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MISSING

THE MUNICIPAL WORLD

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

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Calendar for July and August, 1900.

Legal, Educational, Municipal and Other Appointments.

JULY.

1. Dominion Day (Sunday.)
All wells to be cleaned out on or before this date.—Section 112, Public Health Act, and Section 13 of By-Law, Schedule B.
Last day for Council to pass by-law that nominations of members of Township Councils shall be on Third Monday preceding the day for polling—Municipal Act, Section 125.

Before or after this date Court of Revision may, in certain cases, remit or reduce taxes.—Assessment Act, Section 74.
Last day for revision of rolls by County Council with a view to equalization.—Assessment Act, Section 87.

Last day for establishing new high schools by County Councils.—High School Act, Section 9.

Treasurer to prepare half yearly statement for council.—Section 292, Municipal Act.

Treasurer to prepare statement of amount required to be raised for sinking fund to be laid before council previous to striking annual rate.—Municipal Act, section 418, (4.)
Last day for completion of duties as Court of Revision.—Assessment Act, section 71, subsection 19.
5. Last day for service of notice of appeal from Court of Revision to County Judge.—Assessment Act, section 75.
Make returns of deaths by contagious diseases registered during June.
15. Last day for making returns of births, deaths and marriages registered for half-year ending 1st July.—R. S. O., chapter 44, section 11.
20. Last day for performances of statute labor in unincorporated townships.—Assessment Act, section 122.
31. Last day to which judgment on appeals, Court of Revision, may be deferred, except as provided in the Act respecting the establishment of Municipal Institutions in territorial districts.—Assessment Act, section 75, sub-sec. 7.

AUGUST.

1. Last day for decisions by court in complaints of municipalities respecting equalization.—Assessment Act, section 88, subsection 7.
Notice by Trustees to Municipal Council respecting indigent children due.—Public School Act, section 62, (8) ; Separate School Act, section 28, (13.)
Estimates from School Boards to Municipal Councils for assessment for school purposes due.—High School Act, section 15, (5) ; Public School Act, section 62, (9) ; Separate School Act, section 28, (9) ; section 33, (5.)

High School Trustees to certify to County Treasurer the amount collected from county pupils.—High School Act, section 15, (9.)

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The Municipal World

PUBLISHED MONTHLY

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

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

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THE MUNICIPAL WORLD,

Box 1321, St. Thomas, Ont.

ST. THOMAS JULY 1, 1900.

Mr. J. A. Carmichael, of North Bay, has been appointed clerk of the township of Widdifield, to succeed Mr. C. W. Thomson, deceased.

* * *

The city of Chatham is experimenting with tar macadam in the improvement of its streets. Colborne street will be treated in this way, at a cost of \$1.23 per square yard.

* * *

Mr. W. M. Drennan, city clerk of Kingston, died on the 29th of May last. He was appointed to that office in 1897. Mr. L. W. Shannon was appointed to succeed him.

* * *

Mr. David Chenay, M. A., principal of the Training School at Plantagenet, Ont., has been appointed public school inspector for the north riding of the county of Essex.

A Good Example.

Mono's new assessor has set a good example for his brethren of the craft over the country. He has assessed all property at its actual cash value, instead of one-half as is the prevailing custom among assessors. Before commencing his work he evidently looked at the oath he would have to take on returning the roll, and made his assessments accordingly.

Assessors who care much about their reputation should remember that it is difficult for the average citizen to understand how a man can value a \$7,000 farm at \$3,500 and then swear he has assessed it at its actual value.

Last year's assessor valued Mono at \$725,790; this year's assessor puts it down at \$1,593,105, or more than double; yet both officials swore they assessed it at its actual value!

A Unique Election.

Even in staid old England municipal electors sometimes choose representatives who develop a capacity for transacting their business in a very remarkable manner. The following (which we take from "London" a leading English municipal journal) is an instance:

The Sidmouth District Council has an extraordinary way of conducting public affairs. At its last meeting the members were called upon to elect a successor to the late clerk, and among the candidates for the position was one of their number, named Orchard. Of course, no objection can legally be raised to a councillor making a plication for such a post, provided that he possesses the necessary qualifications for the important office, and resigns his seat before the application is made. But Mr. Orchard had no such nice scruples, and was determined to obtain the job by hook or crook. Backed up by his personal friends, he took part in the election, and not only exercised his vote against his rivals for the office, but even went so far as to record a vote in his own favor! Several members insisted that the election was illegal on the ground that a salaried appointment came under the definition of a contract. The chairman, while admitting that he was not sufficiently well up in legal knowledge to determine the point, conveniently settled the matter by stating that he could not refuse Mr. Orchard's vote! The objecting members, however, will be well advised if they appeal to the local government board, in order to prevent so scandalous an election being made effective.

It may be pointed out that one of the candidates was Mr. Wolstenholme, the assistant clerk, and gentleman who had carried out his duties with efficiency and to the satisfaction of the council. Apparently Mr. Orchard did not feel quite easy about the shabby manner in which Mr. Wolstenholme had been treated, and immediately after their selection passed a resolution "expressing their high appreciation of the services rendered" by him. Mr. Potbury, who proposed the resolution made the extraordinary remark "that although he was not able to vote for Mr. Wolstenholme, for reasons Mr. Wolstenholme quite understood, he would nevertheless have been pleased to see him elected clerk—a piece of muddle-headed rhetoric worthy of a Sidmouth councillor.

Earlier in the sitting the chairman gave another exhibition of the extraordinary manner in which the council carries on the public business. A surveyor and sanitary inspector had to be appointed, and a number of candidates applied for the post. When the council assembled the chairman coolly announced that, in order to facilitate business, he had opened all the applications, and made concise notes of their contents. Some, he said, in his superior judgment, could be set aside at once as unsuitable, while others were worthy of consideration. The chairman's "concise

notes" were then read out, and, guided by these, the applications were weeded down. The council was delighted with the sagacity of their chairman, and awarded him a vote of thanks for his labors.

Interesting Bonus Problems.

An interesting problem, under the new bonus legislation of the Ontario Government is presented by a by-law which was voted on at Owen Sound on June 12. Under the by law it is proposed to raise \$6,000 to be loaned for ten years to the Parkhill Basket Manufacturing Company, which undertakes to remove to Owen Sound. Such a grant is clearly illegal under the terms of the bonus bill passed at the recent session of the Ontario House. If the by-law goes through it may, of course, be quashed by any dissatisfied ratepayer of Owen Sound who takes action. But if the ratepayers are unanimous, it then becomes a question who will enforce the law. No case is known where a municipality from which an industry has been enticed away has itself taken action to quash a bonus by-law of another municipality passed to its detriment. It looks, therefore, as if the Attorney-General's Department might have to intervene in the interests of justice, though it was certainly never contemplated that the Attorney-General in person should supervise the working of the new bonus measure.—*Ingersoll Chronicle*.

Municipal Sanatoria In Canada.

An act has been passed by the Ontario legislature to provide provincial aid for the establishment of sanatoria for consumptives. It enables the councils of counties, cities, or towns separated from counties, to establish sanatoria for the treatment of person suffering from consumption; provides for the management of the sanatoria by a board of not more than five trustees; enables municipalities to combine for the purpose of establishing sanatoria, and authorises the Lieutenant-Governor-in-Council to make a grant not to exceed one-fifth of the sum expended on the site, and not more than \$4,000 altogether, for the purpose; the site and plans to be approved by the Provincial Board of Health.

Municipal Ownership Pays.

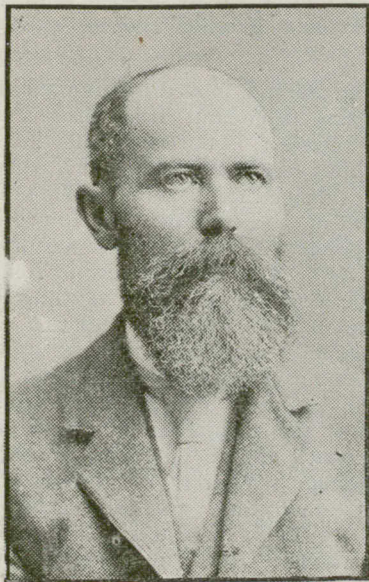
Portland, Ind., paid \$17,140 for its electric light plant in 1895; improvements since have made the total cost \$20,344. Including the saving in cost of street lights, which was \$85 a year under the private company, the profit to date is \$15,697. Well?

Union City, Tenn., has found that city ownership of electric light and water plants more than pays its own way, and now you couldn't pay Union City from public ownership of those utilities with anything less than a tornado. Net profit last month, \$235.87; population served, about 3,000.

Municipal Officers of Ontario.

Clerk, Township of Ellice.

Mr. Kreuter was born in Philipsburg, Waterloo County, in 1850, and with his parents removed to the township of Ellice.



MR. J. KREUTER.

He was educated in the public and grammar schools, and taught school for three years. In 1871 he embarked in the mercantile business in Milverton and afterwards located in Rostock where he now resides. He was appointed clerk in 1899, and carries on a general conveyancing business.



MR. JAMES CAIRNDUFF.

Clerk, Township of Harvey.

Mr. Cairnduff was born in 1827, near Belfast, County Down, Ireland, and came

to Canada in 1843. He worked at his trade as a shoemaker in Prince Edward County for thirty years. He was appointed treasurer of Athol township in the year 1852 and clerk in the subsequent year, both of which offices he held until January, 1873. In the latter year the family moved to the township of Harvey and Mr. Cairnduff was appointed clerk of the latter township in 1874. He has been engaged in farming since 1873. Mr. Cairnduff has served the public as a municipal officer continuously for forty-seven years.

Clerk, Township of Somerville.

Mr. Suddaby was born in the township of Fenelon in the County of Victoria in 1842. He was appointed assessor in 1869



MR. SAMUEL SUDDABY.

and 1870, and held the appointment of councillor and auditor for several years. He was appointed clerk in 1890.

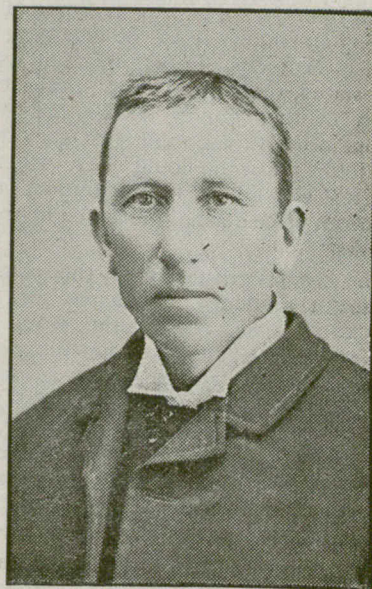
Clerk, Township of Dunn.

Mr. Lyons was born in the township of Dunn in the year 1859 and received his education at the public schools in his native township. He was collector for four years, assessor for five years, and was appointed clerk in 1892.

Clerk, Township of Darlington.

Mr. Elliot was born at Port Hope in the year 1835 and removed to the township of Darlington in 1840, settling at the village of Hampton. He was educated in the public schools in that vicinity. He

became a clerk in his father's store at the age of fifteen years and has for fifty years been conducting a general store at Hampton. He was appointed township clerk in 1898 and treasurer in 1900. Mr. Elliott is a commissioner for taking affidavits in H. C. J. and also does a general conveying business.



MR. DAVID LYONS.

Mr. George Hamilton, of Sebringville, has been appointed treasurer of Perth county, in succession to Mr. George Leversage. Mr. Hamilton is an Irishman by birth, and at the time of his appointment was principal of the public school in the above village.



MR. HENRY ELLIOTT, JR.

The council of the city of London has passed a by-law, reducing the number of aldermen to be hereafter elected in that city to twelve, and providing that they shall be elected by a general vote.

Municipal Debentures and The Money Market.

Last year we published an article by Messrs. Geo. A. Stimson & Co. as to the value of debentures. The prices this year are somewhat lower, and the above firm has, at our request, furnished us with the following explanation of the cause of the existing low prices, and the effect of the war on the money market generally:

"In June last we had the pleasure of answering an enquiry from you regarding the value of Municipal Debentures, and as we then stated, the present and future condition of the money market are great factors in the valuation of such securities. We doubt if anyone could have foretold the great change in the conditions that has taken place during the last eight or ten months.

The general prosperity of the country has been gradually increasing for the past two years, and aside from the war feature, the general commerce would have absorbed to a great extent as much money as the country was naturally producing. The war, instead of being, as was supposed, a matter of a couple of months, has now been eight months in duration and is likely to continue for some time yet.

The effects of these conditions upon money market generally can hardly be fully estimated. It is unnecessary to say that it has been largely the cause of the increased value for money, especially in England. As a country, we are closely identified with England, and the money which, under ordinary circumstances, would remain here for investment, has been taken home to meet the excessive demands at present existing there. This, together with the greater commercial demands, left much less money available for debenture investment. Moreover, in prosperous times such as the present, the average investor is willing to take a little more risk for the sake of slightly higher interest, and in this way finds an outlet for his surplus in other channels affording a slightly higher return than is usually obtainable from municipal debentures.

During the years, 1895, 1896 and 1897, trade was somewhat depressed, building operations were slack, and, generally speaking, times were dull. It was difficult for money to find a profitable use, and therefore the demand was naturally strong for investment in municipal debentures. This had the effect of producing an exceptionally high price for this class of security, and the various townships and other municipalities were able to find purchasers who were willing to take their debentures to yield a very small return on their investment. During the last two years, however, trade has been improving, manufacturing increasing and building operations extending, employing very large amounts of money, and thus naturally reducing the amount available for municipal debenture investments. These, we think, have now reached the

highest point, or very nearly so, and consequently municipalities have not been able to sell their bonds as advantageously as previously.

If war complications should arise with any of the foreign powers attendant upon the closing of the present war in the Transvaal, the chances are that the uneasy conditions, which this would produce, would still further temporarily depreciate the value of municipal debentures. If, however, the war should terminate abruptly, and satisfactorily (as appearances indicate) and without any foreign complications, general confidence would be restored without much delay, and money naturally return to its normal condition before very long.

The preferential tariff and Canada's prompt and patriotic assistance to England in connection with the war, will undoubtedly bring greater attention to Canada in general, and to Canadian investments in particular, than was heretofore given, and we trust will be the means of inducing larger amounts of capital to seek investment in this country.

Another favorable feature is that the Dominion government bonds, we understand, are to become a legal investment for English trustees. This will effect the ordinary municipal securities, in so much as they will receive a certain indirect benefit of the broader market thus created for low interest bearing securities.

The greater demand there is for municipal debentures, the better price will the municipalities receive, and thus as fast as money accumulates and cannot receive a satisfactory use in other ways it will be available for investment in debentures, and the prices will just be affected according to the demand.

The Chinese question unless rapidly disposed of will likely keep the market uneasy, and such a condition is almost less desirable than a really tight money market. Until the American presidential elections are over and war conditions take a much more favorable and settled turn, we do not look for the money market to regain its normal condition, and, therefore, the various municipalities will likely receive varying, if not lower prices, for their debentures."

LEGAL DECISIONS.**Canada Atlantic R. W. Co. v. Township of Cambridge.**

Judgment in action tried at Ottawa. The defendants' assessor assessed not only the land occupied by the company, (the plaintiffs,) but also the rails, ties and telegraph poles. The plaintiffs did not receive notice of this assessment. The plaintiffs did not appeal to the Court of Revision by whom the assessment was confirmed, but did afterwards appeal to the county judge, who dismissed it on the ground that an appeal under the circumstances did not lie. It appeared on the face of the assessment roll that the value

of the rails, ties and telegraph poles had been added to the value of the land. Held following Central Vermont R. W. Co. v. Township of St. John's, 14 A. C. 590, that the assessment was illegal, and therefore this action lies. Judgment for plaintiff, declaring assessment illegal, and restraining the enforcement of payment of its amount. Costs to plaintiffs. Costs of defendant, Paquette, the collector of taxes for defendants, to be paid by them.

Taylor v. Town of Toronto Junction.

The plaintiff, moved for injunction restraining defendants from using plaintiff's premises, in the Town Junction, as a smallpox hospital. Held, having regard to the evidence that it cannot be said that the object of the defendants was to provide a temporary shelter within the meaning of sec. 93 of The Public Health Act, the scope of which seems to be limited to sporadic cases where immediate action is requisite to secure isolation as provided by sec. 110, and that the building being about 100 yards from plaintiff's house is against the prohibition of sec. 28 of the act, which applies to any use of land and building, temporary or permanent, for hospital purposes. (See sec. 2, sub. sec. 3). Injunction granted, saving permission, however, to retain and care for those now patients or convalescent until complete recovery. (Brendslow v. Worthy, 36 W. R. 168). Costs to plaintiff if case ends here, otherwise reserved to trial Judge.

Caldwell vs. Town of Galt.

Judgment on appeal by plaintiff from judgment of Rose, J., dismissing action with costs and giving judgment on counterclaim for defendants with costs. The plaintiff is the owner and occupant of the Central hotel, in the town of Galt, and the action is brought to restrain the defendants from removing the two-story verandah which surrounds it. The counterclaim asked for a direction for removal of verandah. It was contended for plaintiff that the verandah, which projects over the main street, was in its present position before the street was dedicated to the public, and that such dedication was subject to the rights of user of the plaintiff's predecessors in title, which rights are now vested in plaintiff and were vested 60 years before commencement of action, and that he could acquire a right of possession, prescription, or user to maintain such an obstruction on a highway against a municipality. It was contended for defendants that the onus of proving dedication lay upon plaintiff, which had not been discharged, and that the defendants had the right to acquire the removal of the verandah without compensation under sub-sec. 2 of sec. 557 of The Municipal Act. Appeal dismissed without costs and without costs of motion to allow further evidence or of the taking of further evidence.

Engineering Department

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

Street Improvement.

Many persons, engrossed in their private occupations, seldom think of the great importance of town streets, and how the welfare of every one is affected by them. Streets must provide for air, natural light by day, and artificial light by night, surface drainage, underground drainage or sewers, pavements for roadways and sidewalks, so essential for transportation of all that we need and use, as well as for ourselves. Pavements are essentially for the proper cleaning of a town, and removing the germs so injurious and deadly, if retained. Town streets provide places for posts and poles for various purposes, wires above ground and below, boxes for post office, police and fire alarm, promenades for exercise and health. They should provide, as they seldom do in Canadian cities, places for public comfort, and on broad streets, at convenient points, benches for rest, drinking fountains for man and beast.

Grass plots, parking, fountains and trees, all have an uplifting influence, and should be placed where possible on many streets. Tie-posts for horses and stepping blocks are a source of danger and obstruction, and should be removed if possible.

Street car tracks should be of such strength as not to be easily displaced, and of such a form as not to retain or obstruct the wheels of carriages, wagons and other vehicles. The best form is the rail having a flat surface with a groove in it, less than an inch in width, to conduct the flanges of the street car wheels. A glance at a city or a portion of a city encumbered with narrow

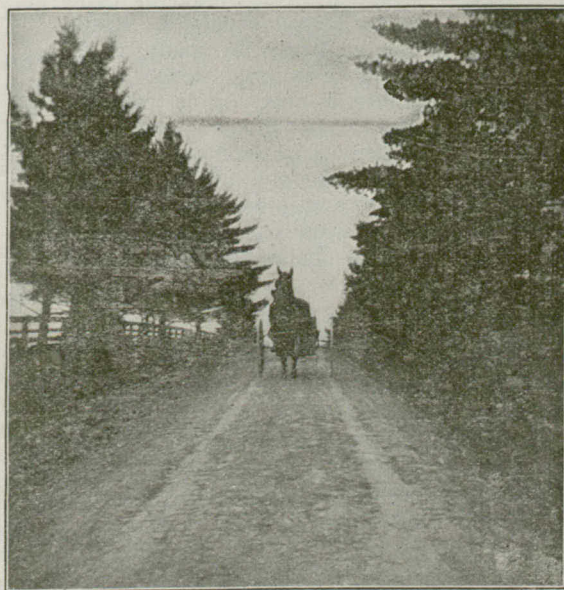
or unattractive streets, surfaced with pavements which absorb, breed and disseminate the germs of disease fatal to human life, show how these things are to be dreaded. Towns with disagreeable, repelling, improperly paved, noisy and poorly cleaned streets cannot become nor remain successful towns. They cause men who are successful financially and socially, to go to more attractive places, thus depriving a town of much taxable wealth and talent which is best for all communities to retain and even make efforts to draw it from other places.

Nothing assists health more than streets paved with smooth, impermeable pavements, which can be cleaned and kept clean. No man or city can be successful unless in good health.

Men like to be appreciated as well as paid. The beautiful streets of Paris are lasting monuments to Haussman and Alphand; of London to Haywood; of Berlin to Hobrecht and Gottheiner; of

Washington to Greene and others; New York to North, Waring and others. The paving, maintaining or repairing, and cleaning of town streets are matters calling for the attention of the best brains. Great delay has occurred in the improvement of the pavements because municipalities employ that most expensive and hardest of taskmasters, namely, its own experience. Travel, observation, and the need of economy, due to competition with other cities, convince us that many cities are better equipped than we, and at less ultimate expense besides. We finally heed the German adage, "examine all, retain the best."

Paving has been regarded by many who should know better, as out of the Province



A ROAD IN NORTH MONAGHAN.

of engineering. So were waterworks, so were sewers, so were many branches of public work, until, after long struggle, much patience, strong opposition and costly experience, city after city has taken these out of the hands of the simply practical, and entrusted them to men both practical, scientific and economical. Nothing encourages this work of improvement more than the fact that a board of trade of a town or city takes up the problems involved and studies how to make the surroundings more agreeable and business more profitable; how to increase the earning power; how to remove the costly embargo on business caused by poor pavements; how to relieve the cost of horses needed to remove heavy loads; the cost of constant repairs to pavements, vehicles and harness, the cost of street cleaning; the cost of excessive street sprinkling; in fine, the study of the health and progress shows how much depends upon pavements.

Next to railways and real estate, the streets of cities absorb the most money expended upon any one object. Pavements must be had. A town or city without them cannot preserve its economical existence. - A perfect street pavement would provide surface for the easy passage of vehicles. It would offer the least resistance to traction consistent with a foothold for horses. It would be easily cleaned, be impervious to moisture, retain no filth with it, produce no odor or dust, be as noiseless as possible, and be otherwise of sanitary value. It would suppress jarring, not only of vehicles passing over it, but of adjacent buildings. It would be as durable as is consistent with being kept in continual economic repair. It would admit of quick and easy repairs. It would permit being cut through and renewed over gas and other pipes. It would be so laid as to be easily and quickly drained. It would permit being crossed on foot at any point. It would be of handsome appearance. All pavements should approximate as closely as possible to this definition of a theoretically perfect pavement. There are reasons, however, why some towns, and different parts of one town, cannot immediately employ one or other of the special pavements best adapted to that town or its parts. Poor and temporary pavements, can, however, be gradually replaced by better ones.

Provincial Aid.

In last month's MUNICIPAL WORLD there appeared a communication from the question of Provincial Aid from "Blenheim Councillor," and as a well-expressed statement of what are undoubtedly the views of a great many people throughout the Province, it is certainly most instructive and valuable. "Blenheim Councillor" fully voices the opposition which has, in a few quarters, arisen to the proposal to spend one million dollars of Provincial money for building good roads. This opposition, we regret, appears to have been created largely by township councillors more jealous perhaps of their own powers and patronage than of the best good of their constituents. In other instances, as is evidently the case with "Blenheim Councillor," the opposition arises largely from a misapprehension of the real measures proposed.

The offer, as it rests at present, is conditional upon a suitable plan being framed to so conduct the expenditure that it will be made equitably, and in the best interests of the people. The spirit of the proposal is not one of demanding control, as our correspondent believes, but rather one in which assistance is offered. And it is in that spirit the proposition will, we trust, be met. No plan which can be adopted will be without defects, for there is no

system yet devised by man for any purpose which is perfect in all respects. It is evident, therefore, that of the several plans suggested, none of them have been acceptable to the Ontario government, otherwise the public would have been so informed ere this.

Certainly the proposal to spend one million dollars of Provincial money in building country roads, is one likely to commend itself to most men as being a measure for the benefit of the farmer. This is justified by the fact that Provincial revenue is derived chiefly from the sale of timber limits and other valuable assets, not by direct taxation as is the present township road tax and statute labor. Provincial aid is one means whereby the machinery of government can readily provide that the towns and cities shall assist in the building of country roads. This money will be spent on country roads, not town streets. This amount will be spent among the farmers in the purchase of gravel and for labor in constructing the roads. The assistance of the Province on such a scale is liberal, the benefit resulting will belong to the farmers, and the channel of expenditure is such as to be a benefit to the farmers.

While no plans have been suggested by the government, among those which have been submitted to the government is one providing that the Provincial government shall pay one-third the cost of reconstructing a certain number of miles of heavily travelled roads in each county, the mileage to be in proportion to the area of the county, the work to be in charge of the county council. The reasons county councils have been named are many, and are well understood by every student of the road question. It is desired to place roads before the people, which will be object lessons, and the expenditure must therefore be confined to a few roads. It is desired that these roads shall form, as far as practicable, a connected system. These and others are laudable objects, which cannot be carried out under township councils, whether as regards first construction or maintenance. Heavily travelled roads require constant attention, which township councils cannot give. They require the use of machinery which township councils cannot afford. The most efficient and economical plan is to collect them into one class and place them in charge of a body exercising jurisdiction over a greater area, as is the case with the county council.

Oxford county has about 1,300 miles of road within its borders, of which about 170 miles are such "Blenheim Councillor" states as would fall within a county system. The remaining 1,130 miles would remain in the undisputed charge of the township council. In all of this we find no suggestion of oligarchy, such as our correspondent predicts.

A by-law to raise \$4,000 to erect a new town hall in Uxbridge was defeated by a majority of 11 votes.

Municipal Improvement Associations.

The Municipal Improvement Association, of Hamilton, is offering this year, \$250 in prizes for the most artistically decorated lawn on certain of the main streets of the city, also other prizes for the finest window plant decorations. This is a departure which could well be imitated in every village, town and city of the province. Municipal improvement associations are not at all so numerous here as in many parts of the United States, while the work to be performed is quite as great. There are various branches of municipal work which these societies can consistently foster. The establishment of parks and their proper treatment, the construction of pavements and sidewalks, the care of boulevards and lawns, the encouragement of tree planting, one or all provide scope for the labors of improvement associations.

To this may be added many minor matters suggested by the conditions found in the majority of municipalities. Cattle are running at large in many cases, unsightly and dilapidated fences exist, brush and litter is piled up in offensive heaps, garbage is not properly disposed of by many citizens, unsanitary cesspools exist, the water supply may be unsatisfactory, these and other matters afford additional opportunity to those who would leave the world a better and more pleasant place than they found it.

Associations need not, however, aim at remedying all these ills if not deemed advisable, but may confine their efforts to one object alone. There may be merely park improvement or street improvement, lawn improvement or tree planting, sanitary improvement or road construction as opposed to the more general municipal improvement.

The work of tree planting associations in certain parts of the States has been particularly beneficial. Where such have been organized and conducted with intelligence, energy and spirit, great results have been accomplished, notably in Brooklyn and its neighborhood, where great changes in the condition, number and care of trees have been brought about. By persevering effort the city fathers have been induced to pass ordinances looking to the protection of street trees against vandalism and carelessness generally, making it a misdemeanor subject to fine. But the most far reaching influences of such organizations is the educational one, whereby the abutting property owners are led to take a personal and pecuniary interest in their trees, and this brings about a policy of care which is constant in its application, and redounds to the welfare of the trees themselves and to the increasing beauty of the avenues and thoroughfares they grace. As a word of encouragement it may be said, that there is no more powerful agency in provoking enthusiasm in man than nature herself contributes. Once get a community interested in trees, their utility

and beauty, and energetic missionaries find little difficulty in formulating and prosecuting plans for improvement. A striking example of this is Kansas City, Mo. About a year ago a Tree Planters' Society was formed, since which time 7,000 trees have been planted, 5,000 more are provided for, and in addition to these efforts of the society, the park commissioners have let contracts for 6,000 trees.

Complete the Work.

Statute labor has been performed for the year in many municipalities. In numerous cases, no doubt, work was commenced on road beats which the statute labor available was insufficient to complete. In the interest of true economy, councils should now make themselves acquainted with the condition of the roads, and the work performed on them, so that wherever necessary or advisable, arrangements may be made to perfect the work before it is subjected to the destructive action of a fall and winter. Good drainage is essential to good roads, and very often neglected drainage will cause the destruction of an entire work. Before fall rains commence see that the drains are open, and freed from obstruction. See that a little deepening, cleaning or enlarging is performed where necessary. Except in light sand, all roads are apt to be good in dry weather. See that the dry weather conditions are maintained as far as possible throughout the year. Wherever, after a rain, water is seen to stand by the roadside, wherever the ground is found to remain damp and spongy, wherever loose material has rolled into a drain, wherever the grade is insufficient to carry the water away with sufficient rapidity, or wherever a culvert has become obstructed, there is need of attention suited to the particular case, and with these particular cases it would be well for the councillors to make themselves acquainted. A trifling expenditure made this year in this way will, in many cases, save a very large outlay next year.

Artesian Wells.

The flow from artesian wells is, under certain circumstances, subject to reductions, and may even cease altogether. Various reasons have been found for such occurrences, the principal of which are:

The opening of other wells or mines in the same locality; the diminution of the quantity of rainfall which percolates into the sub-soil in consequence of deforestation and agricultural operations; the gradual exhaustion of the underground water storage where the drainage area is limited, or where the water bearing stratum is of small extent; the motion of the water through the sub-soil is impeded by the fineness of the grain; the closing or clogging of previously open passages at the outcrop of the permeable stratum by the entrance of silt which is forced downward and laterally from the superincumbent layers by the increased atmospheric

and hydraulic pressure due to heavy flow or pumping at a distance; the inflow of sand, etc., into the well and its settlement, to the bottom, whereby the yield from the lower portions is obstructed; the clogging of water passages in material near the well and of strainer orifices; the reduction of the diameter of the tube by the formation of rust or organic growths.

Some of these difficulties, it will be observed, may be removed, while others are a permanent injury. To discover the real cause of the reduced flow in any particular case is the first step, and this generally demands a careful and scientific study, although it may at times be a matter of uncertainty. The remedy may consist in the addition of one or more wells sufficient to restore the required supply. It may be sufficient to take up and clean the pipes. Silt and sand obstructing the entrance of water to the pipe has been removed by forcing a stream of water downwards; this, however, is somewhat dangerous, as the tendency of the water is to force its way upwards outside of the pipe, in doing which it may break the seal of overlaying strata and form an outlet around the pipe.

The Septic Tank Treatment in Berlin.

It has been announced through the public press that the town of Berlin, Ontario, is considering the septic tank system of treating sewage. The majority of towns in the Province have not, as yet, been called upon to purify their sewage before discharging it into a river or lake, but the day is imminent when such will be more largely demanded. In view of this, therefore, the step being taken by Berlin becomes of considerable interest to other municipalities as the septic system, as yet but little understood, if it proves entirely successful, as we are led to believe will be the case, offers a means of treating sewage within the means of most municipalities where treatment is necessary.

It is now a number of years since Pasteur showed that bacteria, which he called aerobic, perform their functions in the presence of air, while the remainder, called anaerobic, do not require air. The former oxidize the organic matter, and the latter cause its putrefaction. The aerobic bacteria reduce the solid matter in suspension very slowly, but oxidize the dissolved matter rapidly. On the other hand, the anaerobes bring suspended organic matter into a dissolved condition much more rapidly, although they act more slowly than the aerobes in changing the dissolved organic matter into inorganic compounds.

It has long been the practice in many cities to remove a considerable part of the solid matter in sewage by chemical precipitation, which produces a large quantity of sludge. The pressing, removal and final disposal of this sludge is one of the most troublesome problems of this system of sewage treatment. It is avoided by using what is known as the septic tank, in

which the solids are changed into liquids by taking advantage of the anaerobic change just mentioned. The effluent from the tank is then filtered in the same manner as the effluent from chemical precipitation basins.

The eighteenth annual report of the Provincial Board of Health, just issued, contains a report by the secretary, Dr. Bryce, on the sewerage of Berlin, in which the construction of a septic tank in connection with the present sewage farm is recommended. Dr. Bryce says:

"The works instituted some nine years ago have served a notable purpose, and been a great benefit to the city of Berlin. The splendid water supply and very wide extension of the sewerage system in Berlin have played a most important part in the commercial progress of the town; and when it is remembered that, with the small stream as an outlet, the city has been able to dispose of nearly 1,000,000 gallons of sewage daily, without involving itself in legal trouble with the neighboring municipality it must be considered that the small cost, both of the original construction of the sewage farm, and for its annual maintenance afford much reason for satisfaction. Two permanent factors, however, exist, making it apparent that the town can never look upon its expenditure either in dealing with its waterworks or sewerage works as a finality, viz: The increase of population, and the constant extension of the use by the people of both public water and public sewers. This being the case, it is apparent that so far as the sewage disposal works are concerned, your committee has always to be considering, 1. The extension of the sewage farm, and 2. The making the present do the largest amount of possible work, compatible with freedom from effluvia nuisances from the beds and adequate filtration of the sewage.

Although, at the time of my inspection, on the 4th of July last, there was no serious effluvia nuisance noticeable in the afternoon, and while the discharge from the effluent tiles was clear, yet there existed in the large beds covered with sewage undergoing decomposition, a condition which must, under favorable conditions, promote effluvia nuisance, and, therefore, give cause for complaints. Of course this may be, to some extent, inevitable with all methods of sewage disposal, as with manure heaps, their distribution on land, and industries, such as tanneries, gas factories, fat-rendering, etc. The matter, therefore, is one which your board will be expected to give special attention to, so that all reasonable causes of complaint may be removed.

To this end, therefore, it will be necessary for the local Board of Health and Sewage Committee of the council to consider the following points: 1st, The institution of means by which (a) all matters, such as chemicals, which may be germicidal, are removed by private persons before the sewage from these premises is allowed to pass into the town

sewers. (b) The construction of a receiving tank of such capacity that the sewage may be deposited therein with all suspended matters, which will remain there until made soluble by decomposition, and from which only sewage in solution will go to the beds. I am convinced that effluvia, which may at present arise from the beds, are due notably to such solid matter putrefying on edges of ditches, beds, etc. (c) The beds should all be brought to a true level for purposes of cultivation, and even irrigation. If cultivation of crops on the beds were made systematic, care would be taken that only as much sewage in solution would be applied on each as would not stand and become stagnant, while regular working by cultivation would enable the ground to treat more than by present methods. The cultivation of beet-root seems peculiarly suitable on such soils as that of the Berlin Farm. (d) Such disposal of the sewage means the addition of more land to the farm, and probably, also, the preparation of an area where the surface sewage can be purified on a rapid filter-bed of either sand, coke or cinders and of an extent adequate for the increasing needs of the case. (e) That under the committee the whole farm be put under the direct management of the town engineer, so that plans, surveys, estimates, returns of crops, costs and methods, can be made and preserved, and that thus from year to year the town and all interested would be able to know exactly just what the farm has accomplished, and by what special methods.

Telegraph and Telephone Poles.

Where to place telegraph and telephone poles is a question which has elicited some discussion, when roadways are being improved or cement concrete sidewalks laid. Poles on the street, wherever placed, are objectionable. They are an obstruction to traffic, and the overhead wiring, in case of fire, at times is a disadvantage. Added to this is the appearance, which certainly does not add to the beauty of a street.

On residential streets, the difficulty can sometimes be solved in a measure by placing them on the boulevard on either one side or the other of the walk. The tendency at present is to take the sidewalk from the fence and place it immediately outside of the row of trees. By narrowing the roadway to between twenty and thirty feet this will generally leave room for a narrow strip of sod, about two feet wide, between the sidewalk and the kerb. In this strip of sod is the most suitable place for telegraph and telephone poles, as they do not interfere with vehicles on the road, nor with users of the sidewalk, and the wires are removed as far as possible from contact with the tree tops.

One matter of detail in connection with this strip of sod between the sidewalk and kerb of the road, is to have it of sufficient width to allow a lawn mower to run over

it, as if too narrow for the mower it becomes difficult to keep the grass cut.

On business streets the matter is one of choosing between two evils. In this case the entire street allowance is paved either for sidewalk or roadway, there is no boulevard, and it is necessary that the poles should be in either one or the other. On the sidewalk they narrow the walk at regular intervals, by the diameter of the pole at least. On the roadway they interfere with the use of a roller, and necessitate the placing of the gutter outside of the poles, cobble stone being used to pave the gutter and edge next the walk. In the roadway therefore, the poles add to the difficulty of rolling, they add to the cost of construction by the amount necessary for cobble-stoning and forming the gutter, and narrow the roadway not merely at the points where the poles are placed, as in the case of the walks, but throughout the entire length of the road, as it is necessary to keep the gutter straight. The appearance of a gutter cobble-stoned in this way, is not equal to one formed merely by the angle of the curb and surface of the road. A gutter of cobble-stone is more difficult to keep in repair, and set out from the walk a distance equal to the diameter of the telegraph poles, vehicles cannot so conveniently drive close to the curb. In points then of less expense, less obstruction to traffic, and better appearance, which are the main factors in the case, the balance is in favor of placing telephone poles in the sidewalks rather than in the roadway, and this we find is the customary practice.

Tar Macadam Pavement.

Tar macadam roadways are very commonly used in England, but in Canada and indeed the United States as well, they have very rarely been adopted, Hamilton is the only Ontario city, probably the only city on this continent which has made general use of this method of paving, and it appears to be growing in favor there.

It is found to be less pervious to moisture than ordinary macadam, less noisy, less muddy, less dusty. The cost of watering and scavenging is less but it must be regarded as a good substitute merely for ordinary macadam. In Leicester, England, it is called "silent macadam". To sum up its merits as compared with ordinary macadam it is slightly cleaner and more sanitary.

The precise methods of laying tar macadam paving, vary somewhat in different cities, according to local circumstances. The main features require that the street be first excavated, graded, under-drained and rolled as for any other pavement. On this a layer of broken stone is spread and thoroughly rolled, the thickness being from four to six inches after rolling. On this spread a coating composed of crushed stone and tar, two to four inches thick, the stone and tar having

been heated separately, then thoroughly mixed before being laid. This should be rolled down into a solid mass, after which the road may be surfaced with an inch coating of mixed tar and gravel, rolled smooth. Some pitch is added to the tar; and in English practice, a quantity of creosote is sometimes added as well. It is recommended that this work should be done in spring or fall, although dry weather is essential. If done in summer, the heat of the sun drives the tar out of the pavement.

The pavement is therefore made up as follows:

1. Earth sub-soil, excavated, under-drained and rolled.
2. Ordinary broken stone, four to six inch layer.
3. Mixture of tar and broken stone, two to four-inch layer.
4. Mixture of tar and fine gravel, one inch layer.

Care and experience are necessary in laying this pavement, as poor workmanship or defective material will result in a pavement that has a tendency to become soft and yielding in hot weather.

The cost of a piece of finished road in Hamilton, of about 368 square yards, was 76 cents a yard, made up as follows:

Labor, mixing and heating stone.	\$32 64
Removing cedar blocks, grading.	95 37
Rolling	7 33
Stone for bottom	22 50
Broken stone	55 00
Screenings	10 00
Gravel	3 00
Wood for heater	5 00
Tar	49 00
	\$279 84

This, it will be seen, was for a short section of street which had been block-paved. The cost of grading was, therefore, not so much for a street which had not been previously graded. Nor does this include the cost of curbing. The annual cost of repairs is said to be less for tar macadam than for ordinary macadam.

Statute Labor Its Own Defence.

Statute labor among those who understand the road question, as it presents itself in this province, needs no defenders. Statute labor has done an immeasurable amount of good. Had it not been for that system, as a means of uniting the efforts of the pioneer settlers of Ontario, the roads would have been in a far less satisfactory state than we find them in to-day. When one considers the condition of this province but a century ago, at the time of the first settlement, the advance that has been made is startling, and road-building has, in many sections, kept pace with progress in other respects. As a means of clearing the road allowance of trees and stumps, grading and shaping the roadway, no better means could have been adopted than the statute labor system.

Statute labor, as we have said, needs

no defenders. The greatest enemy of the system is the man who believes it his duty to rise to its defence under any and every circumstance. The greatest wrong which can be done to the system, is the action of some in thus clinging to it, seeking to prolong its use to any period, and to work with which it is not and cannot be expected to cope. No one attempts to advocate statute labor for cities nor for towns. In many townships, while there are many of the old standard-bearers of statute labor still on the farms, ready and willing to do their share of roadway, yet the rising generation are becoming accustomed to other more modern ideas. The self-binder has displaced the rake and cradle, the threshing machine has driven the flail out of use, and precisely in the same way, statute labor, for reasons difficult to define, has lost its old-time power for good in many localities. It is well when the friends of the system recognize this fact, and turn their efforts in the direction which will act harmoniously with present and growing needs.

On Pavements.

Many people suppose that cedar block pavement has fallen into general disfavor. Ontarians have formed this opinion because of the specimens of this pavement seen in Toronto. When cedar is properly laid on a concrete foundation it makes a very fair pavement, its cheapness being acceptable to property owners who cannot afford vitrified brick or asphalt.

According to the *Tribune* the city of Chicago has just contracted for 3,209,398 square yards of pavement, or 79.28 miles to be laid this year, at a total cost of \$2,118,463, as against 824,047 square yards, or 49.24 miles, at a cost of \$1,472,000 in 1899. It is interesting to note that the city of Chicago favors macadam very highly. In this year's contracts there are 25.51 miles of macadam, 18.38 miles of brick, 17.95 miles of asphalt, 12.26 miles of cedar, and 3.56 miles of granite. The yielding soil of Chicago, the city having been built on the muddy banks of Lake Michigan, makes road-building a matter of difficulty and it operates especially against cedar block. Nevertheless, after an experience of twenty years with that paving citizens and council still favor it. But the fact that macadam is so popular in Chicago should be gratifying. We cannot think of cedar block, vitrified brick or asphalt while the material for macadam roadways can be had within the limits of the corporation for practically the cost of cartage. What we want is not a few streets well paved, but all our roadways put in such a shape as to challenge the admiration of visitors. To that end the municipality should work while there is a street to grade or a cord of limestone available for road construction.—*Galt Reporter*.

A by-law to grant a bonus of \$21,000 to the Port Dover-Berlin-Goderich Railway recently carried in Berlin by 522 majority.

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.

Statute Labor and Expenditure of Commutation Money on Sidewalks in Townships.

280.—J. C. C.—For a number of years the statute labor upon two of our 98 road divisions has been commuted as per section 103 of the Assessment Act, and the commutation moneys thus received applied by commissioners appointed by the council not only toward the repair and maintenance of the roads and streets therein, but also in laying and maintaining plank sidewalks in these two divisions which are thickly populated.

1. Did the council exceed its powers in permitting statute labor moneys to be applied to these sidewalks? In other words does the Municipal Act provide for the construction and repair of sidewalks in township municipalities except as improvements to be paid for by local rate under sections 664-693? In answer please quote page and section.

2. Under a general by-law passed this spring the 98 road divisions have been abolished and all the statute labor of the whole township is to be commuted at a fixed rate per day and applied by two road commissioners upon the highways and bridges of the township, but this new by-law makes no provision for applying any portion of the statute labor money towards the sidewalks in any part of the township. Under this new state of affairs how can the walks in these two neighborhoods be kept up and extended, and who should bear the cost?

3. Is the corporation liable for accidents resulting from these walks being out of repair?

4. If so, how can the corporation be relieved of this liability?

5. Can the township use ordinary township funds or commuted statute labor moneys (our present by-law not applying to walks) for this purpose? Please point me to any section of the statutes whose provisions will enable us to keep these walks in order?

We are of opinion that the council did not exceed its powers in this matter. The commissioners had the authority to expend the commutation money in such place on the highway, and in such manner as the necessities of the locality required. Sub-section 3, of section 637, of The Municipal Act, authorizes townships to set apart portions of highways for sidewalk purposes. In any event a road commissioner or pathmaster would have the right to expend the commutation money under his contract in making or repairing such sidewalks, or otherwise on the highway as he might deem necessary, under the direction of the council of his municipality.

2. The sidewalk should be kept in repair, and extended, if necessary, by the statute labor commissioners, if so directed by the council, or by the council, and the expense thereof should be paid either out of the commutation fund, or general funds of the municipality as the council may direct.

3. Yes.

4. Either by seeing that the sidewalks are kept in a proper state of repair, or by removing them altogether.

5. Section 606, of The Municipal Act, provides that "Every public road, etc., shall be kept in repair by the corporation, etc." The sidewalk is legally on, and is part of the public highway, and must be kept in repair and a condition of safety by the corporation. The duty to keep the road in repair extends as much to sidewalks for the use of pedestrians as to the travelled way for the use of carriages. See Copeland vs. Blenheim, 9 O. R., 19.

Appeal from Court of Revision.

281.—A. J. S.—If a ratepayer duly serves a notice of appeal to Court of Revision on the clerk of a township municipality against his assessment and fails to appear at said court, is he in a position to appeal to the county judge against the decision of said Court of Revision?

If a person who has given notice of appeal from the assessment roll does not appear in support of his appeal, either in person or by his solicitor, or agent, the court is not bound to consider it. It may strike the case off the list of appeals, and if it does that we do not think an appeal will then lie to the county judge under section 6, of The Assessment Amendment Act of 1899. The court may, however, hear evidence on an appeal in the absence of the appellant, and if it does so and disposes of the appeal after hearing evidence, an appeal will then lie to the judge from the decision of the Court of Revision.

Compulsory Use of Water and Light in Towns.

282.—SUBSCRIBER.—How can we compel houses and stores to take water and light from the town? Please give particulars of the Act etc.

There is no provision in the statutes to compel persons to take water and light from a municipal corporation. If a person has a well on his premises, however, he can be required, under the provisions of The Public Health Act, to keep it in a sanitary condition.

Opening up and Removing Obstructions from Original Road Allowance.

283.—J. J.—Part of concession 11 in this municipality has never been opened for public use. A has built a house upon and fenced in part of this concession line about a quarter of an acre in extent. For the last ten years he has been assessed as a freeholder, and has paid taxes for this quarter acre. The remaining portion of the unopened concession has been fenced in and cultivated by the neighboring farmers. The council were petitioned to have the obstructions removed off the line. They notified each of the farmers to remove the obstructions, but did not notify A as he had fenced in only half the width of the road.

1. On receiving the petition should the council not pass a by-law opening the concession

line or part of it for public use, and then notify the parties to remove all obstructions?

2. If the posts cannot be found must the council have the line surveyed, paying the costs?

3. Must the council notify A to remove his house?

4. A objects, demanding damages, he being assessed for the land; how must the council proceed?

1. Unless the circumstances of this case bring it within the provisions of section 642, it is not necessary that the council pass a by-law requiring the removal of obstructions. A notice to all parties, whose duty it is to remove such obstructions, giving them a reasonable time to do so, is all that is required. If the case comes within the provisions of section 642, the by-law should not be passed until the notice required by section 643 has been given.

2. Unless the survey is made under sections 14 or 25, of The Surveys Act, the council must bear the costs of a survey itself. The council is not, however, bound to have a survey made of its own motion.

3. Yes, if they wish him to do so.

4. A cannot successfully object or resist the council, nor can he claim or recover any damages if required to move his house and fences off the public highway. He can acquire no title to the township property through his possessing and occupying the same, and must give it up when the demand to do so is made.

Formation of New School Section.

284. Q. U. E. D.—A petition has been presented to council to appoint an arbitration for the purpose of forming a new school section wholly in the township. The new section is intended to be formed out of union school section No. 4, townships of Tay, Flos, Tiny and Medonte, and S. S. Nos. 9 and 11, in this township. The township council have appointed an arbitrator. Now what I want to know is, what power will the arbitrators have over dealing with school sections 9 and 11, which are non-union sections, or will they have any power, and will the council have to take any further steps in the matter, and if so, what steps?

We assume that all preliminary proceedings laid down in the Public Schools Act, leading up to the appointment of the arbitrator have been taken. This being the case the arbitrators have the same power to deal with the lands in school section numbers 9 and 11 as with those in union school section number 4, provided sections 9 and 11 have not been formed within 5 years prior to the proposal to take lands from them to form the new school section. The fact that sections 9 and 11 are non-union sections makes no difference. There is nothing further the council can do in the matter.

Voter's Qualification.

285.—M. L.—If an owner of a farm dies, leaving his farm by will to his wife as long as she lives, and then to a son A. B., who has to pay a legacy to a brother R. B. Has R. B. a right to vote as owner of the above property while his mother is still living, or has he any claim as owner any more than the holder of a mortgage?

The mere fact that R. B. is entitled to be paid a legacy, which is charged on land devised to other persons gives R. B. no qualification as a voter, nor has he any claim to ownership of the land devised.

Qualification of Reeve or Councillor.

286.—G. G. S.—Is a person qualified for the office of reeve or councillor if assessed at \$725, freehold, and has a mortgage on the same for \$700.00?

No. See section 76 of the Municipal Act, which provides that a person shall not be qualified for the offices mentioned, unless at the time of the election he has, or his wife has, freehold property which is rated in his own name, or that of his wife, on the last revised Assessment Roll of the municipality, for \$400 over and above all charges, liens and incumbrances affecting the same.

Compensation for Sheep Killed, When no Dog Fund.—
Description of Land in Voters' List.

287.—J. R.—1. In December, 1866, the council of this municipality passed a by-law appointing a treasurer for "dog-taxes." The dog-tax was levied during the next three years and claims for damages for sheep killed paid, but since 1870 no dog tax has been levied. The council in office at that date seems to have ceased levying dog tax without passing by-law "to dispense with the levy of the aforesaid tax" as per chapter 271, section 21, R. S. O. If by-law were passed, a copy was not made and original is lost. At last meeting of council a claim for damages for sheep killed was presented under section 18 of the above Act. Can the claim be enforced, there being no dog fund, and the "Act for the protection of sheep, etc.," not enforced since 1870?

2. In making out Voters' List, (a) is it necessary to give full description in column headed "Lot" as W. ½ 2 or part 2? (b) Is the number of lot not sufficient without the prefix?

1. Section 7 of chapter 271, R. S. O., 1897, provides that the money collected under the act and paid to the treasurer or clerk, e. c., shall constitute a fund for satisfying such damages as arise in any year from dogs killing or injuring sheep, etc. If there is nothing to the credit of the dog fund in a municipality, as in your case, the council cannot pay claims for compensation under the act.

2. (a) and (b) The Voters' List should be prepared from the Assessment Roll, and the latter should contain as accurate a description of the property of each person assessed as the limited space will permit, and this should be inserted in the proper column of the Voters' List. The insertion of the lot number only, would not invalidate the list or a vote, but the more accurate description giving the part of the lot in respect of which the voter is assessed is much to be preferred.

Compensation for Sheep Killed—When Owner of Dog Known.

288.—I. F.—A sheep is killed by a dog; sheep owner takes affidavit that he has found the owner of dog and killed the dog. The council intend to pay the full amount of damages.

1. Has the township to pay in this case?

2. Should not the sheep owner proceed against the owner of dog?

1. No. Section 18 of chapter 271 (R. S. O. 1897) in part provides that "if the council is satisfied that the aggrieved party has made diligent search and inquiry to ascertain the owner or keeper of such dog,

and that such owner or keeper cannot be found, they shall award to the aggrieved party for compensation a sum not exceeding two thirds of the amount of the damage sustained by him." The owner of the dog in this case being known he must be proceeded against in the first instance.

2. Yes. See section 15 of the Act. If for want of sufficient distress to levy the same, the amount of the damages, cannot be realized from the owner or keeper of the dog, then the owner of the sheep killed is entitled to apply to the council for and obtain compensation, under the provisions of section 17 of the Act.

Improvement of Municipal Drain.

289.—DRAINAGE.—We have a drain in our township running alongside of the roadway from its outlet into Judge's Creek, on lot 15, thence south to lot 8, there is rock in the bottom of the ditch in one place on lot 10. The owners of lots 8 and 9 want the township council to lower said rock, claiming it backs water onto their lots. They also want the council to build them a road in front of lots 8 and 9. This the council cannot do at present, as it is too wet. The council are willing to lower said rock, but the owners of lots 11, 12 and 13 object to the lowering of said rock, as they claim the present ditch can barely carry the present water, and that any more water let into the present ditch will cause it to overflow on to their lands, and they will hold the council liable. Will the council be liable for any damage that may be done by a future overflow if they lower the rock in the ditch?

The drainage was constructed as part of a drainage scheme under The Ontario Drainage Act several years ago. The water running in it is spring water rising on lot 8.

It would seem from the statements of the owners of lots 11, 12 and 13, that the lowering of the rock would allow an additional quantity of water to flow through the drain, and that the enlargement of the outlet would be necessary. If the cost of the work will not exceed one-fifth of the cost of construction or in any case \$400, the council may pass a by-law pursuant to section 74 of the Drainage Act (R. S. O., 1897, chap. 226) providing for the doing of the work, and the assessment of the costs against the lands and roads benefited, as provided in this section. If the cost of the work will exceed the above sum the council should proceed under section 75 of the Act. The municipality will be liable for damages recoverable by action if the work be done negligently, and if there is no negligence in the performance of the work, the damages, if any, resulting from the work must be determined by arbitration in the manner provided by the Municipal Act.

Assessment of Wires, etc., of Telegraph Companies.

290.—I. A.—A certain railway company own the telegraph poles on their right of way for railway through this municipality, and are assessed for right of way, poles, etc., and the railway company have allowed certain telegraph companies to place wire on said poles and instruments in their railway stations. Are these telegraph companies liable to be assessed

for wire and instruments? and if so, in what shape, and if not, who should be assessed for them?

The Telegraph Companies should be assessed for the wire, switch-boards, telegraph instruments and their attachments, as realty belonging to the companies. See Re Canadian Pacific Telegraph Co. 34 C. L. J. 709. The Assessment of this species of property is not of much consequence, however, because it can only be assessed as so much dead material, and not upon the basis of its value as a part of a going concern.

Seizure of Personalty Bought Conditionally.

291.—G. M. B.—In 1898 our collector seized and sold a fanning-mill in order to get taxes. The sale was made in accordance with the law, but about a month ago the collector for the payee of the note came along and took possession of the mill, saying there was a lien on the mill. The note at this time was about two months past due,

(I enclose a copy of note, also a certified statement of repossession on the back.)

1. Was the sale illegal, there being a lien on the mill at the time of sale.

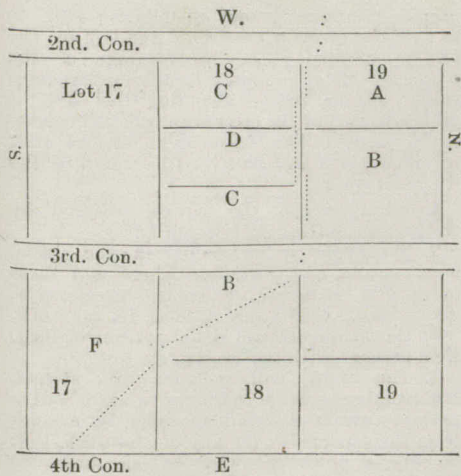
2. If so, can the taxes for 1898 be replaced against the land?

3. Is there any redress for the council to regain the taxes for 1898. If so, please give your proposed plan of doing it, or, in short, is there any way out of the difficulty?

1. The party in whose possession the fanning-mill was at the time of its seizure, was entitled to such possession under a contract by which he was to become the owner thereof upon the performance of a condition, that is, the payment of the note, a copy of which you enclose. Therefore, the collector should satisfy himself of this fact, and could only seize and sell the interest of the party in possession of the fanning-mill at the time of the seizure. See clause 2, of sub-section 1, of section 135, of The Assessment Act. Assuming it to be a fact that the note was unpaid at the time of the sale, the sale of the mill absolutely was illegal. See also Q. 294, 1899.

Appointment Under the Ditches and Watercourses Act.

292.—A. M.—A ditch made in the summer of 1899 from concession 2 to concession 3, along the dividing line between A, C, B, D and E by agreement under The Ditches and Watercourses Act. At the time the agreement was entered into it was the opinion of the interested parties that, if the ditch was made to the third concession, there would be sufficient outlet where the ditch enters on the west half of lot 18, in the third concession. From the second to the third concession the ditch runs through a sandy loam and during the high water this spring the earth has been taken from it and filled up the water course on west half of 18, in concession 3. B now asks for a reconsideration of the agreement and claims that the watercourse will have to be cleaned out across the west half of 18, in third concession, and extended about five acres on to lot 17, owned by F, who was not a party to the agreement. You will notice that B owns the west half of lot 19, in the second, and the west half of 18, in the third concession. We want you to say what portion of this work should be done by the several parties interested, and also the portion that should be done by F, who was not a party to the first agreement?



Since your municipality lies east of the county of Frontenac, the proviso appended to section 36, of The Ditches and Water-courses Act, (R. S. O., 1897, chap. 285,) applies, and B can apply for a reconsideration of the award at any time after the expiration of six months from the completion of the ditch. It is quite impossible, for us, however, to tell you what portion of the work should be done by each or any party to the drain, nor who should be parties to the agreement or award. The council should, under the Act, if it has not already done so, appoint some competent engineer, and if the parties cannot agree upon the division of the work, the engineer will then have power to deal with the matter, and make an award, distributing the work among the parties according to their interest.

Statute Labor.

293.—J. H.—1. In regard to statute labor, has the council any right to take the work out of one beat and put it in another if they see fit without passing a by-law?

2. Can the pathmaster make them draw it to the other beat if the one he is in has enough without it, or would he have to get order from the council?

1. No. A by-law should be passed by the council regulating the manner and division in which the statute labor should be performed, pursuant to the authority of sub-section 5 of section 561 of the Municipal Act.

2. The Pathmaster cannot take the law in his own hands, but should see that the statute labor is performed in the manner and division, directed by the by-law of the council.

Road and Snow Fences.

294.—T. L.—1. Is there any authority by which a ratepayer can be made to build a fence along a boundary between his land and the highway?

2. If there be authority, where is it vested? Is it statutory, or does the municipality require to pass by-laws demanding such fence to be built?

3. If you hold that a ratepayer is not obliged to build a fence or close a gate between his farm and the highway, either under statute or any by-law the council might pass, then any one driving cattle or any other stock along the highway, or in case of stock running at large, either under by-law or otherwise, would the parties owning such cattle be held responsible for any damage they might do to the land or crops thus exposed from having no fences as aforesaid?

4. If a council has no authority to pass a by-law to enforce the building of fences, etc., generally along the highway, then does it not appear inconsistent where one has a fence already along the highway, but owing to the fact of its causing an accumulation of snow in winter time that in case of disagreement with the party as to removal of the old fence and replacement of a suitable one, the council can enforce the same to be done under the act?

Note. The inconsistency is not so much in the removal as in the rebuilding.

5. We have notified different ratepayers in our township regarding their fences being a nuisance in causing the highway to be blocked with snow, and have offered them compensation for removal and replacement as already mentioned, and in some cases they have taken away their fences and are not rebuilding, and say there is no power to make them build a fence. Are they right?

These highway matters are a little obscure, and any light you may throw upon the subject will be of timely service.

1. No.

2. There is no such authority, either statutory or otherwise. A municipality has no power to pass such a by-law.

3. Yes. A person should take care of his property, so as to cause no injury to that of another.

4. We do not see any inconsistency in this matter. If an owner has a fence erected adjoining a highway, which causes snow to accumulate thereon, and the council of his municipality compels him to remove it, or build a different kind of a fence in its stead, under the provisions of sub-section 5, of section 545, of The Municipal Act and R. S. O., 1897, chap. 240. This is done for the convenience and safety of the public using the highway.

5. Persons who have removed their fences along the highway to prevent the accumulation of snow, are not bound to rebuild them. See answer to question No. 1.

Tax Sales.

295.—J. D.—The Haliburton Mining Company holds 1400 acres of land in this township. It is chiefly covered with hard wood. The company obtained these lands partly purchasing the settlers' rights and part direct from the government. The taxes on these lands are three years in arrears.

1. Can the council advertise for sale those lands purchased from the settlers?

2. Can the council advertise those lands for sale purchased as mining lands from the government?

3. Should all these lands be sold as one lot, or lots, or should those purchased from the settlers be sold separate from the government?

1. The council has nothing to do with the sale of lands for taxes. Where a portion of the tax upon any land has been due for and in the third year, or for more than three years preceding the current year, the Treasurer and Warden of the county should perform the duties in regard to the sale of these lands laid down in section 173 and following sections of The Assessment Act. Under section 174, the council of the county may by by-law extend the time for the enforced collection by sale of non-resident taxes. If the statutory preliminaries have been observed, the county treasurer can advertise and sell so much of these lands, or the Company's

interest therein as may be necessary to satisfy the arrears of taxes.

2. No. The county treasurer is the proper officer to advertise the lands for sale.

3. A value should be placed on each lot, and each lot assessed separately by the assessor. The taxes should be calculated on such assessed value, and placed on the collector's roll against each lot. Each lot should be offered for sale separately, and so much of it "or of the interest therein sold as may be necessary to realize the amount of the arrears."

Removing Earth from Highway.—Obstructions on Highway.—Voting Machines.

296.—G. W. T.—1. There are certain parties in this municipality taking the earth from the roadsides and applying it to their private uses. Where are the statutes, if any, bearing on such a case?

2. Are there any rulings of similar cases tried before any Justice of the Peace or other Court of Justice?

3. If the reeve, as head of the municipality, has power to stop people taking earth off the highways in that municipality, what would be the mode of procedure?

4. A certain party wishing to burn a lime kiln builds one on the east side of his lot on concession line in spring of 1899. Parties are agitating for its removal. Can council compel said party to remove said lime kiln at five days' notice served by clerk, or on non-compliance can it be removed at party's expense, it being held to be an obstruction on the highway?

5. Did the legislature at the last sittings pass an Act authorizing municipal councils to use voting machines at all municipal elections?

6. Is this a compulsory measure or not?

The highways are vested in your municipality, and it is the duty of the council to see that they are kept in a condition of safety, and a proper state of repair, according to the provisions of the Municipal Act. No person has the right to remove earth from the highway unless permitted to do so by the council. If the council grants such permission they should see that the road is left in a condition of safety where the earth has been removed. See sub-section 7, of section 649, of the Municipal Act.

2 and 3. It was held, in *Wellington vs Wilson et al* (15 U. C. C., p. 296) that a municipal corporation can sue for injuries done to highways under its jurisdiction. If the party causing the injury refuses to refrain or desist from further acts of the kind, on being notified by the council to do so, he can be restrained by injunction obtained at the instance of the council. The only power the reeve has in the matter is to notify the party offending, by order of the council, to cease the removal of the earth. If further proceedings are necessary, recourse should be had to the courts.

4. This party has no right to build his lime kiln on the concession line. If it is an obstruction on the highway within the meaning of sub-section 3, of section 557, of the Municipal Act, he should be given the notice mentioned in sub-section 4 of said section. If he disregards the notice for five days after such notice, the lime kiln can be removed at the expense of the party placing it there. It is necessary to

pass a by-law first under section 557, and this notice should then be given pursuant to this by-law.

5. Yes. See chap. 37, Ontario statutes 1900.

6. It is not compulsory. Section 1 provides that "the council of any municipality may by by-law passed by an affirmative vote of not less than two-thirds of the whole council, provide that thereafter the use of ballot-boxes and ballot-papers, at municipal elections, MAY be discontinued, and MAY adopt for use at elections any kind of voting machine that complies with the requirements of this Act, etc."

Collection of Arrears of Taxes.—Collector's Default.

297. A. B.—The collector does not make return in duplicate, and clerk does not send out notices in accordance with section 147, and the treasurer does not make return to clerk in accordance with section 152, and as a result no arrears are placed on collector's roll. No tax sale has been held.

Are the arrears of taxes collectable and should they be considered as an asset? If not, who is liable to the municipality?

The duties of the collector and clerk, under section 147 are imperative, and not directory only (see *Donovan v. Hogan* 15 Appeal Reports, p. 432, and *Deveril v. Coe*, 11 Ont. Reports, p. 222.) A sale of the lands would now be invalid, and the taxes cannot be collected by seizure and sale in the ordinary way or otherwise. The taxes should not be considered as an asset of the municipality. If these taxes have been lost through the negligence of the collector in the performance of his duties, he can be made pay the amount to the municipality. The collector would also be liable to pay the penalty mentioned in section 249 or 251, of the Act, if he refused or neglected or wilfully omitted to perform his duty.

Recovery of Taxes Voluntarily Paid.

298.—C. S.—A man who had paid taxes for two lots in 1895 and 1896 but was not located for these lots and is not living on them, nor has any improvements on them. At the time he was assessed for them he did not know, but thought he had to pay the taxes as he was intending to get located for them, but he is not located yet, but now he has engaged a lawyer and he now wrote to me that this man is entitled to these taxes he paid, to be paid back to him.

1. Can this man in question legally compel the council to pay back those taxes he paid?

2. Should the man not have objected to it at the time he was assessed for them?

1. No.

2. Yes.

Council Meetings in Hotel.—Formation of Municipality.—Appointment of Fenceviewers.

299.—G. W.—1. Is it legal for a council to hold council meeting in a licensed hotel? On council meeting day the bar is open. If illegal, what is the penalty?

2. What is the proper method of forming a municipality?

In a certain municipality the following method was adopted.

(a) A public meeting was called and about thirty-five or forty resident land holders signed a requisition, asking the judge to grant their request.

(b) An objection was made, setting forth that

one of the townships that formed the municipality had not sufficient population,

(c) Will you plainly state how this difficulty could be overcome by the judge?

Enclose a copy of judge's notice. An open vote was taken and it was declared carried by a majority of thirteen, the chairman voting.

Enclose a copy of nomination.

3. Have fenceviewers to be appointed annually?

1. A council can legally hold its meetings in a licensed hotel.

2. In view of the fact that you are a resident of a municipality composed of a union of townships in a Territorial District, we presume it is the formation of a municipality of this kind you are asking about, and we answer your question on this assumption. Sub-section 2, of section 1, of chap. 225, R. S. O., 1897, provides that "any number of townships adjacent to each other in any of the districts mentioned in the Act, (including the District of Rainy River,) having in the aggregate at least, one hundred inhabitants, may organize themselves into a union township municipality, although the population of any one of the said townships may not amount to one hundred persons, provided, however, that the population of such township amounts to not less than fifty." A township having a population less than fifty should not be included in the union municipality. Preliminary to the formation of the municipality, a petition "in which the limits of the proposed municipality are defined," and signed by not less than thirty inhabitants of such locality, should be presented to the Judge of the District, (or stipendiary magistrate, as the case may be) praying for the calling of a public meeting to consider the formation of the union. (See section 2, of the Act.) Section 3 provides for the deposit of a sufficient sum by the petitioners to cover the expenses of the meeting to be called, and the election. In his notice, calling the meeting, the judge or stipendiary magistrate should name some competent person to preside at the meeting, which appears to have been done regularly in your case. If, at this meeting, at least thirty freeholders or leaseholders vote in favor of it, the union municipality can be established. See section 5. You do not say how many voted for the establishment of the union. The time and place for holding the first election should be fixed by the Judge or stipendiary magistrate, and the returning officer should be named in the notice providing for the election. If the public notice you send us was intended to provide for the first election in the union municipality we are of opinion that it was irregular, and should have been given by the judge instead of the returning officer. We suppose, however, you elected a new council in January last, in the regular way, so that any objections to the proceedings in 1899 would be of no consequence now.

3. Not necessarily. See sub-section 1, of section 537, of the Municipal Act.

Local Improvements on the Initiative Method.

300.—E. S.—Our council contemplate putting in a large amount of silex walks and

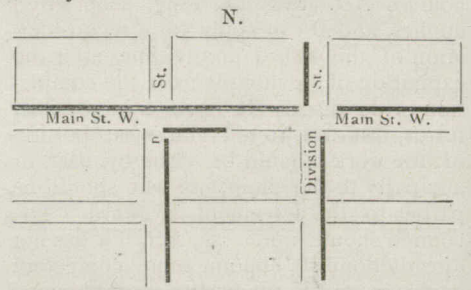
propose to assess the cost as follows:—40% to be paid out of the general fund and 60% by the owners according to the frontage of the property. They propose to initiate proceedings under section 669 of the Municipal Act. I enclose sketch of the streets and portion thereof to be paved. The following questions arise in the minds of the council with regard to the proposed work.

1. What should the notice required by section 669, subsection 1, contain?

2. Should the by-law be passed; the assessments made, and cost ascertained and these inserted in the notice, or is it only necessary to give a bare notice of intention to do the work, wait the one month and if no petition against, then proceed with the by-law, etc.?

3. The work will include three streets, constructing over a mile of walk. Will a property owner assessed specially, be exempt from the general tax for any of the work, that is, will a property owner on one street be exempt from contributing to the cost of the work on another street? If not, to what extent does the exemption go?

Heavy line shows proposed walk approximately:



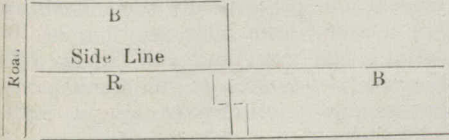
A simple statement published in the manner mentioned in this sub-section, announcing the intention of the council to undertake the work under the authority of section 664, of the Municipal Act, specifying its nature, extent and the streets on which it is to be performed, and stating that unless the majority of the owners of the real estate, representing, at least, one-half in value thereof, petition the council against the same within one month after the last publication of the notice of the intention of the council to undertake the said work, such work shall be undertaken, and that the assessment of the cost thereof shall be made upon the properties benefited thereby, and stating that this notice is given pursuant to section 669, of the Municipal Act, will be sufficient. 2. A by-law cannot be passed until after the expiration of the time limited by section 669. See sub-section 4, of section 669, and sub-section (a) of sub-section 4.

3. Sub-section 1, of section 680, of the Act, (as amended by The Municipal Amendment Act, 1900,) provides that real property specially assessed by any council for any local improvement or work under this Act shall be exempted by the council, upon the value of the lands only, and not of the improvements thereon, from any general rate or assessment for the like purpose, except the cost of works at the intersection of streets, and except such portion of the the general rate as may be imposed to meet the cost of like works opposite real property which is exempt from such special assessment. As to the assessment of corner and irregular lots, see section 673, sub-section 4.

Line Fence Dispute.

301.—J. E.—There is a dispute between two neighbors as to whether the fence-viewers have authority to say where the fence should be placed between B and R. They have built a stone fence between them on side line, two feet on each side of line. B owns a lot abutting R's. R has put up a part of a stone fence next to B's corner. B has notified R to remove it and place it on his, R's, side of the line and he, B, will build his part on his side of the line which would appear thus, — R wants to build it the same as side line half on each. It is the custom to put half on each side of line.

1. Can B force R to remove fence built?
2. Can R put half on each side of line?
3. Have fenceviewers authority to act?



1. No, if the fence is a lawful fence, or of a kind customary in the locality and, it is half on his land and half on R's. If a by-law has been passed pursuant to sub-section 3 of section 545 of the Municipal Act, it should be referred to in ascertaining what constitutes a lawful division fence in the municipality.

2. Yes. In the case of Cook vs. Tate, 26 Ontario reports, page 403, it was held by Mr. Justice Ferguson, affirming the decision of Mr. Chief Justice Armour, the judge at the trial, that a boundary fence under R. S. O., chap. 219, (now R. S. O., chap. 284) should be so placed when completed that the vertical centre of the board wall will coincide with the limit between the lands of the parties each owner being bound to support it, by appliances placed on his own land, and in the same case Mr. Chancellor Boyd in the course of a dissenting judgment says: "It (the fence) should be consistent with local custom and usage and fitness of situation placed as far as possible equally on the lands of each." The subject matter of that case it may be observed was a board fence, but the principle thereby laid down, will apply to this case.

Voting on Bonus By-Law.—Municipal Amendment Act 1900.

302.—A. A. H.—An elector is entitled to vote in each ward (Municipal Act, s. 355.) In certifying as to the two-thirds or three-fifths proportions mentioned in 63 Vic., c. 33, s. 8, should such a ratepayer be counted more than once? I would think so seeing that he is entitled to vote more than once.

2. I understand section 348 of the Municipal Act to mean that I have to write in the poll-book the names, etc., of the duly qualified electors, and not hand a blank poll-book to the deputy-returning officer, as is done at the election of the council. Should I insert in this list the names of men who have died since the voters' list was made out, and how should dead men be dealt with in estimating the two-thirds and three-fifths proportions necessary to carry the by-law?

1. The question you have raised is one upon which the courts have not, so far as we are aware, yet passed. Section 355, of the Municipal Act, entitles a ratepayer to vote in each ward in which he has the qualification necessary to entitle him to vote, and by the section you quote the assent of

two-thirds or three-fifths (as the case may be,) of all the ratepayers entitled to vote on the by-law is necessary. The words "all the ratepayers" mean all the ratepayers of the municipality, and in ascertaining the whole number, a ratepayer cannot be counted more than once, though he has two or more votes in the municipality. The clerk, under section 364, is required to cast up the votes for and against the by-law, and if he finds that there is a majority of votes for or against the by-law, he must so certify, and we have no doubt but that if there is a majority of the votes cast for the by-law, such majority is sufficient, provided that the other requirements of the section you quote are not lacking. This view is confirmed by reference to the clause in the last mentioned section, which provides that "In addition to the certificate required by section 364, of the Act, the clerk, in case the majority of votes being in favor of the by-law, shall further certify, etc." From this it will be observed that the clerk is required to give a further certificate in case of the majority of votes being in favor of the by-law. The legislature does not say a majority of the ratepayers, but a majority of the votes. Where the legislature speaks of two-thirds or three-fifths of the ratepayers, we are perfectly satisfied that the clerk has no right to multiply a ratepayer who is a voter in each of three wards, by three, and thereby make three ratepayers out of him. We are not concerned with what was really in the mind of the legislature who had this enactment placed upon the statute books, nor with the question as to whether it is fair to count individuals only in one case, and votes in the other case or not, we have simply to ascertain what the legislature meant by what it has actually said.

2. Your view of section 248, as to the voters' list or poll-book is correct. This section provides that the voters' list shall be a list "of all persons appearing by the then last revised assessment roll, to be entitled, under the provisions of sections 353 and 354, to vote, etc," and the clerk should make up his list from the assessment roll alone; but we do not think that the names of ratepayers who are dead can be counted in ascertaining whether a sufficient number of ratepayers have voted for the by-law, because a dead ratepayer cannot be regarded as a ratepayer entitled to vote.

Refusal to Pay Taxes.—Election to Fill Vacancy in Council.

303.—J. S.—1. A ratepayer in our municipality, in 1897, refused to pay his taxes for some reason of his own. The collector neglected to distrain and taxes were not paid. The man owns the farm and has been living there all along. Can those taxes be put on collector's roll for 1900 or can they be collected at all?

2. There was a vacancy in our council, I called for a meeting of the ratepayers to nominate a councillor; gave them three weeks notice. There was only one party came to the meeting besides myself; there was no candidate nominated. What is to be done now in a case of this kind?

1. These taxes cannot be placed on the collector's roll for the current year. Assuming that the roll for 1897 has been returned by the collector for that year, the taxes cannot now be collected by distress and sale of the goods of the party liable, nor can they be collected by sale of the land. The municipality has no remedy by action against the party under section 142, of The Assessment Act. As no attempt has been made to collect the taxes in any special manner provided by the Act, the corporation's only remedy is against the collector, through whose negligent default the taxes were lost to the municipality. We are assuming that the taxes might have been made out of the goods of the party assessed.

2. The other members of the council in office—since they exceed the half of the council when complete—should appoint some person qualified under the Act for the office of councillor to fill the vacancy. See section 218, of the Municipal Act.

Maintenance of Road Ditch—Crossing to Schoolhouse.

304.—SUBSCRIBER.—Some years ago our council deepened a ditch along road, some four or five feet, some fifty or sixty chains, to oblige some farmers, turning water out of natural course, going through some knolls. Now some of the farmers wish the council to deepen and clean out said ditch, claiming that the council, having once made a ditch of this kind, are bound to maintain it.

1. Are the council bound to maintain said ditch, or can they put culvert across road and let water take old course? The farmer across whose land the natural course is has forbid the council to turn water across road into old course across his farm.

2. A deputation of public school trustees in the township waited upon our council asking us to put tile in road ditch opposite schoolhouse, and fill in with dirt in order to make a level crossing, claiming that the council was bound to fill in all ditches opposite public buildings. The length of ditch to be filled in this case was about four chains, costing \$30 or \$40. Is a council bound to make crossings of this kind, or is the school section to make their own crossings?

1. No, the council is not bound to maintain the old drain, nor can they build a culvert across the road, if by so doing, water would be discharged on lands to their damage or injury. Councils cannot legally divert water from its natural course to please farmers, or for any other reason. Proceedings should be taken under the Ditches and Watercourses Act (R. S. O., 1897, chap. 285) or the Municipal Drainage Act (R. S. O., 1897, chap. 226) whichever is applicable to the circumstances of the case.

2. We are of the opinion that the council is not bound to make the crossing you mention. Councils are required to construct and maintain ditches and culverts or crossings, in such a way as to best suit the requirements of the highway and the public using the same. If the trustees, for the special benefit of their school, require anything to be done to the ditch in front of their school-house in addition to the above, they must do the work, or cause it to be done at the expense of the school section, and in such a way that they will not interfere with the proper use of the drain by the municipality.

Dog-Tax By-Law.

305.—J. H. S.—Cap. 271, R. S. O., 1897, is in force in this municipality, no petition having been presented under section 2. The council have, by by-law, dispensed with the application of the tax under section 8, notwithstanding sections 3, 4 and 5. Have the council power to provide by by-law

1. That the tax shall be payable on or before say 1st of June?

2. That in default the tax shall be \$1.25 and \$2.25 respectively?

3. That a special collector be appointed?

4. That the collector may in default summarily destroy the dog?

5. That in addition he may proceed against the owner, etc., to recover a penalty under the by-law?

6. With cap. 271, R. S. O., 1897, in force what power has the council under cap. 223, section 540, s. s. 1, 2 and 3?

1. No.

2. No.

3. No.

4. No.

5. No. The law as laid down in sections 3, 4, 5, and 6 of chapter 271, R. S. O., 1897, must be observed.

6. If the council procure the necessary petition required by section 2 of chapter 271, a by-law can be passed, dispensing with the levying of a tax under that act, and a special by-law can then be passed under section 540 of the Municipal Act, giving the powers which are suggested by the questions submitted.

Cost of Preparing and Registering Plan of Unincorporated Village Under Registry Act.—Of Fire Engine, etc., in Unincorporated Village.

306.—TOWNSHIP CLERK.—1. We have in our township an unincorporated village, which has been settled without surveying, and plans prepared for registration, and the result has been that it became almost impossible to identify the different parcels of land composing the village. The inspector of Registry Offices has requested council to cause a survey to be made and plans to be prepared for registration. This has been done, under powers vested in council by sub-section 3, section 111 of the Registration Act, R. S. O., 1897. I wish to know whether personal property or income is liable to pay its share of the cost of survey, etc.?

2. I would also like to know how the levy should be made to pay costs, whether an equal sum should be levied on each portion or subdivision composing the plan, irrespective of the assessed value. Was that the proper way to raise money to pay costs?

3. We have another unincorporated village in our township that has purchased fire engine, hose, fire hall, etc., and money has been raised by issuing debentures. Is income liable for payment of these debentures?

4. Is personal property liable?

1. We are of the opinion that the rate in this case must be confined to the lands.

2. The expenses should be levied on and collected from the lands comprised in the map or plan, according to the assessed value of such lands.

3. No.

4. No.

Tag Law and Renting of Pasture on Highway.—Council's Authority as to Fences.—Herding Cattle on Highway.—Entry of Statute Labor Division on Assessment Roll.—Farmer's Son Jointly Assessed a Ratepayer.

307.—F. G. J.—1. Has a township council a legal right to sell tags and rent the pasture on the public highway?

2. Has the township council the power to pass a by-law stating what a lawful highway fence shall be, as well as a division fence?

3. What authority has a township council over highway fences?

4. Can the council prohibit a man from herding cattle on the highway in front of his own place?

5. Is it the assessor's duty to mark in the assessment roll the number of the road division in which statute labor for each parcel of property is to be performed?

6. Is a farmer's son assessed jointly with the father a ratepayer?

1. Sub-section 2, of section 546 of the Municipal Act, empowers councils to regulate the running at large of cattle in the municipality by by-law. Such by-law might legally provide for the wearing of tags by cattle running at large, and for the payment of the cost of the tag by the owner of the cattle to the council. The council has no right to rent the pasture on the highway or upon any part of it to any particular individual. The highway and every part of it is for the use of the public generally.

2. Yes. See sub-section 2, of section 545, of The Municipal Act.

3. Sub-sections 2, 4 and 5, of section 545, of The Municipal Act, and R. S. O., 1897, chap. 240, (The Act Respecting Snow Fences,) will give you full information as to the subject matter of the question.

4. No. See also question No. 341 in THE WORLD for 1898.

5. No, unless he is specially required to do so by the council on his appointment. See sub-section 4, of section 13, of The Assessment Act, and the headings of column 18, in schedule D, to the Act.

6. Yes.

Statute Labor in Police Village.—Agreement Under Section 740.

308.—W. S. C.—1. What is the law in reference to statute labor in a police village? Can a township divide it into road divisions and appoint pathmasters?

2. If not, what authority is there for the village to collect from those who are not on the assessment roll living within the village?

3. There is an agreement spoken of in the statute to be entered into between the village and the township. What items form the basis of such an agreement?

1. Statute labor in a police village is regulated by the council of the township in which the village is situated. The council may divide the village into road-divisions and appoint pathmasters to superintend the performance of statute labor in each.

2. We assume you mean persons liable to pay commutation money or poll-tax under section 97 of the Assessment Act. These sums should be collected by the pathmasters in the several road divisions, or by such other person as the council may appoint to collect the same.

3. Section 740 of the Municipal Act provides that the rate levied for police village purposes by the council or councils of the township or townships in which the police village is situated upon the property liable to assessment in such village, shall be in lieu of such proportion of the township rate now levied for the same or

like purposes within such village as the trustees and the council may by agreement provide.

Application of Dog Fund.

309.—A. B. W.—When money is collected for dog-tax, are sheep damages liable to be paid after the same has been abolished, by by-law, out of surplus or can it be applied to general fund?

Damages for sheep killed by dogs should be paid by the municipality so long as there is any sum to the credit of the dog fund, and to the extent of that sum. Until claims are made upon the council for payment of such damages, the amount from time to time at the credit of the dog fund can be used for the general purposes of the municipality. See section 7 of chapter 271, R. S. O., 1897.

Voting at Council Meetings.

310.—J. L.—1. When one member of the municipal council is unable to attend council through sickness or any other unavoidable case, is the council competent to transact the ordinary business of the municipality?

2. Is the following vote legal? A motion was made in our council to alter a road-beat taking a piece of road off one beat and adding it to another. Two of the three councillors present voted for the change and one was against it. The reeve had no vote as it was a tie, and the motion was carried. The reeve protested, saying, the proceedings were not legal, yet the change has been made.

Yes, provided a quorum of the council is present at the meeting at which the business is transacted. As to the number of members constituting a quorum, see section 268, of The Municipal Act.

2. Your council being composed of five members, three of them constitute a quorum for the transaction of business. The reeve might have voted on the question had he so desired. Section 274, of the Act, provides that "the head of the council, or the presiding officer or chairman of any meeting of any council, MAY vote with the other members on ALL questions; and any question on which there is an equality of votes, shall be deemed to be negatived." Section 269 requires the concurrent votes of at least three of the members of the council in favor of a motion or resolution, and therefore the motion in this case failed. Moreover, we are of the opinion that the change contemplated could be made by by-law only. See section 5, of section 561, of The Municipal Act.

The Pickering News says: Since the new order of things in regard to the repairing of roads has been adopted, it is surprising to know how many road-beats have not performed work for years. We have already seven upon our list. If there was nothing to do at home, why did not a neighboring beat reap the benefit?

Why? evidently because they preferred to sneak out of it.

Mr. Colin Campbell, who resides near Stayner, was recently appointed treasurer of the township of Nottawasaga, at a salary of \$200.

Municipal Amendments, 1900.

THE ONTARIO VOTERS' LISTS ACT.

By section 1 of chapter 3 of 62 Vic. (Ontario Statutes) section 6a was added to section 9 of the Ontario Voters' Lists Act. The added section provided that in the case of any city in which the assessment roll is not returnable by the 30th day of September, the clerk immediately after the return by the assessor of the roll, etc., shall prepare his voters' list, and shall cause 200 copies of the same to be printed within 30 days after receiving the roll and post up and deliver copies in the manner provided by section 8 of the Act.

Chapter 2 of 63 Vic. (Ontario Statutes 1900) makes the said section 6a applicable to *towns* where the roll is not returnable before the 30th September as well as cities. In towns, however, the clerk is required to cause to be printed 100 instead of 200 copies of the voters' lists.

Chapter 3 section 1 provides that any person otherwise qualified to be entered or registered on the voters' list prepared under the Ontario Voters' List Act or on the list of Manhood Franchise Voters' to vote, shall not be disentitled to be entered or registered on any such list or to vote, etc., by reason only of the absence of any such person from the Province of Ontario while serving Her Majesty in any Military capacity or while acting as a war correspondent in the present South African War.

Section 2 of the last mentioned act amends the oath set out in form 9 in the schedule to the Manhood Franchise Registration Act in accordance with the requirements of section 1.

MAINTENANCE OF MUNICIPAL BOUNDARY LINES IN DISTRICTS.

Section 33 of chap. 17, applies to the Districts of Muskoka, Parry Sound, Nipissing, Algoma, Manitoulin, Thunder Bay and Rainy River, and provides that where a highway forms the boundary line between Municipalities situated in any of the said districts, it shall be maintained by the respective townships bordering on the same, and all bridges upon such highway shall be maintained in like manner.

Sub-section 2 of this section authorizes the councils of the respective municipalities adjoining such highway to enter into agreements for the maintenance and repair of such highways and bridges for a term not exceeding 10 years.

Sub-sec. 3 enacts that in case any agreement has not been entered into in accordance with sub-sec. 2, etc., the portion of such highway to be maintained for its whole width by each of the municipalities may be determined by arbitration under the provisions of Mun. Act and provides for registration of the agree-

ment or award in the registry office of the district. Sub sec. 4 provides that in case no agreement is entered into, and no award made under the provisions of the section the municipalities between which such highway forms a boundary shall be jointly and severally liable for all damages incurred by reason of neglect to maintain and keep the same in repair.

PROVINCIAL AID TO DRAINAGE.

The provisions of chap. 8 apply to that portion of the trunk channel constituting the outlet of any drainage work as defined by The Municipal Drainage Act and of any drainage works now constructed or hereafter to be constructed for effecting drainage by embanking, pumping or other mechanical means and also to the reconstruction of any such drainage work. The council of the initiating municipality shall be the applicant for aid to the Lieutenant Governor of the Province of Ontario where assistance is sought, and the application shall be by way of petition setting forth the engineer's report on the proposed work after adoption by the council initiating the work, the assessment upon the lands interested or effected and the cash value of the lands so assessed, such petition to be verified by a statutory declaration of the engineer employed and a field plan of the proposed work shall accompany it. In case the report and field plan show that the proposed work is being undertaken for (a) To provide or improve that portion of the trunk channel constituting the outlet for the drainage work; (b) To furnish capacity over intervening high lands to a natural or other outlet; (c) To render more effective the operating of the drainage work by embanking, pumping or other mechanical means; then the Lieutenant-Governor-in-Council may cause an examination of the drainage work to be made by an engineer of the Public Works Department who shall report fully upon the work and all matters connected therewith. On receipt of his report the Lieutenant-Governor-in-Council may assume and pay such proportion of the costs of the undertaking as may seem just and reasonable and in the public interests and as may be approved by the legislative assembly. Any investigation or enquiry respecting the drainage work and any claim for damages or compensation arising therefrom may be referred by the Lieutenant-Governor-in-Council to the referee under the drainage laws whose powers shall be the same as those conferred on him by The Municipal Act.

MUNICIPAL COLD STORAGE BUILDINGS.

Chapter 9 authorizes the council of any municipality to pass by laws for acquiring land as a site for buildings and for erect-

ing buildings thereon for cold storage purposes, for the management, control and operation of such buildings and for prescribing fees to be paid by persons using such buildings for storage purposes, such fees being subject to an order of the Lieutenant Governor in council fixing the maximum fees to be charged. Two or more municipalities may enter into an agreement for the purpose above mentioned. The Lieutenant Governor in Council is authorized to direct by order in council that a sum of money not exceeding \$500 out of money voted for the purpose by the legislative assembly be granted to any municipality or municipalities which have erected or may have erected or may hereafter erect buildings for cold storage purposes subject to the provisions of sections 3 and 4 of the Act. The site selected for the erection of such buildings need not be within the municipality or municipalities issuing debentures for the purpose of same, but it must not be within five miles from any other cold storage buildings erected by private capital or under any Act of the legislature.

ENFORCEMENT OF MUNICIPAL CONTRACTS.

Chapter 35 enacts that where duties, obligations and liabilities are or have been heretofore imposed by statute upon any person, company or corporation in favor of a municipal corporation or the inhabitants, or a portion of the inhabitants thereof, or where contracts or agreements are or have heretofore been created, enacted, or validated by statute which impose such duties, obligations or liabilities, every such municipal corporation shall have the right by action to enforce such duties, obligations or liabilities either in favor of the corporation or the said inhabitants, and to obtain as full and complete relief, and to enforce the same remedies as could have been maintained, obtained and enforced therein by the Attorney-General had he been a party to the said action as plaintiff or as plaintiff at the relation of any person or corporation interested.

GRANTS FOR THE BENEFIT OF CANADIANS ON MILITARY SERVICE.

Chapter 35 authorizes grants of money heretofore and hereafter to be voted by any municipal council by way of contribution in aid of members of the Canadian forces sent to South Africa for service during the present war to supplement the pay of such parties, to make provision for their equipment, or to provide maintenance or other requisites for them or their families or persons dependent upon them or by way of contribution to the Canadian Patriotic Fund or British Red Cross Society or any local patriotic association. Any such grant may be paid out of the general funds of the municipality or by laws may be passed issuing debentures to raise the amount required payable within 10 years, such by-laws to be passed in the manner provided by The Municipal Act with

respect to by-laws for the creation of debts, but no such by-law shall require the assent of the ratepayers to the passing thereof.

VOTING MACHINES.

Chapter 37 makes provision for the passing of by-laws by the councils of any municipality by an affirmative vote of not less than two-thirds of the whole council, providing for the discontinuance thereafter of the use of ballot boxes and ballot-papers at municipal elections and for the adoption of any kind of voting machine, that complies with the requirements of the Act, such machine to be used for voting, registering and counting votes cast at all municipal elections. A municipality passing such a by-law, may, at any time, by a majority vote of the whole council, repeal the same. Section 2 of the Act defines the construction of the machine, and section 3 the duty of the clerk of the municipality in reference to the same. Sections 4 and 5 define the duties of the clerk and deputy-returning officers for each polling subdivision at an election held where a voting-machine is in use. Section 6 imposes a penalty on the clerk of \$100 for every voting-machine which he has failed to furnish as the Act requires. Section 7 provides for the maintenance of secrecy in voting. Section 8, the procedure before opening the poll, and sections 9, 10, 11 and 12 the conduct of the poll. Sections 13, 14, 15 and 16, the conduct of the clerk and deputy-returning officers after the close of the poll with reference to the custody of the voting-machine and summing up of the votes cast. Section 17 imposes a penalty on any officer, clerk or agent or other person who interferes with or attempts to interfere with a voter when voting and to obtain information at polling-places, and section 18, upon any person interfering with the proper working of the voting-machine.

It may be observed that it is optional with municipalities as to whether they pass by-laws under this Act or not.

AMENDMENTS TO DRAINAGE ACT.

By chapter 37, the provisions of section 76 of the Drainage Act, R. S. O., 1897, chapter 226, are made to apply to drains constructed by statute labor or partly by statute labor and partly by the general funds. A new section (77a) is added to the Municipal Drainage Act providing for the passing of by-laws by the council of any municipality requiring the owners of every lot or part of lot assessed for benefit to clean out the drain and keep the same from obstructions and to remove therefrom all weeds and brushwood and to keep the banks of the drain in order to the extent and in the manner and proportion and for the distance determined by the engineer in his report. In case of default by any owner in so doing for thirty days after he has received notice in writing from the council of the municipality, the work may be done by the council or any

officer appointed by them and the cost of doing the work after notice to the person so making the default and liable therefor, shall be placed on the collector's roll against the lands of such owner and may be collected in the same manner as other municipal or drainage assessments.

Another new section (10a) provides that such by-law may further provide that the engineer or surveyor shall, in his report, state the portion of the said drain already or hereafter to be constructed, which shall be, by each one assessed for benefit, cleaned out and kept clean and free from obstructions and in good order, as prescribed by the above section 77a of this Act.

Section 83 of the Act is amended by striking out the words "payable within seven years from the date thereof" in the fifth line of this section and inserting after the word "debentures" in the eighth line, the following words "where such debentures are issued for the cost of repair, such as change of course, new outlet, improvement, extension, alteration or covering pursuant to the provisions of section 75 of this Act, such debentures shall be payable within twenty years from the date thereof, and where such debentures are issued for the cost of repairs pursuant to any other sections of this Act such debentures shall be payable within seven years from the date thereof."

MUNICIPAL ARBITRATIONS.

Chapter 39 adds a new section to the Municipal Arbitrations Act, R.S.O., 1897, chapter 227 (No. 15a), which is as follows: The council of any municipality which has passed a by-law under section 15 of this Act, may repeal the same by by-law passed at any time after the expiration of six months from the passing of such first-mentioned by-law and upon the passing of such repealing by-law this Act shall cease to apply to or be in force in such municipality.

LICENSING TRAVELLING SHOWS.

Section 2 of chapter 41 provides that no municipal corporation shall issue a license to any menagerie, circus, wild beast show, or travelling show whatever, until the applicant for such license produces a license from the Provincial Treasurer for exhibiting in the Province of Ontario, and any member or officer of the municipality who is a party to the issue of any license in violation of the provisions of this section shall be liable on summary conviction to a fine of \$20, besides costs.

THE PUBLIC SCHOOLS ACT.

The following sections are added to the Public Schools Act by chapter 53:

65a. Every urban school board shall have power to expend such sums as they may deem expedient, not exceeding \$200 in any one year, in promoting and encouraging gymnastics and other athletic exercises.

89a. Where any teacher retires after serving twenty years or longer, the board

of trustees may grant him an annual allowance not exceeding the salary which he was receiving at the time of retirement, or may in lieu of such allowance make a grant to such teacher by way of gratuity of such sum as will represent the present value of an allowance aforesaid for his life, computed on the basis of interest at the rate of four per cent. per annum.

Sub section 2, of section 88, is amended by striking out the words "thirty-five" where they occur in the fifth line thereof, and substituting therefor the word "thirty."

THE HIGH SCHOOLS ACT.

By chapter 54 the following sections were added to the High Schools Act, R. S. O., chapter 293.

30a. (1) The Board of Trustees of any High School or Collegiate Institute, upon receipt of any money bestowed by legacy, gift or otherwise, may agree with the person or persons from whom the same is received for the establishment of a permanent scholarship, provided such sum of money is sufficient when invested at a rate not exceeding four per centum per annum to yield an amount not less than the annual fee charged to pupils at such High School or Collegiate Institute.

(2) Such scholarship shall be awarded only to a ratepayer or to a child of a ratepayer of the municipality or municipalities contributing to the maintenance of such High School or Collegiate Institute.

(3) The Board of Trustees of any High School or Collegiate Institute shall have the right to invest any money received by them through legacy, gift or otherwise, and shall for such purpose have and exercise the powers conferred upon trustees by the Trustee Investment Act.

41a. When any teacher retires having reached the age of sixty years, or after having served for twenty years or longer, the Board of Trustees may grant him an annual allowance not exceeding the salary which he was receiving at the time of retirement, or may in lieu of such allowance make a grant to such teacher by way of gratuity of such a sum as will represent the present value of an allowance aforesaid, for his life, computed on the basis of interest at the rate of four per cent. per annum.

Section 9 of section 2 is amended by adding thereto the words "and shall also include gratuities and retiring allowances granted to teachers," and paragraph four of section 15 by inserting after the words "payment of" in the second line thereof, the words "gratuities or retiring allowances of teachers and."

Giles—"That boy over across the way saved sixty-three lives one day last week."

Miles—"Is it possible? How did he do it?"

Giles—"Rescued a cat and six kittens from a burning stable."—*Chicago News.*

PAGES

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