for \$8,000 damages for injuries received by him and his wife while driving across the Michigan Central R. W. Co's track on Talbot street, near St. Thomas. Plaintiff alleges that accident was caused by the non-repair of the township road and the negligence of the railroad's servants. Held that the plaintiff is entitled to damages. The accident was due to some sudden noise of the railroad cars as the plaintiff crossed the tracks, which startled the horse, and to the absence of a necessary railing at that point on the highway. *Towns vs. Whitby*, 35 U. C. R. 195; *Sherwood vs. Hamilton*, 37 U. C. R. 410, approved of in *Foley vs. East Flamboro'*, 26 A. R. 43; *Bell Telephone Co. vs. Chatham*, 31 S. C. R. 51, referred to. Damages to male plaintiff, \$50 for his own injury, \$350 for loss of consortium and service, to female plaintiff \$1,200. Judgment accordingly, with costs.

Cushen v. City of Hamilton.

Judgment on appeal by defendants from judgment of Rose, J., in favor of plaintiff in action tried at Hamilton, brought to recover certain money paid to defendants under the provisions of a by-law requiring vendors of certain meats in quantities of less than a carcass to take out a license. The by-law was declared invalid in October, 1898, upon return of an order nisi to quash a conviction of plaintiff under it; *Reg. v. Cushen* not reported. The trial Judge held, on the facts, that the payment made by plaintiff was not voluntary; *Morgan v. Palmer*, 2 B. & C. 729; that it was not necessary to quash the by-law before bringing the action, and not being an action of tort no notice was necessary; *Mallot v. Mersea*, 9 O. R. 611; that the claims assigned to plaintiff were assignable, and notice in writing under the judicature act of the assignment (sec. 58, sub-sec. 5) was not necessary between the parties, and that plaintiff was entitled to recover. Appeal allowed and action dismissed with costs.

Public School Trustees Unseated.

Judge Chisholm, County Judge of Waterloo, recently delivered a judgment which is of considerable interest to Boards of Public School Trustees. Proceedings had been instituted to unseat two members of the Board of Public School Trustees of the village of Baden, for having had dealings with the board of which they were members. In the first instance

His Honor reviews the facts of the case, which were as follows :

On Arbor day, in May, 1901, Mr. Shantz, while a trustee, did some teaming for the school, for which he put in an account for \$3 50. The account was passed by the Board and an order drawn for its payment. Mr. Shantz, at the trial, said he did not know he was doing anything illegal ; that he did not know the law and that he always expected to get pay, until he found the account was illegal. Then he withdrew it, and said he had no claim against the Board.

The Judge then quotes section 105, chapter 39, 1 Edw. 7, under which the action was brought. It states that "any trustee who has any pecuniary interest, profit or promise, or expected benefit therein, or from any contract, agreement or engagement, either in his own name or the name of another, with the corporation of which he is a member, or who receives or expects to receive any compensation for any work, engagement, employment or duty on behalf of such corporation, shall *ipso facto* vacate his seat."

It was objected to by Mr. Clement for the respondent, that this work having taken place in 1901, and a new election having taken place since, that the Board is not the same Board, and that proceedings should have been taken during 1901, or before the new election.

His Honor says "As I understand the Act, the seat was vacated at the time the corrupt act for which compensation was expected, was performed ; it then became *ipso facto* void, but requires a declaration of the fact by the County Judge before a new election can be ordered. I cannot agree with Mr. Clement's argument ; the board notwithstanding the election in December, 1901, of a new member, was a continuing Board of which Mr. Shantz was and is till now a member, and I don't find that there is any limitation—within the trustees term of office—in which these proceedings may not be taken.

I, therefore, by virtue of the power vested in me, declare the seat of the respondent, David S. Shantz, in the Board of Public School Trustees of School Section No. 13 in Wilmot township vacant—and I order a new election for said seat forthwith."

The other trustee proceeded against gave his consent through his solicitor to his seat being declared vacant.

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

We have no sympathy with the practice of appointing auditors, because they are applicants for the position.

Select the best man available irrespective of residence or political tendencies, and pay him to make a complete report.

Audit Reform.

If the municipal audit system of Ontario was always effective in counties and townships, special expert auditors would not be making an examination of the books of the former County Treasurer of Kent to ascertain the amount due the county and local municipalities when he was suspended.

To err is human, and for that reason certain officials are required to give security, and auditors are appointed to report on the correctness of their books.

The Provincial Municipal Auditor is doing a good work, but in order to establish a proper system of accounts, competent local auditors are necessary. These are required to be appointed annually. Capable men are not always available, either on account of the small fees usually allowed, or for other more potent reasons. The appointment of a Municipal Auditor for each county, or for a union of counties, to act with or without an auditor to be selected yearly by each Municipal Council, would enable the Provincial Auditor to co-operate in introducing a uniform system of book-keeping and efficient audits in every municipality.

A recently decided case (in re Allen and the Town of Napanee, 38 C. L. J., 724) is a practical illustration of what is almost certain to be the result when a Municipal Council assumes to transact its business other than in the manner which the Statutes prescribe. A motion was made to quash a resolution passed by the Council of the town of Napanee to the effect that "the street committee have instructions to see that the street trees, where necessary, be properly trimmed." It was held that under sub-section 4 of section 574 of the Municipal Act, municipal corporations have power to deal with the trimming of all trees, the branches of which extend over the streets of the municipality ; but it is a matter that should be dealt with, not by RESOLUTION, but by BY-LAW, as indicated in section 575 of the Municipal Act.

* * *

The qualification of an assessor should receive more consideration than is generally given to annual municipal appointments. His duties are defined by the Assessment Act, and no council has a right to direct him in the assessment of real or personal property. Upon the efficiency of his work a great deal depends, among other things, on a correct population return—the amount of the Legislative school grant ; on a complete dog census—sufficient funds to pay for sheep killed, and a possible balance for the general funds ; on the proper observance of the Assessment Act in reference to non-resident lands—the payment of arrears of taxes ; on the assessment of all manhood franchise voters and others—small accounts for the revision of the assessment rolls and voters' lists.

Book Reviews.

Seager's Magistrates' Manual.—We have had the privilege of examining a copy of the work recently issued by the Canada Law Book Company, of Toronto. We find it a complete guide to lawyers and magistrates in complex cases, with voluminous citations of cases from all English and Canadian reports and periodicals to date. Important features of the work are a great deal of care and space devoted to the appointment, qualification, duties, disabilities and jurisdiction of justices of the peace and magistrates, and a full discussion of the law of evidence. Proceedings of all kinds before justices of the peace receive their full measure of consideration. The author is Mr. Charles Seager, of Osgoode Hall, Barrister-at Law, who is himself a police magistrate. Price, half calf, \$5.50.

The Canadian Almanac for 1903.—This unusually valuable and almost indispensable work has again come to hand. Every office and library in the Dominion should be provided with a copy. It contains, amongst other things, the latest revised information as to the customs, tariff, postoffice department, banks, clergy, schools, colleges, societies and institutions, barristers, foreign consuls, COUNTY AND MUNICIPAL OFFICERS, Division Court clerks, police magistrates, life insurance, game laws, etc.; a full account of the *census of Canada*, full and complete militia and military information, a discussion of astronomy, an enlarged historical diary, and a vast amount of other interesting and instructive information of various kinds. A map of the City of Toronto is presented with each almanac. Price, in paper cover, 35c.

The town of Wingham is learning that it is not well to grant aid to every industry that comes along and seeks to establish itself within the municipality with the aid of the council and the citizens. Early last year a Toronto man made a proposition to found an iron-working concern, to be known as the National Iron Works Company. The town voted a bonus of \$17,000, and stock to the amount of \$10,000 was subscribed by private citizens. But even with this aid, the company only remained in business thirty days, at the end of which the municipality was left with the buildings on its hands. For a time these remained unoccupied, but recently they have been sold to a stove firm for \$8,000. There are now some fifteen hands employed on the property. To obtain employment for these fifteen men has thus cost the town a great deal more than it anticipated. It would have paid better to have granted each of them an annuity.—Ex.

Mr. Orra Bishop, who for a number of years has been clerk of the Township of Sombra, has resigned, and Mr. Wm. H. McGlin has been appointed in his place.