The Municipal Miscellany.

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The Municipal Miscellany, devoted to the dissemination of useful information relating to Municipal and other local Institutions, published monthly, at $1 per annum; six copies for $5. Address all communications to G. E. NEILSON, publisher Municipal Miscellany, Arnprior, Ont.

Calendar for August, '91.

14. Last day for County Judge to defer judgment in appeals from Court of Revision.
15. Last day for notices of appeals against Primary, Junior and Senior Leaving High School Examinations.
County Selectors of Jurors meet.
20. Clerks of the Peace to give notice to municipal clerks of number of jurymen required from municipality.

QUESTION DRAWER.

Would you kindly answer the following questions in your next journal:—1, No dog by-law was passed this year, a petition from the inhabitants being against it. Some sheep were worried by dogs. Is the council compelled to pay two-thirds of the damage, or does the want of a by-law free the council from responsibility? 2, A road was flooded last spring. The pathmaster let down a fence in order that teams would get through. The owner claims damages—the fence being broken and cattle allowed in, tramping into the soft ground. Is the council responsible. E. G.

E. G. says "no dog by-law was passed this year, a petition from the inhabitants being against it." We presume he means that in compliance with a petition of the inhabitants a by-law was passed doing away with the levy of a tax on dogs. Unless such was done the Act itself would be in force levying a tax on dogs, and requiring the municipality to pay two-thirds of the damages sustained to sheep from being worried by dogs. If a by-law doing away with the levy imposed by the statute has been passed it would also do away with the responsibility of the municipality for losses sustained by owners of sheep, as it is in consideration of this dog tax that the corporation becomes responsible. It is well known that in a majority of cases sheep are worried at night, or when no person is near to see or identify the dogs, so that it was rare that the owner of sheep could prove his claim for damages against the owner of the dogs. This state of affairs discouraged many farmers from raising sheep, and the object of the statute referred to was to encourage sheep raising by proivding what might be termed an insurance fund out of which to indemnify farmers for loss of sheep occasioned by dogs, whether the owners of the dogs are known or not. The statute, however, is not arbitrary, as it can be dispensed with by a by-law of any council on petition of twenty-five ratepayers, so that the people have the matter in their own hands. Of course it does not follow that the council is obliged to pass such a by-law even if petitioned for, but if the farmers in townships prefer to take their own risk as to idemnity for loss of sheep rather than pay a dog tax it is quite likely the council would comply with their petition, and pass the necessary by-law. In reply to the second question, we are of opinion that the owner can recover for damages from the council. The pathmaster is a servant of the corporation and acting in his official capacity would make the corporation liable, although for that matter it is doubtful if the corporation would not be equally liable if the fences were put down and the road opened by a private traveller who found the highway impassable. There is no doubt as to the right of the travelling public to thus use private property if the roads are impassable. Owners of land have not such an absolute ownership as to prevent this undoubted right on the part of the public, which leads us to think that if no damage could be shown the owner would have no claim for this temporary use of his property. The public, however, have no right to use the land longer than absolutely necessary, nor yet to damage the land or fences. The overflow from a heavy rain or melting snow might be unavoidable or the reverse, but from whatever cause it would be the duty of the council to promptly remedy the defect if in its power. If the council neglected to do so and the public had to use private property longer than otherwise necessary, the owner might then have a fair claim for the use as well as the damage. Each case would be decided on its merits. While we express our opinion as above, we do not do so in a positive sense, and would be pleased to receive the opinion of others on the same point.

When a farm lies partly in two municipalities would you call the tenant non-resident for the municipality in which the house and buildings are not situated. G. S.

Yes. His house or sleeping place of himself and family is his residence, and that being outside the bounds of the municipality makes him a non-resident. In Harrison's notes a decision of the courts is cited, which referred to polling places under somewhat similar circumstances and the same rule would hold good as regards the question of residences. He says: "One Robert Gillis had a farm through which ran the division line between wards Nos. 2 and 3. His house stood on that part of the farm included in ward No. 2, but his barn on the part in ward No. 3. The township council passed a by-law that the election of councillors for ward No. 3 should be held at Robert Gillis' *Held*, that the by-law must be read as meaning some part of his property in ward No. 3, and that as the election was shown to have taken place in the house without the limits of the ward, it was void."

I beg to acknowledge receipt of your MISCELLANY since March till this date, and shall be glad if you say so to exchange the *Cardwell Sentinel*. In case you do so, kindly send Jan. and Feb. numbers, as I would like to file them. Your little publication ought to be of immense benefit to municipal clerks, not only to those who are novices in the business but to those who have not the time to look over years of statutes. By-the-bye, your June number says: "Only residents can be put on Part I. of the voters' lists." Are you not in error?

G. P. H., Tottenham.

Have forwarded Jan. and Feb. numbers to *Sentinel* as requested and will be pleased to exchange. In reference to question asked as to the right of of non-residents to be

placed on Part I. of voters' list, there is no doubt whatever on the point. Our statement in June number is correct. Part I. is to contain the names of those entitled to vote in the municipality both at municipal elections and elections to the Legislative Assembly. By a reference to Section 3 of the Manhood Franchise Act 1889, it will be seen that voters for members of the Legislative Assembly must be residents of the municipality. Therefore a non-resident, no matter how much property he may own in the municipality, cannot vote in that municipality for an M. P. P. and cannot therefore be placed in Part I. of this list. If he owns sufficient real estate, he, as a non resident, would be properly placed in Part II. of the voters' list, as a municipal voter. This is the only place any non-resident can appear on the list.

I would like you to give in the next issue of THE MISCELLANY, if space will permit you, your opinion as to the meaning of sub-sec. 2, sec. 93, chap. 193, R. S. O. 1887. It states that when farm lots have been sub divided into park or village lots and the owners are not resident, etc., that the clerk in making out the list required under section 121 of this Act, that is, the non-resident collector's roll, shall commute the statute labor at a rate not exceeding ½ per cent. on the assessed value when the property is under the value of $200. What I wish to know is, what is the meaning of park or village lots? Does it mean simply lots in an unincorporated village? Does it mean those immediately adjoining an incorporated town or village? Has it a more extended meaning and including all lots under the value of $200 in a township. A question of this kind has arisen in this township, a party having purposely had his property assessed as non-resident to evade the statute labor. It has been sold three times for taxes and now he claims a refund. I hold that although the lot adjoins a town it was never described as a park lot in the assessment roll and that it should come under the same law as other property in sections 95 and 96 of the same Act. He contends that all property under the value of $200 should be assessed for the reduced amount.—W. D. McL., Harriston.

PARK lots as understood by us must not only be a subdivision of a farm lot but it must have been thus sub-divided and laid out on a plan of the property by a qualified Provincial Land Surveyor, and the lots described in the plan as park lots, and duly registered as such, otherwise the assessor could not describe them as park lots, and the clerk would have no knowledge or authority for treating them differently from other property assessed in the matter of statute labor. Park lots if so laid out and named on a plan of the property could be described by its name and number in a deed of conveyance, but unless a plan to correspond was registered the deed could not be registered. A person may sub-divide his farm without a survey or plan and deed a portion by other descriptions as to quantity of land and bounds, but in that case it could not properly be described as a park lot within the meaning of the Act as we understand the term. Park lots may be situated in any municipality if so laid down on a plan of the property. If such is done the plan must be registered, otherwise a penalty is provided, as may be seen by reference to the Registry Act and Land Surveyors' Act. If a farm has been subdivided up into park or village lots, the local council may cause a plan to be made and registered and add the cost to the taxes against the owner.

I give you an excellent rule for clerks who have anything to do with debentures, for which I expect you to give me one in return in next issue of MISCELLANY. To discharge a debt of principal and interest in a given number of years:—Take the interest of the principal for one year × by the amount of $1 for the given number of years at the given rate and ÷ this sum by the compound interest of $1 for the given time. For example: The equal annual instalment of $1,000 for 5 years at 5%. The interest of $1,000 for 1 year at 5%—$50.

The amount of $1 for 5 years = 1.2762815.
Comp. int. " " = .2762815.
1.2762815 + 50 = 6.38140750.
6.38140750 ÷ .2752815 = 230.90, annual interest.
I have a table made out thus:—
Amount of $1 for 1 year—1.05.
" " 2 years—1.1025.
" " 3 years—1.1576.

And so on, so that I have very few calculations to make when figuring on debt. The rule I wish to get is, to find the annual interest for a given number of years and months, say for instance 5 years and 4 months. For making out collectors' rolls Lytle's Rate Tables are excellent. I can, however, come much closer by making tables of my own and which make calculations easy. I make them thus:—

Suppose the rate is .00,455 or 455-100 mills.

1	.00,455	1,000	4.66	2,000	9.10	3,000	4,000	etc.
25	.11	.25	etc.	.25				
50	.23	.50		.50				
75	.34	.75		.75				
100	.46	1,100		21.00				
25	etc.	.25						
50		.50						
75		.75						
200		1,200		2,200				

G. S., Bosanquet.

G. S. has certainly put us under an obligation for his interesting figures. Any who have had occasion know how puzzling it is to prepare debentures so as to have everything come out right. Many councillors as well as clerks wisely refuse to tackle such problems and they obtain the assistance of others who make a study of such things. The rule given above for calculating principal and interest is indeed very simple and from examples we have tried and proven, appears to be quite correct, but the whys and wherefores we have not attempted to fathom, as life is too short for us to undertake to unravel its mysteries. We notice that by the use of G. S's information we are his debtor in this much, that he requires at our hands an exchange of certain other mathematical short method rules. We fear our ability to discharge this obligation, unless among our readers some one will kindly come to our assistance. Of course if G. S. has asked an impossible thing we are not bound to him either legally or otherwise, as there is no law compelling the performance of an impossibility.

WE observe that some of the voters' lists prepared by village clerks contain a column of figures denoting the post offices of the persons named in the list. This is unnecessary work so far as city, town or village municipalities are concerned. The Act only requires this to be done in the case of township municipalities.

CORRESPONDENCE.

In the last number of your paper you ask the opinion of your readers as to the usefulness of the publication of treasurers' accounts in the month of December. So far as I am concerned I cannot see much good arising from it. Any audit at or near the new year cannot be made very clear to the general public, as there are many obligations or bills to be paid that cannot well be known and entered in the audit or statement, and the collector's roll will not be returned for some time after. I find that audits made at the new year are generally in such a shape that very few can make much of them or understand them, that is, as to how the balance stands or will stand. Some few can, but in rural populations such men are scarce. We have since 1859 adopted the plan of half-yearly audits, and find such very satisfactory, for at the end of June the collector's roll has been returned and all debts of any amount have been paid off, and when the balance is struck we know what we have at a glance. I think if others would adopt the same plan they would not go back to the annual audits.—W. M., Rockton.

Having noticed that you were trying to lighten the burdens somewhat by timely suggestions, especially in your last issue in the matter of compiling the collectors' rolls, which at all times is supposed to be correctly done, I would suggest that all municipal clerks procure one of "Lytles Rate Tables" for preparing collectors' rolls, giving rates by tenths of a mill from one to nine and nine-tenths mills (compiled by H. J. Lytle, Cambray, Ont.) upon any sum from $5 to $10,000. The above table of rates I would not be without for double the cost of same, as it meets all the requirements of the several rates placed upon the roll, thereby reducing the amount of mental work necessary for the proper fulfilment of at all times a bothersome piece of business to the generally not over-paid clerk. Wishing you all manner of success in your present undertaking," etc.—T. R., South March.

In reference to making out the collectors' roll, you recommend making out a sort of ready-reckoner to aid in making up the roll. I formerly did so, but now I can say like the Dutchman "Osh, mun, I dosh petter as dat," for I have one of Lytle's Ready-reckoners. If you have not one send to Hart & Co. of Toronto and get one at $2. I got mine in 1884 at $1 from the compiler, H. J. Lytle, of Cambray, Ont., a township clerk, but the Toronto firm have bought the right and raised the price. Be sure to ask for "Lytle's Ready-reckoner." I got a different one before that and paid $1 for it, but it is not worth five cents for making out a collector's roll. Lytle gives the rates by tenths of a mill from one to nine and nine-tenths mills, from $5 to $9,950.

The change in the new School Act by which $100 has to be raised in each school section does not meet with much favor here. It is looked upon as entering the thin end of the wedge for township boards of school trustees.

You are doing well. Keep on so, and when you begin a new year change the size to 8 vo., increase the pages, and call it the "Municipal and Local Courts Gazette," thus catering for not only municipal councillors and officials but for all clerks of division courts and bailiffs, J. P.'s, school trustees, and as many business men as you can.—W. M., Rockton.

We entirely agree with W. M., respecting the uselessness of putting municipalities to the expense of publishing a detailed report of the treasurer's accounts in December. The object no doubt is to give ratepayers a knowledge of the money transactions of the council previous to the elections in order that ratepayers may express approval or disapproval by their votes. There may be isolated cases in which such information would be useful, but as the treasurer's books are public property any ratepayer can have access to them at any time, and we can only think that this extra trouble and expense on every municipality is the outcome of the demands of some soreheads of which nearly every municipality has a few.

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Primarily every inhabitant of the province is supposed to be interested in keeping up and repairing roads and streets. Public roads are for the use of all, and all have an equal right to insist on proper repair at the hands of the council having the oversight and control of the same. Yet all persons are not required to bear an equal burden in the work or the expense of repairs. Many young men who are not assessed for property and who pay no taxes otherwise, think it a great hardship to be required to bear a share in the making or repairing of roads. Evidently such persons are being pampered by the Legislature. They are given all the rights of the legislative franchise, and have all the protection of the laws of the country, and yet the small moiety they have heretofore been called on to contribute toward keeping up public roads has been reduced one-half by an amendment of the Assessment Act of last session. Not only so but those of them who are farmers' sons or sons of tenant farmers now get off Scott free. The effect of the amendment recently made will be to reduce the amount of statute labor in townships, and of commutation money in towns and villages. A fairer way would be to have a poll tax of $1 per head on every male inhabitant between the age of 21 and 60 years, whether assessed for property or not, and whatever more is necessary for roads to be supplied from the general rate. In this way all classes of the community would feel their individual responsibility for the maintenance of the roads, and as no doubt good roads add somewhat to the value of property, it would be right to tax property for the deficiency. As it is now, property owners alone may be said to bear the whole burden, so little will in future be collected from others. The time has come when the township system of road work might be changed with advantage to all concerned. About half the amount in cash that is represented by the present day-labor system in townships would go further in improving the roads, and the time given by farmers on the roads would be more advantageously employed in work on the farm. In the early settlement of the country when cash was not to be had for farm produce the present system of road work was a necessity, but now it is quite different. It does not require any new law to effect a change in this respect. The council of any township has power to enact by by-law that a sum not exceeding $1 per day shall be paid as commutation of statute labor for the whole or any part of the township. This will not likely be done until the farmers themselves give the matter due consideration and become convinced of the advantage of the change. In cities, towns and villages road work is done on a strictly cash basis, and no person would for a moment consent to take up a pick and shovel to do so many days' work on the streets under an overseer. It would not pay him to do so, nor is it a good business method for the farmer who can improve his time much more profitably on his farm.

We have to apologise for the lateness of the issue for August, and for delay in writing correspondents. It was owing to the absence of our office assistant for holidays, and an unusual amount of extra office work having to be done, which necessitated working late and early to accomplish it. We hope to guard against this in future.

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Through unusual pressure of work during the past few weeks, we have been unable to acknowledge by post all remittances sent us for The Miscellany since our last issue, and we now take this method of acknowledging same. To some of our correspondents referring to other matters we will take the earliest moment at command to write them :—R. K., Orona, $1 ; D. McL., Nelson, $1 ; T. R., South March, $1 ; J. M., Durham, $1 ; F. C., Routhier, $1 ; T. F., Atwood, $1 ; W. D., Sylvan, $1 ; J. W., Brigden, $1 ; C. H. R., Walkerville, $1 ; H. A. W. Walkerville, $1 ; F. McC., Wylie, $1 ; J. B., Melancthon, $5 ; G. S., Thedford, $1 ; G. H., Moltke, $1 ; C. S., Jordan, $1 ; W. D., Camlachie, $1 ; J. J., Bobcaygeon, $1 ; H. J. L., Cambray, $1 ; J. C., Eganville, $1 ; J. N., Walsingham Centre, $5 ; F. J., Brodhagen, $1 ; T. J. R., Sudbury, $1 ; T. B., Kagawong, $1 ; A. S., Baysville, $1 ; P. R., Kinloss, $5.

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We beg to acknowledge the receipt from the compiler, H. J. Lytle, Esq., Cambray, Ont., of a copy of "Lytle's Rate Tables for preparing Collectors' Rolls." This work meets all the requirements of convenience and correctness, and is without doubt the best ready-reckoner that has been published for the purpose intended. The calculations are made from one mill to nine and nine-tenth mills, and from $5 to $9,950. The thanks of all municipal clerks are due Mr. Lytle for having done so much to simplify the tedious work of preparation of collectors' rolls. Those who have used these tables are loud in praise of the work, as may be seen by the letters of some of our correspondents in another column.

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A correspondent has raised the question as to the propriety of clerks acting in the dual capacity of returning officers and deputy returning officers at municipal elections. An examination of the various sections of the Municipal Act relating to this matter has convinced us that the spirit and intention of the law are against the same official acting in both capacities in municipalities having more than one polling place. As an evidence of that fact special provision is made by section 98 giving him authority to act as a deputy returning officer where the municipality is not divided into wards and polling sub-divisions, and if it were intended that he should act as a deputy in other cases, no doubt similar provision would be made. The law does not specifically say the clerk as returning officer is disqualified to act also as a deputy, but the directions as to his duty in furnishing voters' lists, ballot boxes, and receiving returns from deputy returning officers, and the sections giving deputies a right to vote while excluding the returning officer from that right except in case of a tie at the final counting up, all go to show that his functions and duties are such that it never was intended he should act in both capacities. Municipal returning officers hold a similar place in respect to elections of the municipality as do returning officers appointed for holding elections for the Legislative Assembly and the Dominion Parliament, and in no case do these latter officers act in the double capacity of returning officer and deputy returning officer.

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It was a thoughttul act of W. McDonald, Esq., clerk of the township of Beverley, county Wentworth, and J. L. Wideman, Esq., clerk of the township of Woolwich, county Waterloo, to send us printed copies in pamphlet form containing the minutes, financial statements and by-laws of their respective municipalities for the past two or three years. In looking over them we were struck with the complete and yet concise record kept by the above named clerks of the proceedings of council and matters relating thereto, which left nothing to be desired. Ratepayers have thus at hand for convenient reference at any time full details of each year's proceedings and expenditure. By-laws too, of a permanent character relating to public matters, are thus made public in a convenient form for reference. We do not know that the practice is very general in village and township municipalities of having their proceedings printed in pamphlet form for circulation among the ratepayers, but we can imagine no expenditure that would be more readily sanctioned by the public than the cost of doing so.

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Municipal clerks in villages and rural municipalities frequently find it practicable to employ themselves in other avocations at the same time, but a greater variety of branches of business followed by any one municipal clerk than that given below by Geo. P. Hughes, Esq., of Tottenham and Keenansville, in describing what he calls his chequered existence, has surely never been exceeded.—General merchant 38 years, Conveyancer, Commissioner in the Queen's bench and H. C. J. 34 years, private banker 29 years, Secretary Adjale Agricultural Society 29 years, Justice of the Peace 34 years, postmaster at Keenansville 34 years, publisher of the *Cardwell Sentinal* 27 years, municipal clerk of Adjale and Tottenham 17 years, member of the township and county council 6 years, agent G. N. W. Tel. Co. 19 years, chemist 38 years. This list of experience has been comprised within a lifetime of 56 years, so that if the worries of publishing a paper coupled with the clerkship has not unduly worn him out, such a many sided man may be expected to live long enough to add a few other lines to his list before he retires to a farm, the last ambition of most business men. Mr. H. would make an excellent pioneer in our great Northwest, for if he saw fit to lay out a new town he would be able to boom it from the start, and single-handed he could advertise its various branches of business already in operation.

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The month of September will find a majority of municipal clerks busily engaged in the preparation of the collector's roll which is to be delivered to the collector by the 1st of October. Clerks may then take a short rest in so far at least as extra official work is concerned. From the first of May each month has brought with it the performance of extra duties required by statute, such as making a

copy of the assessment roll for the county council, attending to appeals to the court of revision, preparation and publication of the voter's list, and then the collector's roll. This with the ordinary routine work and correspondence connected with the office has kept them somewhat busy. The next matter to be looked after is the selection of jurors which takes place on the 10th of October, which date falls on a Saturday this year. In next issue we will refer more particularly to that branch of municipal work.

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In the preparation of by-laws where pecuniary penalties are attached, and where it is intended that such penalties are to go exclusively to swell the municipal funds, it is necessary that a clause be inserted in the by-law setting forth that fact, as otherwise under section 423 of the Municipal Act one-half of the penalty would be payable to the informer, except the prosecution is brought in the name of the corporation. Under section 479, sub-section 17, power is given to pass by-laws inflicting reasonable fines and penalties for breach of by-laws, and under sub-section 18, for collecting such penalties and costs by distress and sale of the offender's goods and chattels, and under sub-section 19, for inflicting reasonable punishment, with imprisonment with or without hard labor, "either in a lock-up house in some town or village in the township (?), or in the county gaol or house of correction, for any period not exceeding twenty-one days, for breach of any of the by-laws of the council, in case of non-payment of the fine inflicted for any such breach, and there being no distress found out of which such fine can be levied," etc. Usually a maximum and minimum amount of penalty is named in a by-law, giving the Justice discretionary powers to make an order as the facts brought out at the examination may warrant. Whether a minimum amount be stated or not, it would appear to be immaterial, as the Justice has independent powers to reduce the maximum amount, for section 421 reads that the justice "shall award the whole or such part of the penalty or punishment imposed by the by-law as he thinks fit." A maximum sum and period of imprisonment in default of payment is, however, necessary to be stated, for without a penalty the by-law would be of no avail against transgressors, and the magistrate has no power to exceed the amount of penalty therein laid down. As the matters delegated to the authority of municipalities are to be considered in the light of civil and not criminal actions, the penalties to be awarded are intended to be punishment by fines rather than by imprisonment. Imprisonment can only follow if the fines and costs are not paid. So careful has been the Legislature to guard the liberty of the subject that the statute expressly lays down in the powers given to municipalities by section 479, sub-section 19, that while by-laws may provide for inflicting reasonable punishment by imprisonment, it is only in case of non-payment of the fine and costs inflicted that imprisonment can be ordered. Imprisonment is not, therefore, so much the penalty for infraction of a by-law as it is a consequential penalty for non-payment of the fine. So also by section 422 the justice may only commit the offender in case the fine is not paid, or that no distress can be found out of which the penalty can be levied. Therefore the by-law should recite the amount of the fine, to whom payable, power to collect fine and costs by distress on the order or warrant of the Justice, and in default of such distress, stating the number of days' imprisonment in consequence of such non-payment. It is important also that the powers given to collect the fine should also recite the costs to be added, otherwise it is questionable if a warrant of distress could be ordered against the offender who had duly tendered the amount of the fine but refused to pay the costs. In fact the power to enforce payment of costs has been questioned by some, but section 420 appears to give the necessary power to enforce costs in the same way as the penalty, but by sub-section 18 of section 479 it is intended that by-laws shall include in their provisions the authority for collecting costs.

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The appointment of places for holdiug municipal elections is to be done by a by-law, but if not so made, then the places where the last election was held in the municipality would govern. The place of meeting for taking nominations does not necessarily mean the place for holding the election, though it is so connected with it that it should also be stated in the by-law. Section 489 of the Municipal Act, authorizing the passing of by-laws for dividing into wards and polling sub-divisions "and for establishing polling places therein," would mean that the polling places should be within the ward or polling sub-division. A sub-section to section 489 makes provision for changing the places named in the by-law in case of emergency. By an amendment to that sub-section at last session, this necessary provision is made to extend to townships as well as to cities, towns and villages. Clerks are only authorized in making such a change provided the place mentioned in the by-law cannot be obtained or is unsuitable. He cannot make such a change from a mere whim or to suit his own convenience. If a change is made he must select the nearest available building suitable for the purpose. Having made a change he requires to post up and keep posted a notice on the building that had been fixed upon by by-law and also in two other conspicuous places near by, directing the voters to the place chosen by him. The law does not specify how long before the date of election that such notice must be given, as that would not always meet the necessities of the case. It might only be known that a change was necessary on the morning o polling day, as the building selected might have been burnt just previously or for other reasons. No doubt the provision of the law is meant to be interpreted that notice should be given as soon as possible after knowledge of the change to be made. This right of making a change has been given to the clerk only, and not to deputy returning officers, but we have no doubt that in case of emergency a change made by any deputy for good and sufficient reasons would hold good in law.

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We had about made up our mind that the change in the form of the Miscellany as suggested by W. M. would meet with general approval and answer all purposes better than any other. The editor contemplates if he can make satisfactory arrangements in future volumes to have a School Department under the charge of a public school inspector or someone else thoroughly versed in such work, and a Division Court Department in charge of an experienced

division court clerk, and also to associate with himself one or two other municipal clerks to assist in making the municipal portion as beneficial and interesting as possible. It has been to the editor so far a labor of love if he has in any manner been able to be of any service to others engaged in similar work with himself, but his other engagements are such as fully occupies his time, so that the time devoted to the MISCELLANY has been in a sense *stolen hours* and it is due to the large and increasing list of subscribers that he obtains such assistance as will make it an organ worthy of their support.

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A CORRESPONDENT in writing us on other matters stated that he would have liked to see a meeting of municipal clerks at Toronto during the time of the Exhibition there, as no doubt many clerks would be there at that time. He thought it would be advisable, if time permitted, to get the clerks in each county to meet together and appoint delegates to attend a meeting to be held in Toronto or some central place to organize. We coincide with the views of our correspondent as to the advantage it would be to municipal clerks to form a Provincial Association. The Division Court clerks have found their Association of great benefit, and this benefit has extended to all, even those stay-at homes who have never joined or become active members of the Association, as an increased tariff of fees somewhat proportionate to the duties has been mainly the result of the united action of the Association in bringing the matter intelligently before the proper authorities. So would it be in the matter of the municipal clerks, who are as a rule very much underpaid for the services performed. We believe it is a fact that taking the actual number of hours devoted necessarily to municipal work as required by law and by their council, that very many clerks, especially in township municipalities, do not receive the wages of a common day laborer. We have heard that in one municipality at least, the clerk has to do the work for the miserable pittance of $30 a year. This of course is an exceptional case, but all the same if a statement of the salaries paid clerks were made it would surprise a great many. Something like uniformity of salaries in proportion to population of municipalities might be brought about by means of an association. We wish someone would take the initiative in bringing about a meeting to organize an association. We shall be happy to assist as far as we can.

THE NEW PUBLIC SCHOOL ACT.

We expect that a majority of our readers are already in possession of the new School Act, but as some of them have requested us to point out the principal amendments made in order that the changes in the law may be more readily seen, we accede to their request.

The first change of importance is in the interpretation clauses. It will be noticed in the former Act that the word "teacher" was interpreted to "include female as well as male teachers," whereas in the new it is to "mean any person holding a legal certificate of qualification." The latter is the neater rendering, but at first sight it appeared to affect a good many teachers in the newer districts whose qualification is merely a "permit." This, however, can hardly be so, as permission is given to Inspectors to grant permits in certain cases, and therefore those qualified in that way would be legally qualified.

The next change noticeable is the omission of the word "resident" in the interpretation clauses. The interpretation given that word in sub-section 6 of section 2 of the old Act was somewhat ambiguous, to say the least, and in one case that we know of it led to a new election of trustee under the following circumstances: A person who had been a trustee of a village school removed his family to the suburbs, just outside the school section. He continued his business in the village, and paid an average taxation to the Public School. He was re-elected last January as a trustee of the village school, as it was thought that section 13 which requires trustees to be "actual residents" of the section was governed by the interpretation given of the word "resident" by the Act itself. The Minister held differently, and a new election was held. As the word "resident" has been omitted in the new interpretation clauses, no future difficulty of this nature will arise.

Section 3 is new, by which the regulations of the Education Department are to be considered as governing in any matter where they can consistently do so. The Act respecting the Education Department may be said to have always provided for the same thing.

It will be noticed that the arrangement of many of the sections of the new Act are different, though re-enacting the former laws. For instance section 7 of the new Act is the same as section 33, sub-section 1, of the old Act, and there are many other changes of a like nature not necessary to refer to further.

Section 8 and sub-sections thereto having reference to the union of High and Public Schools are substantially the same as sections 219, 220, 221, 222, 223, 224 and 225, except that we observe the words "(or Collegiate Institute)" have been omitted from the new Act. We do not know whether or not there are any union Collegiate Institute and Public School boards, and if there is, whether or not the omission of these words will have the effect of arbitrarily dissolving such union.

There is a new provision made by sub-section 2 of section 9, whereby the children of non-residents who pay the average assessment of residents are to have the privilege of attending school on the same terms as residents. Section 172 also makes important changes in respect of non-resident children attending schools nearer than the school in their own section. Formerly these were admitted on payment of a monthly fee not to exceed fifty cents; now they are to be admitted, if there is sufficient accommodation, and the fees may be such as are mutually agreed on by the parents and trustees, but not to exceed the average cost of the instruction of the resident pupils. The parents are still liable for the school taxes of their own section, but power is given to the trustees of such section to remit, if so disposed, so much of such taxes as would be equivalent to the fees paid to the other school. This is a provision which we imagine will be seldom acted on, for but few trustees will voluntarily relinquish any taxes which the law gives them a right to. Now that every section gets a proportion of the general tax, it would seem but right that pupils be allowed the privilege of having a choice of two schools, the one in their own section and also the one in the adjoining section nearest their residence.

Where the ratepayers refuse or neglect to elect trustees for two years, it is competent for the municipal council either to appoint trustees or they may by by-law declare such section dissolved and annex it to others. This latter is a new provision, and will be found in sub-section 2 of section 28.

Section 29 of the former Act required the inspector to put up notices in a new section for the first election of trustees. That duty is now to be performed by the municipal clerk.

There was no provision in the Act heretofore for payment of the secretary-treasurer of township school boards. Now, however, that officer may be allowed such compensation as may be agreed on by a resolution of the ratepayers at the annual meeting.

Special meetings of the school board were formerly to be called by the secretary at the request of two trustees, but now he is also to call such meeting on petition of ten ratepayers.

The dates for transmitting the semi-annual returns to the inspector have been changed somewhat. Formerly the trustees' semi-annual returns were made on 30th June and 31st December, and the annual returns on 15th January. Now the semi-annual returns are due 15th July and 31st December, and the annual returns on 1st of January.

Trustees are now authorized when deemed necessary to provide textbooks and other school supplies for the children of indigent persons.

The sections having reference to selecting a site for a new school house, have had the words "or for changing the site of a school house" added. The awards of the arbitrators on school sites were formerly binding but for one year; now they are made binding for five years.

In the matter of appeals against by-laws altering school boundaries, the new law provides that such appeals must be filed with the county clerk within twenty days after passing the township by-law. Some change has been made in the mode of procedure having relation to the formation, alteration and dissolution of union school sections.

The system of equalizing the assessment of union school sections for school purposes remains much the same as before, except that the assessor and inspector of the portion where the school house is situated have the power of the initiative in calling a meeting of the assessors or arbitrators. The award made may be reconsidered and altered if necessary at the request of the inspector or five ratepayers made within a month after such award has been filed with the clerk. To prevent misunderstanding as to date of filing, we would recommend clerks always to endorse on the back of all documents filed with them the date of such filing.

School boards in cities, towns and incorporated villages may at their discretion, supply pupils with text-books, stationery, etc., out of the public funds.

Section 117 of the former Act by the change of the permissive word "may" to the imperative word "shall" in the first line, as now embodied in section 109 has made a material difference in the manner of raising school taxes throughout the townships. Now it is compulsory to raise by a general rate from all Public School supporters in a township the sum of $100 for each school section and $50 additional for each assistant teacher employed in any school.

A slight change has been made in section 116, by which the clerk was if requested to furnish to the inspector free of charge a statement of the assessed value of each school section, and of the amounts required to be collected by the several trustee boards, and the section ending with the statement that the clerk was to be entitled to payment for such work from the council. There was a contradiction in the section as regards remuneration, which the new Act has rectified by striking out the words "free of charge" in the second line. The trustees may obtain from the clerk a statement showing the several lots composing the section and the amount of assessment, etc., on payment of the cost of preparing such statement.

The council has power to raise in addition to the amount called for by the trustees, such other sums as it may deem expedient for the establishment and maintenance of Public School libraries and for aiding new or weak schools or for support of model schools.

REPORT OF COMMISSION ON MUNICIPAL INSTITUTIONS.

(EXTRACTS CONTINUED.)

It seems strange that in the first session of the first Upper Canada Legislature no Act was passed to raise money to meet the expenditures that were authorized. The Government had at their disposal the income from the sale of wild, or as they were then called waste lands, and from the duty imposed by Imperial statute on those who kept houses of refreshment or sold liquors. They had also a claim to some share of the money collected in Quebec as customs duties on goods imported by the St. Lawrence, and had the proceeds of duties on goods imported from the United States. Of all the revenues so raised, the Lieutenant Governor claimed to have unlimited control. This claim was not questioned while the revenues were insufficient to meet the cost of government and the balance was provided by the Imperial Parliament. The income from those sources must have been very small at first, as free grants were made of nearly all the lands then disposed of, and imports were inconsiderable. It is singular that under these circumstances the Legislature in its first session provided no means of meeting the expenditures it authorized. In the second session it passed "an Act to authorize and direct the laying and collecting of assessments and rates in every district within this Province, and to provide for the payment of wages to the members of the House of Assembly," which was repealed by 47 Geo. III. c. 7. This was repealed by 51 Geo. III. c. 8, and that again by 59 Geo. III. c. 7, which provided that the following property, real and personal . . . should be deemed rateable property and be rated at the rate and valuation therein set forth, that is to say every acre of arable pasture or meadow land twenty shillings; every acre of uncultivated land, four shillings; every town lot, situated in the towns hereinafter mentioned, to wit, York, Kingston, Niagara and Queenston, fifty pounds; Cornwall, Sandwich, Johnstown and Belleville, twenty-five pounds; every town lot on which a dwelling was erected in the town of Brockville being composed of the front half of lots numbers ten, eleven, twelve and thirteen in the first concession of the township of Elizabethtown in the district of Johnstown, thirty pounds; every town lot on which a dwelling is erected in the town of Bath, being composed of the front or south half of lots numbers nine, ten and eleven in the first concession of the township of Ernestown in the Middle district, twenty pounds; every house built with timber, squared or hewed on two sides, one story in height and not two stories, with not more than two fire-places, twenty pounds; for every additional fire-place, four pounds; every dwelling-house built of squared or flaked timber on two sides, of two stories in height with not more than two fire-places, thirty pounds; and for every additional fire-place eight pounds; every framed house under two stories in height with not more than two fire-places, thirty-five pounds, and for every additional fire-place, five pounds; every brick or stone house of one story in height and not more than two fire-places, forty pounds, and for every additional fire-place, ten pounds; every frame, brick or stone house of

two stories in height and not more than two fire-places, sixty pounds, every additional fire-place ten pounds; every grist mill wrought by water with one pair of stones, one hundred and fifty pounds, every additional pair, fifty pounds; every saw mill, one hundred pounds; every merchant's shop, two hundred pounds; every storehouse owned and occupied for forwarding goods, wares or merchandise for hire or gain, two hundred pounds; every storehouse kept for the purpose of covering wares for hire or gain, one hundred and ninety-nine pounds; . . . . every horse of the age of three years and upwards, eight pounds; oxen of the age of four years and upwards per head, four pounds; milch cows per head, three pounds; horned cattle from the age of two years to four years, twenty shillings; every close carriage with four wheels kept for pleasure, one hundred pounds; every phæton or other open carriage with four wheels kept for pleasure only, twenty-five pounds; every cariole, gig, or other carriage with two wheels, kept for pleasure only twenty pounds; every wagon kept for pleasure, fifteen pounds." Although this sounds very archaic, the Act from which we quote was passed in the year 1819—in the fourth session of the seventh Upper Canada Parliament. The Act passed in the second session and that by which it was repealed appear in the statute book only by their titles.

The fourth section provided that "all lands shall be considered as rateable property which are holden in fee simple or promise of fee simple . . . . or by lease," and the fifth section provided that any piece of land in any of the towns named on which a building was erected should be considered a town lot.

The Justices in session were authorized and required "after having ascertained the sum of money required to be raised for defraying the public expenses of the district to divide and apportion the same . . . . so that every person shall be assessed in just proportion to the list of his, her, or their rateable property," "provided always that the sum levied should in no one year exceed one penny in the pound . . . . on the valuation at which each species of the property before mentioned was rated and assessed." The collectors—elected at the township meetings were required to collect the rates thus levied, and to pay over what they collected to the district treasurer. The assessors were paid four per cent. on the amount assessed and the collectors five per cent. on the amount collected. The justices in Quarter Sessions were authorized to appoint a treasurer who should give such security as the justices may require. The Act provided when lands should become subject to assessment, and how payment could be enforced in all cases. Means of enforcing payment of the rates were provided, and it was enacted that when the rates and assessments of any lot of land were suffered to remain in arrears and unpaid for the space of three years, one-third should be added to the amount; if for the space of five years that the amount payable should be increased one-half, and if for a space of eight years or upwards, that the amount should be doubled. The Act 6 George IV. c. 7, provided that when the rates were eight years in arrears, part of the lands may be sold at public auction after due notice, and prescribed the manner in which the sale should be made and what fees may be charged. It also required owners of lands not surveyed by the Surveyor-General to make a return of those lands—under a penalty. An Act passed in 1828, evidently enacted in the interest of non-resident owners, provided that further time should be allowed to non-residents for the transmission of taxes, that if taxes then due on lands for over eight years were paid on or before July 1st, 1829, the increase on the amount originally assessed and levied should not exceed fifty per cent., and that if thereafter taxes were allowed to fall into arrears for any period not exceeding four years the increase should not exceed fifty per cent. It also provided that owners of land might pay to the treasurer of the district in which they resided the taxes due on lands in other districts, and required the treasurer to whom such payment was made to forward the amount to the treasurer of the district in which the lands were situate. The same Act prescribed a somewhat elaborate form to be used by the assessors. The clerk of the Peace was required to send to the Lieut.-Governor an aggregate account of the assessment to be laid before the Legislative Council and House of Assembly.

The revenue raised by assessment must have been very small for several years, yet it was the only revenue available for what may be called municipal purposes. The chief means of constructing roads and bridges was "Statute Labor," and this, as might have been expected, proved insufficient. In the second session of the Legislature "an Act to regulate the laying out, amending and keeping in repair the public highways and roads within the province" was passed. This and an Act "to alter the method of performing statute labor," were repealed by the Act 50 Geo. III. c. 1, which prescribed the number of days that each person should work on the highways, the hours of working, the manner of working, the penalties incurred should any persons refuse to do this work when called upon by the overseers, the manner in which those penalties should be recovered, and the amount to be paid in commutation by those who preferred to make a money payment. The sections prescribing the amount of work to be done were repealed by subsequent Acts. One of these provided that "every male inhabitant from the age of twenty-one years to fifty, not rated on the assessment for any town, township, or place within the province, should be compelled to work on the highways three days in every year, within the township or place he may reside in." And then another provided that "every person included or inserted in or upon the assessment roll of any township, reputed township or place, shall in proportion to the estimate of his real and personal property stated on the said roll be held liable to work on the highways and roads in each and every year as follows: that is to say, if his property be not rated more than twenty-five pounds, then his proportion of statute labor on the highways shall be two days; if at more than twenty-five and not more than fifty, three days; if at more than fifty pounds and not more than seventy-five pounds, four days; if at more than seventy-five pounds and not more than one hundred pounds, five days; if at more than one hundred and not more than one hundred and fifty pounds, six days;" and so on. When a man's property was assessed at more than £400 and not more than five hundred pounds he was required to do twelve days' work; for every £100 above that sum until the valuation reached £1,000, he was required to do one day's work additional; for every £200 additional value above £1,000 up to £2,000, one day's work additional; for every £300 above that and up to £3,500, one day's work additional; and for every £500 above that amount one day's work additional. At first the injustice of this was not felt, as years must have elapsed before any property was assessed at more than a few hundred pounds, but afterwards it was found to be a serious grievance that as a man's ability to contribute to the cost of making and repairing the highways increased, and the benefits to be derived from them were greater his liability to the cost decreased. The Act 59 Geo. III. c. 8, sec. 3, provided that lands subject to be rated, but which by reason of their remaining unoccupied or for other cause were not included in the assessment roll, should be rated at one-eighth of a penny per acre. The Act 4 Geo. IV. cap. 10, virtually authorized the persons liable to this tax to expend it where they pleased, as the subsequent approval of the justices in session was easily obtained.

To be Continued.

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