

# THE MUNICIPAL WORLD

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## Calendar for March and April, 1898.

### Legal, Educational, Municipal and Other Appointments.

#### MARCH.

1. Auditors' Reports on the accounts of High School Boards and Boards of cities, towns and villages should be mailed to Education Department.
- Separate School supporters to notify Municipal Clerk.—Separate School Act, section 42.
5. Make returns of Deaths by Contagious Diseases registered during February.
31. Last day for Councils of cities, towns, villages and townships to pass by-laws limiting number of shop licenses therein for ensuing year.—Liquor License Act, section 32.
- Night Schools close (session 1897-8).

#### APRIL.

1. Clerks of counties, cities and towns separated from counties to make return of population to Educational Department.—Public School Act, section 69.
- Last day for Free Library Board to report estimates to the Council.—Free Library Act, section 6.
- Last day for petitions for Tavern and Shop Licenses to be presented.—License Act sections 11 and 31.
- Last day for removal of Snow Fences erected by Councils of townships, cities, towns or villages.—Snow Fences Act, section 3.
- From this date no person compelled to remain on markets to sell after 9 a. m.—Municipal Act, section 579 (6) R. S. 1897.
- Last day for Boards of Park management to report their estimates to the Council.—Public Park's Act, section 17.
7. Last day for Treasurer of Local Municipalities to furnish County Treasurer with statement of all unpaid taxes and school rates.—Assessment Act, section 157.
8. Last day for Collector to return to Treasurer the names of persons in arrears for water rates in Municipalities.—Municipal Waterworks Act, section 22.

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# The Municipal World

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

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ST. THOMAS, MARCH 1, 1898.

## Municipalism or Centralization an Important Question.

In the February number of the *Canadian Magazine*, the editor of the *Ottawa Citizen* discusses at length a book on "Anglo Saxon Superiority," by M. Edmond Demolins of Paris. The development of socialism is referred to, and it is said to be a failure in England on account of the system of self-government. In many of the European countries, notably France, the State has assumed control of local government to such an extent that a position in the civil service is a goal to which every young man aspires.

French education aims at training young men for these positions, the result is that there are more candidates than offices. The unsuccessful become lawyers, journalists and politicians and their private misfortunes are expressed in public discontent. The independent pursuits of agriculture, trade and commerce, the industrial and mechanic arts are despised. The English system of education and self-government results in individual independence and self reliance.

In conclusion the writer refers to the Canadian system, and says that there are many indications of the spirit of dependence among ourselves, the most notable being the struggle for office when a change of Government takes place, and that the eagerness to enter the civil service is not confined to any one party. The increase in the number of officials in Ontario and centralization in Toronto, effected by withdrawing many of the privileges formerly possessed by the municipalities, and transferring them to the Provincial administration is given as an instance. This is looked upon as an encroachment by the central authorities upon the functions of municipalities, and the consequent

impairment of the independent life and usefulness of these bodies.

The recent appointment of a Provincial Municipal Auditor is referred to as follows:

"Let us take a recent example of centralization to be found in the Statute book of the Province; one not specially harmful nor particularly important, but which illustrates well enough what we are saying. There have been from time to time a number of defalcations by municipal treasurers, and it has usually been found that their accounts have been audited in a perfunctory manner. Last session the government appointed a new official to be known as the provincial municipal auditor, whose duty it is to frame rules respecting the number and form of books of account to be kept by the treasurers, the system of book-keeping to be followed by them, and a provincial audit of their accounts. What does this provision imply? Simply a want of faith in the power of municipal bodies to manage their own business. The ratepayers are treated as if they were children. How is a healthy and sturdy manhood to be developed unless people are held responsible for the results of their own laxity or neglect? If councilmen are unfit for their places let their constituents select others who are competent, and if the people will not take the care and trouble to do this, by all means let them suffer the penalty, and let them suffer it in their pockets, oftentimes the most sensitive part of the human organization."

## Investment of Court Funds in Drainage Debentures.

Chapter 13 of the statutes passed this year, amends the Judicature Act by adding thereto the following section:

161a. The Supreme Court of Judicature for Ontario may, if it shall see fit, authorize the investment of any of the funds standing in court in the purchase of any debentures issued by any municipality in Ontario under, or purporting to be under, the provisions of the Municipal Drainage Act, or by any county or union of counties in Ontario under any other authority and in case any such investment shall be so made the debentures so purchased shall not thereafter be questioned and shall be deemed to be valid to all intents and purposes.

## San Jose Scale Act.

This Act, passed at last session of the Legislature defines the duties of Fruit Tree Inspectors appointed by municipal councils as follows:

8. For the purpose of enforcing this act, it shall be the duty of every inspector appointed under the Yellows and Black Knot Act to make careful examination and inspection for the occurrence of the scale within the municipality for which he is appointed and to report forthwith to the Minister of Agriculture every case of infestation, and neglect to make such report shall render the inspector liable to the penalties imposed under section 11 of this act.

The penalty under section 11 is not less than \$20 nor more than \$100.

## Election of Warden—Leeds and Grenville.

The counties council of Leeds and Grenville had considerable difficulty in electing a warden, owing to the fact that the County Councils Act does not state how to ascertain the district having the largest equalized assessment. The council was evenly divided, and being unable to decide who had the casting vote, a legal opinion was obtained, which after a general review of the situation stated:

It is further obvious that in order to comply with the statute some way must be found out of arriving at the equalized value of these portions. Only two practical methods have been suggested or have occurred to us. The first way is, take the acreage of the portion and value it at the rate per acre at which the township is equalized and so reach its equalized assessment.

The second way is to ascertain the actual assessed value of the portion of the municipality and having ascertained the proportion which the actual assessed value of the whole municipality bears to the equalized value of the whole municipality apply the same proportion to the assessed value of the portion of the municipality included in the division and in this way obtain the equalized value of the portion.

Applying the principles we have above laid down for our guidance, and after carefully considering both ways, our opinion is that the first way, namely, taking the acreage of the portion at the equalized value per acre at which the whole township was equalized is the proper course to be adopted and we recommend the Council to adopt this course.

It is unfortunate that section 19 of the Act does not specify the method of ascertaining the largest equalized assessment, as in the event of such a case again occurring the same difficulty will arise and can only be definitely determined by an amendment to the Act.

This opinion was not sufficient to enable the clerk to determine what to do, and on Friday the council adjourned to Wednesday the 2nd of February, to enable him to obtain further legal advice, which when received was not considered sufficient. The clerk, however, finally decided on the senior member of the largest district, who being one of the candidates, soon broke the tie by voting for himself. In addressing the council the warden stated that he had been placed in an unenviable position, that he had never sought the office but happened to be the choice of his party.

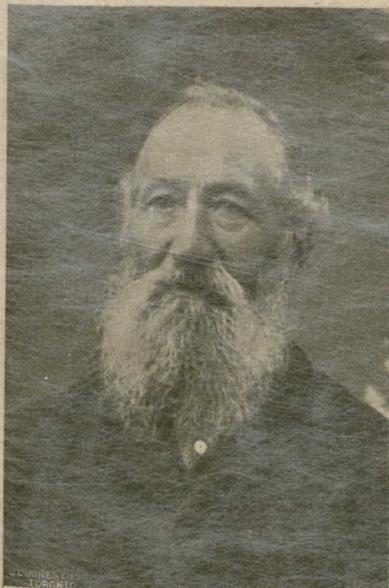
During the discussion that preceded the election of warden it was stated that too much prominence could not be given to the fact that the law is defective and should be amended to prevent a similar deadlock in future elections of county wardens.

Section 11 of the Act respecting the keeping and auditing of school accounts, R. S. O., 1897, chap. 228, makes it the duty of every municipal treasurer within five days after his appointment to office to inform the Provincial Municipal Auditor of his appointment and of his full name and post office address. For the information of treasurers recently appointed, the address is J. B. Laing, Esq., Provincial Municipal Auditor, Parliament Buildings, Toronto.

# Municipal Officers of Ontario.

**Clerk, Township of Sullivan.**

Mr. Stephen was born in Aberdeenshire, Scotland, in 1835, and came to Canada in



MR. A. STEPHEN.

1854, settling in the following year on the farm where he at present resides. The township, which had been incorporated five years before, was then an unbroken forest. He was a township auditor for a



MR. T. B. MOORE.

number of years, and received his appointment as clerk in 1879. In addition to his municipal office he is a justice of the peace, a commissioner, conveyancer, etc. He is very much in favor of municipal clerks associations, and would like to see one formed in every county in the Prov-

ince, as he believes they would prove invaluable to councils in general and to municipal officers in particular.

**Clerk, Township of Drummond.**

Mr. Moore was born in Drummond, on the farm where he now resides, in 1832. He has been for twenty-five years a director of the South Lanark Agricultural Society, and is an active member of the Farmers' Institute. He received his appointment as township clerk in 1880, and since that time has missed but one meeting of the council.

**Town Clerk, Collingwood.**

Lt.-Col. Hogg was born in the town of Boyle, Ireland, in 1830 and came to

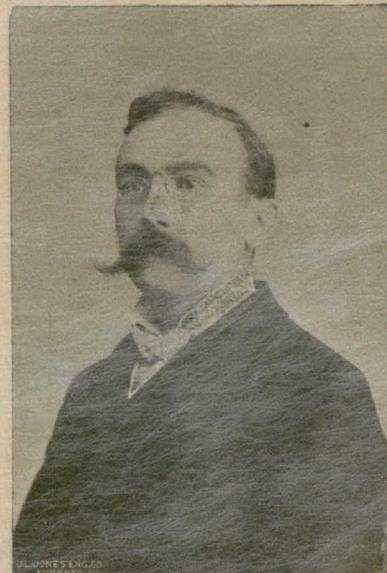


LIEUT.-COL. HOGG.

Toronto with his parents in 1832. At an early age he learned the book and printing business. In 1852, he moved to Barrie where he published the "Herald" for four years. When the railway was completed in 1855, he moved to the new town of Collingwood and started the "Enterprise" which he conducted for 30 years. In 1858 when the town was incorporated he was appointed clerk, but held office for a few months only. In 1860 he was elected a member of the council and from 1863 to 1881 he occupied the reeve's chair, having had but one contest during that time. In 1873 he was elected warden of Simcoe. In 1884 Mr. Hogg was elected mayor and in 1886 received his appointment as clerk. He has always taken an active interest in education and has been a member of the school board for over 30 years. As a member of the Volunteer force he served 22 years and was Lt.-Col. when he retired a few years ago.

**Clerk, Town of Tilsonburg.**

Mr. Raynes was born in Derbyshire, England, in 1862. On leaving school he studied law and gained his first experience in municipal affairs as acting clerk for the Heanor Local Board. He came to Canada in 1887, and assisted Mr. E. C. Jackson in the duties of town clerk. In 1893 Mr. Raynes was appointed collector of

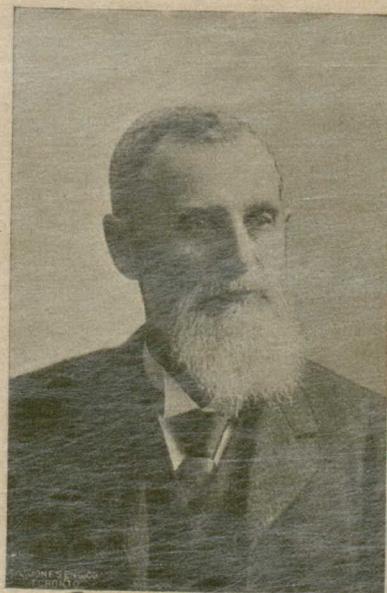


MR. A. F. RAYNES.

taxes, and held that position until 1896, when he was appointed town clerk.

**Clerk, Township of Esquesing.**

Mr. Kennedy was born in Esquesing in 1836, and for many years combined the



MR. G. H. KENNEDY.

lumber business with farming. He was deputy-reeve of the township in 1873, and was councillor in Georgetown for five years, was elected reeve for the years 1890, 1891 and 1892. In the latter year he resigned his office to accept the appointment of township clerk.

### Duties of Local Boards of Health in Urban Municipalities.

By P. H. Bryce, M. D., Secretary Provincial Board of Health.

There has been set forth in the two previous issues of THE WORLD the powers of Local Boards of Health in general, and their duties more particularly in rural districts. Before dealing with the work of city and town boards I may add to what has been already said, that under the present Health Act, the same powers, so far as applicable, belong to rural boards as to urban boards. What powers local boards, as at present constituted, in townships and villages, may exercise is well defined and really covers what was outlined in our last article as being desirable and necessary. They can very easily suppress an outbreak of contagious disease by the board insisting, under penalty for neglect, that the teachers notify the secretary or some member of the Board of Health of absentees from the school through sickness. If there has been scarlatina or diphtheria in a neighborhood, the Local Board should require the teachers to send home all members of a household from which any child is absent, even for a day, till the nature of the disease is known. They must, of course, supply blanks to the teachers for reporting absentees. They can further, if a scholar proves to have such disease, have the Medical Health Officer or a local physician examine the school children daily for a few days during the incubation period of the disease, so that any child sickening may be sent home before the disease becomes infectious or actually breaks out. Subsequently, a careful disinfection of the house, etc., under intelligent boards, such as a trained sanitary inspector, is necessary before the children are allowed to return to school. The outhouses of schools ought to be constructed and cared for in a sanitary manner.

Especially should rural boards push forward, both in the interests of health and good products, the inspection of dairies, supplying cheese and butter factories with milk.

Intelligent, self-interest ought to be enough to cause systematic inspection by the board, but if not, then the Medical Health Officer may well intervene from the higher standpoint of public interest. Members of rural Local Boards everywhere ought to know that they are empowered to spend the necessary funds to do necessary public health work, even though the council may not make an annual money grant. Section 49 of the Public Health Act states that they shall send the accounts to the treasurer for payment.

With regard to the duties of Boards of Health in the cities, it may be said that—apart from the positions of Medical Health Officer and Sanitary Inspector being here and there affected in permanency by the amount of local politics entering into the annual elections, the small salaries paid,

and the evil incident to physicians being also medical health officers and engaged in practice—in many municipalities a notable amount of good work is being done annually. Nuisances are dealt with fairly and promptly by the Sanitary Inspector, and outbreaks of disease looked after sharply by the Medical Health Officer. These remarks apply with less force to the smaller towns and villages. Often the pay of officers of Local Boards in them is but nominal or nothing, while where but two or three medical men are in practice the idea of one such physician having official oversight in any way over the other two often works badly. Public waterworks are being put in under official governmental supervision as to the source of supply, and it is gratifying to know that the public water supplies of Ontario are in almost every instance absolutely free from suspicion of contamination. Sewerage systems are gradually being introduced, and Ontario cities and towns will certainly compare well with those of any other country. Essentially, however, the special work of the Local Boards of Health is to deal promptly with outbreaks of contagious diseases and the causes producing them. Excepting typhoid, due mostly to polluted water and to some extent to defective sewage disposal—both of which causes are now being dealt with very well (unless it be here and there delay in abolishing privy pits)—it may be said that the other diseases are directly communicable, and are principally disseminated by means of schools, whether public, private or Sabbath schools.

We have not yet advanced to the stage of a daily visit to the school by a physician, as in Boston and New York, and regularly examining the children, but this will soon follow as a natural part of school supervision. In place of it, however, a plan is very readily put in practice which is, perhaps, superior—though to be complete both should be united—which is to have the head-master of the school give to a Sanitary Inspector who calls every morning the names of every absentee from school, the inspector immediately following up by a visit to every house where such children reside. If there is any suspicion that such a child may be sick of scarlatina or diphtheria, for instance, the inspector will notify the parent to send at once for the family physician, who will report to the Medical Health Officer at once.

When suspicion of diphtheria exists such patients are isolated until a swab from the throat proves the disease non-contagious. In this way, with children who may have been exposed in school carefully scrutinized during the period of incubation, an outbreak, which, dealt with in the ordinary way, would infect half the children in a school-room, wholly disarrange school work and finally result in a general outbreak with a necessary closing of the school, would be prevented. If in addition absence from school until convalescence has been proved complete and

thorough disinfection of the house be insisted upon, it will result, in nine cases out of ten, in preventing an epidemic and thereby the loss of school time to teachers and pupils. The reasons for such supervision of school children are mainly that delay may occur by trying home remedies, other children in the meantime going from an infected house to school, while again mild cases often are not seen at all by a physician and generally are the means of a general outbreak in their neighborhood. Most interesting illustrations might be given of how this procedure has checked outbreaks at their beginning or steadily pursued has suppressed outbreaks which had become epidemic.

There are, however, other lines of work peculiarly the function of city and town local boards. Increasingly throughout Ontario, factories of all kinds are springing up. In a general way they are supervised as to lighting and ventilation by the Ontario factory inspectors, but general health is a matter of daily concern as much as our three meals. If supervision is to be effective it must begin with the construction of houses and workshops. Faults made at this juncture are practically irremediable. Such work, which has been developed to great lengths in industrial England, is with us practically unknown. It is especially necessary in places where a few women are employed and do not come under the Factory Act. To these places cloth is taken to be sewed into garments. Children sick with contagious disease may be there and the clothing be infected; or again a few girls may be exposed day after day to one of their number who is a consumptive. Even more serious are the limited air space and sanitary surroundings which produce conditions favoring the spread of consumption. Again no facilities exist in many places for warming food or drink. These conditions must be remedied. The individual rights of the working classes may fairly demand such protection and the commercial interests of the employee and the general public can well be expected to supply the medical facilities for such supervision and the supplying of needed reforms.

Beyond this, however, the boards of health in our larger cities ought to do as they are doing in London, New York and other great cities. They are following up outside inspection of houses with domiciliary visits in the poorer parts of the city, not only to correct the grosser evils of over-crowding, but also to remove as they can the direct dangers of persons infected, whether from acute disease or consumption, continuing to reside in such over-crowded quarters.

The health work of any community is thus seen to grow in extent and complexity with the complexity of organized society. Where nature is doing much, as on the farm, with the fresh air and sunshine, disease may be supposed to exist rather as an accident than as in the

crowded city populations where the struggle for existence becomes so intense.

Until such a health service becomes in some ways, in its constant supervision, comparable to the fire department or police department of a city, the ideal shall not have been reached; and the time is not distant when, with trained, zealous and judicious officers, it will be as natural to expect them to take charge of isolation and disinfection in a house as for the fire department to enter rooms as for the fire department to enter rooms to extinguish a flame. Science has attained such exactness in the knowledge of the causes of disease and the exact measures to be taken for their prevention, that it is now rather a question of organization of means for carrying out preventive measures than any doubt as to whether or not, they will succeed. We look to public education, accompanied by municipal legislation, to give expression to public opinion and the next great step in the physical and indirectly the intellectual and moral uplifting of the people.

#### The Municipal Waterworks Act—Amendments, 1898.

1. Section 19 of the Municipal Waterworks Act is amended by inserting after the word "aforesaid" in the seventh and eighth lines of the said section the words following "or for the purpose of altering or disconnecting any service pipe within or without any house or building as they may deem expedient"; and by inserting after the word "tap" in the thirteenth line of the said section the words following "and may alter or disconnect any service pipe."

#### The High Schools Act Amendments, 1898.

1. Section 8, chapter 293, R. S. O., 1897, entitled an act respecting High Schools and Collegiate Institutes is hereby amended by inserting after the word "district" in the third line thereof the following: "or to an incorporated village or town containing less than 3,000 inhabitants, in which a High School has been established, as provided by sub-section 2 of section 9 of the said act."

2. Sub-section 2 of section 9 of the said act is amended by inserting after the words "than one" in the second line of said sub-section the words "or of an incorporated village or town and part of one or more adjoining municipalities."

The lawyer does not always get the best of the cross-examination. Sir Frank Lockwood was once examining a farmer in a case which turned on the identity of cattle. "Are you certain those were the prosecutor's beasts?" was the question. "I am" said the farmer. "But you were some distance away from them at the time. At what distance can you be certain it is a beast you are looking at?" "Oh, about as far as you are now from me."

#### County Poorhouses in Ontario.

By H. A. Harper, M. A.

(Continued from January.)

PRESENT POSITION.

Under the provisions of these acts houses of Industry and Refuge have been established in the Counties of Waterloo, Elgin, Wellington, Norfolk, Middlesex, York, Lincoln, Welland, Brant, Oxford, Huron, Leeds, Lambton and Perth.\* Of these the house in Waterloo County was opened in 1869, and that in Perth in 1897, the others having been opened in the intervening years and in the order named.

#### PHYSICAL ARRANGEMENTS.

In instituting these industrial houses the usual practice has been to purchase a farm varying from 45 to 125 acres and within easy reach of some central town which furnishes conveniences in the way of providing supplies and transferring the inmates. The residence is a single structure, two or three stories in height and built to accommodate from 80 to 100 inmates. Special attention has latterly been given when constructing the buildings and laying out the farm, to the complete classification of the inmates, a step which the low tone of morality among them makes necessary.

#### MANAGEMENT.

The regulations as to the inmates vary somewhat in the different counties, but generally the rule is to exclude all those who are not bona fide residents of the county. An attempt is made to discriminate between the deserving and undeserving poor, and to exclude altogether tramps and vagabonds.

The control of the House of Industry, vested by statute in the county council, is practically exerted through a special committee and an inspector appointed for the purpose. The immediate supervision is left to the resident keeper and matron, also appointed by the county council, and assisted by such hired help as is deemed necessary to supplement the labor of the inmates. Besides these a consulting physician is retained at an annual salary.

#### THE INDIGENT FUND—GAOL SYSTEM.

After a quarter of a century, during which the question has been an issue in municipal politics, the champions of the county poorhouse can only point to 14 of the 40 counties of Ontario in which such institutions have been established. It is not my intention to enter into a discussion of the causes, local and general, which have produced this result. It certainly remains a subject of some surprise when we consider that in the county poorhouses we have the only practical system which has been suggested to replace the flagrantly faulty one which exists in the rest of the counties.

Properly administered, the system of boarding out the homeless and friendless

\* Several other counties are moving in the matter.

poor by the minor municipalities has much to commend it. As a matter of fact, in Ontario the town and township councils are either unable or unwilling to discharge the task, and as a result the county gaols are crowded with paupers to the confusion of all proper classification of their regular prisoners. Scarcely an assize passes but we have a protest from both judge and grand jury against this practice. The difficulty had become so serious that it engaged the special attention of the Prison Reform Commissioners in 1891. Commenting upon the evidence they say:

"The evidence also shows that in a large majority of the counties the gaols are used as poorhouses, and that those classed in the returns as vagrants who are committed twice a year or oftener are really old, infirm, helpless people, whose poverty and infirmity are their only crimes. In some counties such old and infirm people as do not belong to the county are sent to the gaols, but in several counties all the aged and helpless poor for whom the municipalities cannot or will not otherwise provide are committed to the gaols as vagrants. Few, we hope, can read unmoved the description, even though given in the dry official language of the gaolers, of the condition of these poor people when committed, and of the sad, almost ludicrous, manner in which, on the expiration of the term, they are thrust out of doors in order to be arrested and committed again—that the letter of the law may be formally complied with.

Were the establishment of a poorhouse for each county or group of counties, and the removal to such poorhouses of all now confined in the gaols whose only crimes are poverty and infirmity made compulsory, were industrial reformatories for inebriates sufficient for the treatment of confirmed drunkards provided, and were juvenile offenders properly cared for, the average number of prisoners in many of the gaols would be very small and a very much better classification would be practicable."\*

In making their recommendations sections 24 and 25, under the heading "Homeless and Destitute Prisoners," are devoted to the subject:

"Section 24. It is urgently recommended that, in order to abolish completely the inhuman system of committing homeless and destitute men, women and children to common gaols, many of whom are from old age or physical incapacity unable to earn a living, the establishment of a poorhouse be made compulsory (instead of permissive, as at present) on every county in the Province; or where the population and requirements of a county in respect of its poor do not seem to warrant such an expenditure, that two or more counties be grouped for that purpose; every poorhouse to have attached to it a sufficient quantity of land to furnish employment for the inmates."

\* See report of Prison Reform Commissioners for Ontario, pages 145 and 146.

"Section 25. That it shall be unlawful when a poorhouse is established in a county or group of counties for a magistrate or justice to commit to a common gaol as a vagrant any homeless and destitute person who seems to be physically incapable of working, unless such person has committed some offense."\*

Furthermore, it would appear that this method of maltreating the poor is an expensive one. I have taken the following figures from a report made by a special committee of the County Council of Lambton Council and forwarded to Mr. T. F. Chamberlain, Inspector of Prisons and Public Charities for Ontario:

Estimated cost of a well-appointed industrial farm and buildings..... \$20,000 00  
Less government grant ..... 4,000 00

\$16,000 00

This amount at 4 per cent. interest and payable in twenty equal annual instalments would involve an expenditure per year for twenty years of.... \$1,172 22

The experience of the counties where poorhouses exist shows an average cost per inmate per annum of \$57.

Supposing the average number of inmates to be 70, the annual cost of a well-appointed poorhouse would be. 3,990 00

Total cost per year for 20 years.. \$5,162 22

After that time the annual cost would be reduced to about 30 per cent.

Cost under existing system, as taken from auditor's reports for 1894—

Indigent supplies in municipalities.... \$4,269 43  
Two-fifths of cost of gaol ..... 1,383 00

\$5,652 43

So that the indigent fund gaol system cost the County of Lambton during the year 1894 the sum of \$1,662.43 more than the cost of a well-appointed poorhouse, or \$490.21 more than the cost of a poorhouse, including payment for the buildings by twenty-year debentures.

The same rule obtains in the County of Simcoe, where I have also made a calculation, and I have every reason to believe that the experience is general.

#### THE PROBLEM.

Having thus sketched the development of the county poorhouse in Ontario and touched upon its main features, it remains to examine the institution in the light of some general considerations, of which particular excellencies in detailed management are apt to make us lose sight.

The question we have to consider is not merely how to relieve the destitute at the minimum of cost. It is of equal, if not of greater, importance to prevent the spread of destitution. The attempt should therefore be made to discover, and if possible modify, the causes which produce pauperism. It is only when private charity fails to meet the needs of a progressive civilization that the assistance of the state should be called in, since the public recognition of a guarantee of subsistence plainly tends to encourage early providence among the section of the

community which is not ambitious, and which does not shudder at the idea of dependence. Much of the danger in this regard would be avoided by a judiciously administered system of outdoor relief if such relief could be distributed economically and effectively without disturbing industry. To effect this properly requires an elaborate organization, of which the municipalities of this Province seem incapable. Outdoor relief has had a trial in Ontario, with the result that it has proved both expensive and inefficient.

Thus it would seem that the solution of the pauper problem, so far as Ontario is concerned, lies in the county poorhouse. For the vindication of the system of "setting the poor at work," which it involves, it is not necessary to show that the industries conducted yield a profit. If, while furnishing healthy employment for the inmates, they contribute a considerable amount toward the maintenance of the institution, and that without disturbing the conditions of the industrial world around them they have fulfilled their function. Now, the industrial farm in Ontario has done all these things. The produce raised is largely consumed on the premises, and hence the product of pauper labor is not to any appreciable extent brought into competition in the open market with that of independent labor. For this very reason it is difficult to discover from the reports of the existing institutions just what proportion the inmates contribute to their own support. The following figures, which I have taken from the reports of six of the counties for the year 1895, can therefore only be taken as approximately correct:

COUNTY.	PRODUCE, 1895.	EXPENDITURE, 1895.
Waterloo.....	\$1,567 06	\$8,383 49
Elgin .....	966 00	4,240 36
Wellington .....	604 80	3,920 49
Norfolk .....	647 35	2,883 76
Middlesex .....	2,294 16	9,822 89
Oxford .....	1,304 05	5,644 40
Total .....	\$7,383 42	\$34,925 39

Or the ratio is between one-fourth and one-fifth of the total cost, which, considering the nature of the labor employed and the many little household tasks which cannot be given a market value, is fairly satisfactory.

When we consider the general satisfaction which the institution has given in the counties where it exists and the strong and growing public opinion in its favor, there can be little doubt but that in the near future every county in the Province will have a poorhouse. Well managed, the system is perhaps the best one that could be adopted, having in mind the conditions of the Province. To give satisfaction the greatest care should be taken in selecting proper administrators. Undue severity on the one hand and extravagant sentimentalism on the other are to be studiously avoided. Generally speaking, the condition of the dependent

pauper should be made less eligible than that of the humblest of those who contribute to his support. Uniformity in administration is of the highest importance to the successful working of a system of poor relief, and there is a danger in this respect in the amount of latitude which is left to the county authorities. Uniformity can be secured and a means of discovering the growth of abuses furnished if a carefully defined code of regulations were drafted for use in all the counties and a periodical inspection by a competent official required in addition to that made by the county's inspector.

In the meantime, it would seem to be most desirable that poorhouses be established at once in the counties where they do not already exist. A coercive measure, such as that suggested by the Prison Reform commissioners, should be avoided, if possible, as it would establish a dangerous precedent. The desired end could be arrived at almost as speedily and much more satisfactorily if men of influence would give their attention to the movement and exert themselves in its behalf.

The petition of the County Council of Bruce, asking legislation to repeal the present County Councils Act and substitute another constituting the Reeves a County Council with cumulative voting power, did not receive the support of any of the County Councils at the January session. This question was fully discussed previous to the passing of the present County Councils Act, which provides for the most equitable representation possible. If after a fair trial it is found defective in any important particular, the necessary changes will no doubt receive consideration.

The amendment of 1897 to section 271 of the Consolidated Municipal Act, changed the declaration of office so that one person can now legally hold the offices of clerk and treasurer. The mayor of Barrie in his opening address, referred to the consolidation of these offices in that town as follows:

In view of the recent combining of the clerk and treasurerships, and owing to the large sums of money handled, it behooves us to exercise more than usual care in our selection of auditors, so as to insure a thorough and reliable audit of all books and documents pertaining to those offices before releasing the bondsmen of their responsibility to the corporation.

A New Yorker says that roads are principally made bad and cut up by wagons rutting the tracks, and this rutting is the result of wagons being made to a uniform gauge and running in the same track. Provide that after a date to be fixed no wagon carrying over 1,000 pounds freight shall be used unless one axle shall be at least six inches longer than the other and the tread not less than three inches. The use of such wagons will compel the removal of rocks or other obstructions from the road track, keep smooth and level the track, and be a most effective agency for good roads.

\* See report of Prison Reform Commissioners for Ontario, page 220.

**ENGINEERING DEPARTMENT.**

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

**Good Roads and Agriculture.**

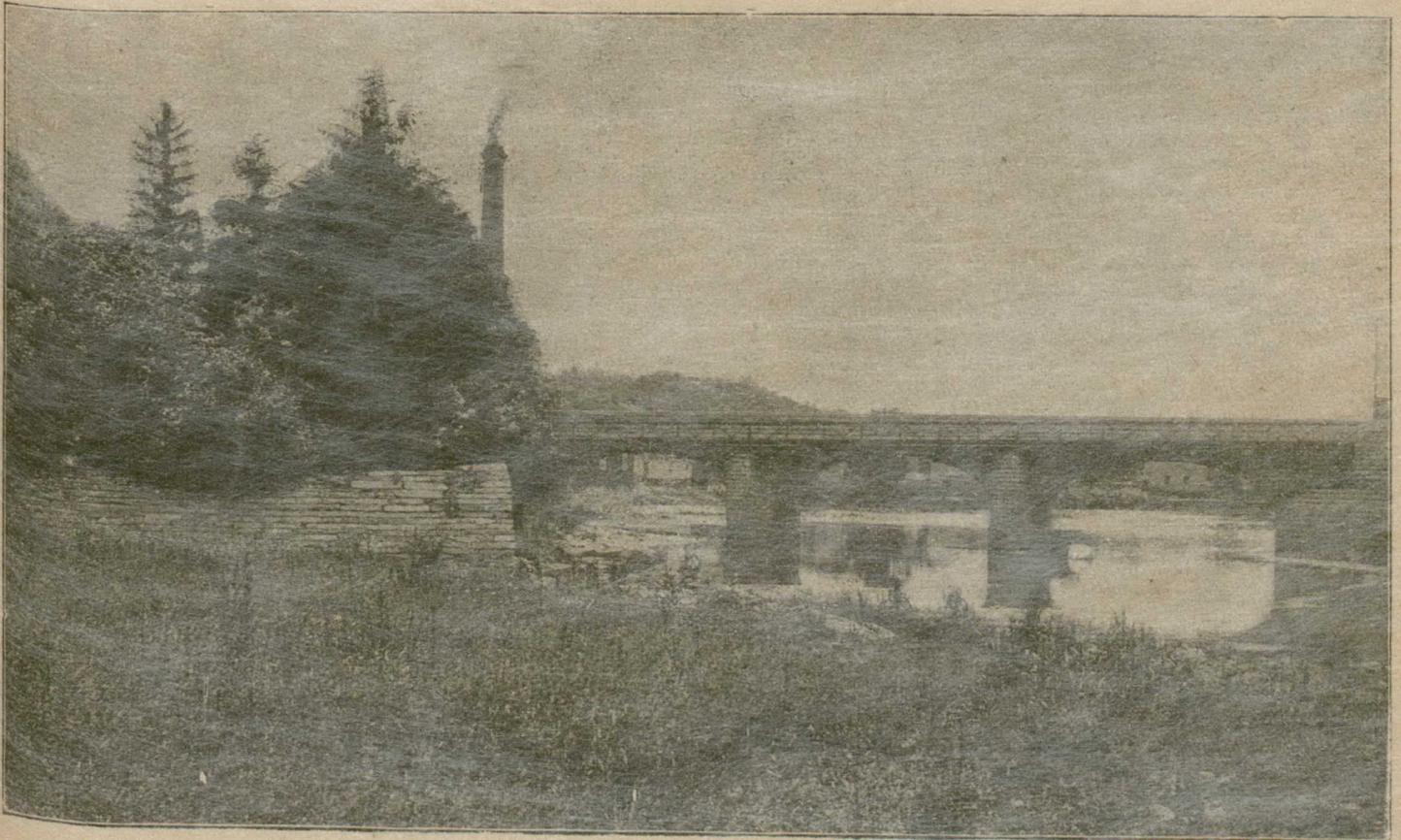
Good roads will be of vast benefit to agriculture. They increase the profits of the farm by decreasing the cost and difficulty of transportation. It is cheaper to draw produce to market in one load than in two, on the same principle that it is cheaper that one team and one driver do the work of two teams and two drivers. Good roads will increase the opportunities of farming and extend the range of marketable produce. Fruit and other perishable articles can be marketed in better

be. Cheese makers are all aware that the quality of the cheese is injured by churning the milk over rough roads, and that a more uniform quality can be obtained by making the cheese in large factories, a condition which can only be brought about by making the roads such that the milk can be carried greater distances.

The dullness and isolation of farm life will be overcome by good roads, and they will thereby tend to elevate and bring about a better citizenship. The school, the public meeting, the neighbor's house will be more easily reached. The effect of all this—the increased land value, the greater profits and pleasures of the farm—is to render the country attractive rather than repellant. The effect is to draw the

**Good Roads and Commerce.**

Good roads are of great benefit commercially. Agriculture is the foundation of the wealth of this country. As agriculture prospers so will business prosper. Better home markets and better foreign markets for the farmer will bring more money into the country. This means increased sales for the merchant and a greater demand on the manufacturer. Bad roads, besides the retarding influence on the country by lessening its ability to compete in foreign markets, cause produce to be marketed, not as prices or the demand requires, but as the roads permit. The result is that the market is alternately glutted or starved; there is either unnatural



ST. MARY'S BRIDGE

condition, and a purchaser will be obtained for produce which now cannot be taken to market because of the difficulty of transporting it from the farm to the city or railway station.

A market in England is awaiting all kinds of Canadian fruit as soon as the difficulty of carriage is overcome and the fruit offered for sale in sound condition. Rapid transit on steamship and railway, with cold storage is being provided, but until the fruit can be taken from the farm to the railway in the best possible condition; that is, with the greatest speed and least amount of jolting, we must labor at a serious disadvantage. With cheese the constant complaint is that the quality of the Canadian product is not what it should

be. people of the city to the country rather than drive the people of the country to the city. "How can we relieve the congested condition of our cities?" "How can we keep our boy on the farm?" are questions demanding an early solution. By making the farm profitable, by giving to energy and ambition sufficient business opportunities on the farm, these problems will be solved, and one of the most important factors in the solution is "good roads."

A road properly built and cared for will shed water instead of absorbing it.

Brooklyn claims to have done more during 1897 in the way of street improvement than any city of its area in the country.

excitement or depression; the stores are deserted or extra clerks have to be employed. Such fluctuations cannot be but hurtful. When farmers can market their produce easily and regularly they have money with which to enable the merchant to turn over his stock and meet his obligations at the bank. The banks are thereby enabled to do business to greater advantage, and the whole machinery of commerce moves with less friction. The stringency which so often takes place in the fall as a result of bad roads, the bad roads of Christmas time which so often bring disappointment to the merchant, the resulting failures which act and react on all classes of society, are all of too frequent occurrence.

### A Waterworks System.

The advantages of a well-built and efficient system of waterworks to any community are obvious; its chief requisite being a plentiful supply of good, wholesome water at all times and for all reasonable purposes.

The water supply should be, if obtainable, free from objectionable and mineral matter; not too hard, that is, not impregnated with lime or its constituents to that degree which renders it unfit for steam, laundry, and many manufacturing purposes. If a water supply is thus rendered unfit for general uses, its sale to consumers is just that much limited and the income from the sale of water is thereby curtailed.

Oftentimes a citizen of a town or city will say, when the question of building a system of waterworks is discussed, "Oh, we only want a small system to supply us with water for cooking and drinking." That citizen has to learn that the sale of water for such purposes only will not pay the cost of operating a plant, and the deficiency of income to meet operating expenses must come from a general tax levy. The works should be built upon the broad plan of supplying water in quantity and quality desirable and suitable for all general purposes—a truly commercial water—with the intention of selling every gallon possible. Of course, all sections of the country are not favored with water of this excellence, and the best water obtainable in one section would be rejected with disdain by a community of a more favored section.

There are some sections of the country where the artesian wells supply an abundance of the best quality of water good for all purposes, and there are other sections where artesian wells are not only a very unreliable source of supply, but the water from them is very objectionable for any use but the extinguishment of fires—provided that enough of it can be had when wanted for this purpose. As a rule, the artesian well, as a source of supply, is out of the question when considering a sufficient supply for a town or city of any considerable size or population.

An artesian well that will discharge 100 gallons per minute is a rarity; many of them discharge only 18 to 30 gallons per minute. A discharge of 100 gallons per minute is but 144,000 gallons per day, and this quantity is a meagre supply for an ordinary-sized village. This quantity of water does not afford even fire protection, for there is but 6,000 gallons per hour available, and two fairly good fire streams require, each, 160 gallons of water per minute, which in the aggregate amounts to a discharge equal to 9,600 gallons per hour. The artesian well fulfills its mission in those localities where there is no other supply obtainable.

The source of supply should be located where there will be no danger of future contamination, and to make such assurance sure, the location and outfall of the main sewerage of a town or city should be

considered at the same time that the waterworks system is planned.

For smaller cities and towns the standpipe is a great economical factor in the operation of a system, and a valuable adjunct to its utility. It saves the cost of steady pumping, day and night, including the labor of a night engineer and fireman and the fuel they would burn during their hours of duty. The standpipe affords a steady static pressure at all times, and provides a large supply of stored water for extinguishing fires. To say that this use of water is not possible or practicable because the engineer might neglect to keep the standpipe filled is tantamount to saying that railway trains cannot be run on time because the engineer might fail to keep up steam; a pressure gauge or an Edison recording gauge posted in the office of the mayor, or of the chief of the fire department, will tell at a glance whether or not the tank is full and the engineer attending to his duties. The great utility and economy of the standpipe is recognized wherever it is used.

Councils and water commissioners should never be parsimonious in the furnishings of a waterworks system; if such extreme policy be followed it will be found, after the works are completed, that there are several omissions in their construction which must be supplied, and at much greater cost than if adopted at the outset, as they should be. The careful engineer will provide for many things which to the novice seem of minor importance; but the engineer is a man who obtains a livelihood by spending other people's money; so the purse strings are drawn tightly on him, and later on some one else supplies the deficiencies at a greater cost and nothing is said about it.

The grade of all streets in a town or city should be established, and profiles of the same placed on file in the city clerk's office and the water pipe laid, where practicable to do so, to conform to such grades. Unless this be done trouble will arise between the city and the water company whenever a street is graded and the water pipe thus exposed to the danger of freezing. The water company must lower the pipe, and it generally expects the city to pay for such works when no street grades are established.

It is an open question whether a council has the authority to convey to a water or gas company any right whatever to the use of its streets, above or below ground, which entails upon that city or town expense in caring for or protecting such property as these companies may bury below the street surface. The council had certain rights and authority to grade, level, pave and otherwise improve its streets before the water company existed, and the granting of a franchise to supply the city with water or gas should not curtail this right in the least particular. If the town must pay for lowering or raising water and gas pipes whenever it grades a street it is certainly a curtailment of the rights of a town to improve its streets.

### The Beauty of Working Road Taxes.

At the Farmers' Institute, which recently met in Marshalltown, Iowa, a paper was read by J. H. Jayne on good roads. Touching on the results of working out taxes, he said:

"I believe the most important funds in the county are the school and road funds, because the schools and roads are the most extensive and cost the most money. But what a vast difference in the management of these two affairs. Your schools are second to none in the country, while your roads are below the average. Now, the principle point I wish to bring before you is money for road purposes. I do not mean by this that we need more money, that the county should be bonded or a heavy county road fund levied, but that the money now raised every year for road purposes should be raised and handled differently. The bulk of that money can be derived from that mirror, as it were—that shadow which skips here and there over the county roads every summer and cuts off the grass and makes the roads look level and smooth (in places)—the district road supervisor and his grader. Do you think it pays for John Smith to be a road supervisor this year and grade up the road—fill up the hollows and round them up nicely in the centre—and next year put in William Jones and allow him to plow the roads clear across for miles and harrow them down flat, and the next year put in another man, who will round them up again; one undoing the other's work year after year? Do you think it pays for the road supervisor in No. 1 to go over in No. 4 and spend a day dragging a grader over to his district? Do you think it pays to have him put on John Smith's team to-day, Bill Brown's team to-morrow, Tom Clark's team the next day, and have them gee-hawing here and there, and make your road look like a worm-fence when finished? Who is to blame? The horses? No; they were never on a grader before, and are not accustomed to climbing up banks and going down into ditches. The drivers to blame? No; they did the best they could with a green horse. The supervisor to blame? No; he held the blade where the machine was driven. Where then is the blame? It is in your system. Do you think it pays to compel the poor road supervisor to try to fill up a hole, or round up a road, or cut down a hill with slip-scraper when he could carry it almost in a dishpan? Does it pay him to buy six or eight pieces of tile and pay four prices for them when Marshall county could buy a carload at the lowest rates and give him the benefit? Does it pay for him to buy lumber for culverts under the same circumstances? Who is to blame? The road supervisor? No; it is your system. I regard this road system as a huge cancer, continually eating, and the money you have applied, as prescribed by some physician, and according to directions, has apparently been of very little benefit to the patient."

## Our Roads.

The roads of Ontario are being maintained at an enormous cost, in addition to all the statute labor there is expended from the general funds of the municipality. Millions of dollars of cash, amounting to a very large percentage of the annual tax bill. That most of this is spent in doing temporary and inefficient work no person who has given the subject any attention can deny. Perishable material is used in the construction of culverts and bridges. This material, subjected as it is to repeated changes of wet and dry, lasts but a few years, and each year brings its quota of those requiring renewal, at a cost of a couple of thousand dollars, with nothing to show for the expenditure but a few temporary and decaying works.

Roads gravelled before the bed is drained or graded to receive it, dirty gravel is purchased and hauled a long distance, which is little better than the earth from the side ditches. It readily consolidates in dry weather, and under the traffic makes an apparently hard and smooth road, but which after a few days' rain turns into slush, becomes saturated, ruts and soon cuts through. These ruts retain the water and soon the whole is a quagmire, and next year a new coat of the same material is placed on, occasioning another outlay of time and labor, and this goes on from year to year, each year seeing an increasing expenditure, and consequently an increased waste, and this is called roadmaking.

True it is, that certain individuals contend that the system is all right, the work substantial and the results satisfactory, but why thus contend, while the results are constantly before us, a living evidence to the contrary. Such men have little interest in the welfare of their country; they are obstructionists, and economy to them is a meaningless term.

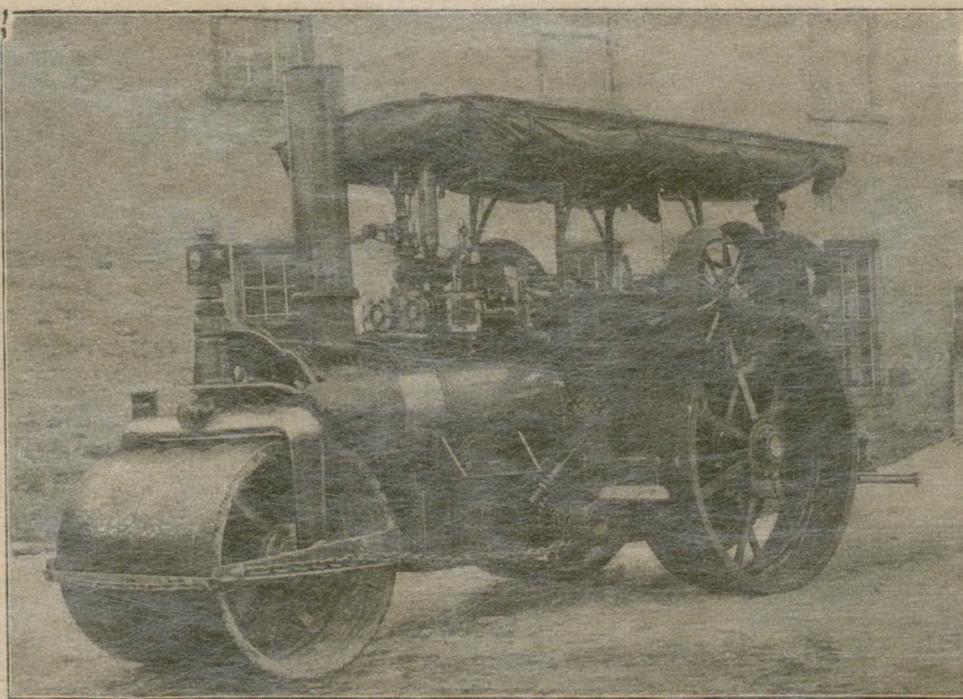
There is no question before the taxpayer to-day in which economy can be practiced to such an extent as in the maintenance of our streets and roads, and it is desired that before the work of the present year is undertaken municipal councils and the people should get together, and as intelligent business men lay down a plan by which the work will be systematically, uni-

formly and substantially done in the most economical manner so as to produce the best possible results with the expenditure of time and money.

Why should we waste time? Why squander money? The million days labor and the millions of dollars spent annually in this way is a tax we cannot afford, while if properly expended would prove a most profitable investment and go far to relieve the present burden of taxation.

\* \* \*

Those in charge of the management and expenditure on our roads know full well the wastefulness of our present system, they also know that heretofore they have striven to conceal this knowledge and praise the old time honored system, a popular song, but the people are becoming aroused to the fact



ROAD ROLLER.

that not only their labor but a large portion of their annual tax account is being little less than wilfully wasted. Unfortunately the majority of municipal councilors seek the position and in so doing strain every effort to win support and make all sorts of promises to so represent the people that their wishes will be consulted and carried out.

Prolonged public recognition is their sole ambition and to secure it they strive to do as little as possible to offend and as much as possible to please. This may seem an unjust charge and in a great many cases do an injustice to men who are anxious to be conscientious, just and progressive, but who are overruled by the majority of their fellows and therefore obliged to suffer the imputation, for the cold proof is to be found in many of our public works but most strikingly in our public roads. Men appointed as

pathmasters regardless of their knowledge of roadmaking or their ability to direct or manage men, instructed to do as appears best to themselves, make the road or destroy it, call out the men or not, make the grade 10, 20, 30 or 40 feet wide, as may suit their individual selves, make the width uniform or of as many widths as there are pathmasters, crown the grade, make it flat or concaved as may occur to their own peculiar idea, consult and secure uniformity of work separately or have diversity, notify the ratepayers on the beat of the number of days to be preformed and instruct them to turn out when they see fit, and bring such implements as they may, work or not, so long as they put in the time, haul gravel if they want to put in three days in one, haul sand or turf, so long as taken from the township pit, haul

one load or ten so long as the day is spent, and the pathmaster satisfied, but please the pathmaster, he is the agent of the council, and his word is law. If he makes his men work agreeably and is securing a good road he is a good fellow, but can't be kept in office more than two years. The job must be passed around even if the new man destroys the good work of his predecessor. Pathmasters must certify to the number of loads of gravel hauled whether they see them hauled or not. Council must pay that account at

so much a load right or wrong and quality of material must not be considered. Where sections do good work and are willing to make a good road by their own united and zealous labor let them do so. Where sections loiter away their time and make no attempt to improve their road but have cheek enough to ask for assistance let council award contracts for doing the work and pay it out of the general funds, thus tax the willing and industrious to help the indolent, and all to preserve peace and harmony and secure support.

Narrow tires and heavy loads,  
Soon will spoil the best of roads.

It requires longer time and more power to haul light loads over bad surfaces than to move twice as much on good roads.

### A National Problem.

The demand for increased transportation facilities for more rapid transit, for better and shorter routes is arising from all quarters, is far reaching and urgent. In response to this, railways are improving the character of their roadbeds and rolling stock. Canals are being deepened and widened and harbors improved. Vessels of greater capacity and speed are being constructed. Cold storage is being provided. In the cities, electric street railway systems have displaced the slower horse cars and are stretching their tendrils along the country highways; the bicycle has obtained a prominent place in the transaction of business; motor carriages may be seen on the streets of the larger cities and present indications are that they will soon have passed the merely experimental stage and will become an important means of travel and transportations. Nations are growing greater and stronger and trade is forcing its way more rapidly and with greater volume along the veins and arteries of commerce.

Addressing the Board of Trade of Toronto—the chief commercial city of Ontario—the Premier of the Dominion recently said: "Let us cheapen the cost of transportation and from that moment we have in the markets of Great Britain a preference for the products of Canada." Referring more directly to the importance of the common highway and its relation to trade, the Premier of New Brunswick, the Hon. H. R. Emmerson, in an address at a banquet recently tendered him in the city of St. John, said: "I have already given you assurance on behalf of my department that the good roads movement will be furthered and encouraged as far as in our power lies. The betterment of our public highways which are but avenues of transportation and form an essential part of the great system which is necessary to transfer the products of our farms from the farm graineries to the busy markets of the old land, is a most desirable end to be attained, from the standpoint of economics, as well as from social or other standpoints."

The question of road improvement has been too much regarded as a matter of individual loss or gain. It is necessary to convince farmer Jones that he is losing yearly by bad roads \$50, Brown that he is losing \$75, Smith that he is losing \$100. This is the phase which the good roads advocate most frequently has to meet. Seldom is the problem regarded in the broad light of its influence upon national prosperity. The total production of Ontario farms has a value annually, it is estimated, at \$200,000,000. All this must first pass over the common highways before reaching the markets. It is the basis of Ontario's wealth. The amount is far in excess of that needed for home consumption and the only resource is to obtain a market in foreign countries. This market is available only so far as we can sell more cheaply and pro-

duce a better quality than other countries. It is not the effect on present conditions which constitutes the evil of bad roads, but it is in the conditions which they prevent that the loss lies. It is not on the principle that it is so expensive to draw one load of produce to market but in the principle that, with every means provided for easy, quick and good transportation, a market would be created for two loads. Many links in the system of transportation are being perfected but the chain will not be complete without cheap transportation over the first part of the journey—the common country highways.

### Street Lighting.

Unquestionably the best modern illuminant for streets is the electric arc light, each lamp being not less than 2,000 candle power. Many object to it solely on account of its brilliancy, yet that is its chief value as a street light. When the arc light is enclosed in an opaque glass globe, its extreme brightness is so modified that the glare is less blinding to the eye. Sometimes these lights are hung extremely high, anywhere from 60 to 100 feet elevation above the street. To obtain the best illuminating effect they should never be hung more than twenty-five feet above the ground; then the reflection from the buildings on the street gives additional light. When the lamps are hung very high, higher than the buildings, their light falls upon roofs, and the street surface receives all the shadows. Where the foliage of shade trees is very heavy and spreading, as it often is on residence streets, it will be found that the lights will give better results if hung at an elevation of about eighteen or twenty feet than if hung higher.

The incandescent system is not suitable for street lighting; it is not powerful enough, and not much better than the gas lamp, especially where the foliage of trees is heavy and spreading. To give as good an illuminating effect as the gas lamp will upon the street surface it must be hung quite low—lower than is required for the arc system.

To know that a company is furnishing electric lights of the required candle power, the city should employ an expert to make tests from time to time, and the company notified of delinquencies in this respect. Where such tests are not made there is a tendency towards diminution of the strength of the lights, which is sometimes quite apparent.

The New Jersey law, passed in 1895, seems to have pleased the farmers. They regarded it with deep distrust at first, and looked upon it as a move to compel them to provide nice drives for the rich folks of the towns. Over 240 miles of improved highways have since been constructed under the State Aid Act, and petitions have been received for more miles than could be built in three or four years under the present annual appropriation.—*The Engineering Record.*

### Street Catch Basins.

In connection with street pavement the disposal of surface water is an important question. Gutters and channels made of firm material with uniform grade leading to proper outlets are an important part of the work. Where a regular system of sewage or drainage has been installed on the street, catch basins or gullies should be placed at convenient intervals and particularly at the lowest points in the grade. Where a grade slopes to a street intersection, a gully should be placed at the four corners of the intersection. Where the grade inclines to and continues across an intersection, the gullies should be placed at the upper side of the intersection. Where the grade is continuous and the block is more than three or four hundred feet, an intermediate gully should be constructed. Where the grade is steep, these intermediate gullies should be placed at such intervals as to prevent the water accumulating and rushing in volumes, causing plugging of inlets, overflow, wear and such damage. Get rid of the water as soon and in as small quantities as possible.

These gutters are of various designs and made of many different kinds of material. The main points to be observed in this design and construction are: 1st, sufficient grade opening to admit the water at heaviest rain storm; 2nd, sufficient capacity of pit to retain road detritus and mud below outlet to prevent their being carried into the sewer or drain; 3rd, the gratings to be made so as to be not easily obstructed or choked on the surface by floating leaves, paper, straw or other such accumulations; 4th, that will not extend above or curve below the surface of the street to such an extent as to cause obstruction to traffic; 5th, to be of sufficient internal dimensions to receive the water and permit of the pit being readily cleaned and the outlet flushed and relieved of obstructions; 6th, a good trap to prevent the escape of sewer gas.

Timber, principally cedar, has been largely used for this work but from its peculiar exposure to air and moisture, readily decays. Common brick is being considerably used but for the same reason that wood decays, brick perishes, if, however, brick is to be used the inside of the gully should be perfectly plastered with cement. Gullies made of cement concrete are the most convenient, durable and economical material for such work.

The Innisfel Council by resolution fixed the following tariff for services in connection with Sanitary Inspector for placarding and instructions in ordinary cases, 50 cents; inspection of premises by inspector, \$1, and ten cents per mile one way.

If water stands on a road it soon ruins it; ruts collect and retain water; the narrow tire is the father of ruts.

## LEGAL DEPARTMENT.

JAMES MORRISON GLENN, LL. B.,  
of Osgoode Hall, Barrister-at-Law,  
Editor.

## LEGAL DECISIONS.

## Fitzgerald vs. Molsons Bank.

Municipal Corporations—Borrowing Powers—Current  
Expenditure—Inquiry of Lenders—Repayment of  
Money Lent—Action to Restrain.

An appeal by the plaintiffs from the judgment of Rose, J. at the trial at Ottawa, dismissing the action, which was brought by certain ratepayers of the Village of Hintonburgh against the bank, the village corporation and the sheriff of the county of Carleton, to restrain the collection and enforcement of a judgement for \$6,000, recovered by the bank against the village corporation, upon the ground that the corporation had no power to borrow from the bank the money for which judgment was recovered.

The borrowing of \$1,000 from the bank was authorized by by-law of the village corporation passed in 1895. The amount borrowed was expended in the repair and alteration of certain roads and in diverting the course of a certain stream within the village limits. These works were within the general powers of the corporation, but no provision had been made for the outlay in the estimates. The by-laws authorized the borrowing of not more than \$7,000 to meet current expenditure until the taxes could be collected. The by-law which authorized the levying of the rates for 1895 specified the amounts to be levied for each separate purpose and these works were not specified. The whole amount authorized to be levied was only \$5,179.45.

In 1897 after this action had been begun, a by-law was approved by the vote of the ratepayers and passed which authorized the issue of debentures for \$8,000, reciting the expenditure upon the works referred to.

Held that, upon the proper construction of s. 413 of the Municipal Act, of 1892, as amended by the act of 1893, s. 10, a bank or individual lending is bound to enquire into the amount of the taxes authorized to be levied to meet the then current expenditure and cannot lawfully lend more than that sum, although not bound to enquire into the existence of an alleged necessity for borrowing.

It was admitted, however, that the money borrowed from the bank was expended by the council upon works within its jurisdiction upon which money lawfully obtained for the purposes of the council might lawfully have been expended; the by-law of 1897 was also admitted and that the council had issued debentures and raised money upon them and were willing to pay back to the bank the money borrowed and were only restrained from doing so by the proceedings in this action.

If the plaintiffs, upon the passing of this by-law, had withdrawn their opposition to the payment of the bank's claim, they would have been entitled to their costs, because they were right, up to that point; but they insisted that the council had no right to use the money raised upon these debentures in repaying the bank, because the by-law did not specifically state that the money was to be paid to the bank. There is nothing in the Municipal Act which prevents a council, with the approval of the ratepayers, from raising money for the repayment of such a debt as this. A municipality, having so borrowed money and expended it for the benefit of the ratepayers, is not to be restrained from being honest enough to pay it back.

## McCann vs. City of Toronto.

Municipal Corporations—Municipal Building—Accident—  
Liability—Relief over.

Before a building which has been erected for a municipal corporation had been taken over, a trap-door in the roof, through the want of fastenings, was blown off, injuring the plaintiff, who was passing in the street below. The trap-door was a necessary part of the work under the contract, which required all work to be done in a good workmanlike manner and imposed responsibilities on the contractors for all accidents which they may have prevented. Damages were recovered by the plaintiff against the corporation on the findings of the jury that there was negligence on its part, and that the specifications did not stipulate for fastenings. The corporation, having paid the damages, sought to recover them over against the contractors, which, in an action against the city, had been brought in as third parties, but on the terms that the findings in such action should be binding on them only as to the amount of damages and that the question of their liability should be afterwards tried.

Held, that, under the circumstances, the defendants were not entitled to recover against the contractors.

## In re Roden and City of Toronto.

Statutes—Construction—Amendment—Retroactive Effect  
—Limitation of Actions—54 V. c. 42, s. 16.

Unless there is a clear declaration in the act itself to that effect, or unless the surrounding circumstances render that construction inevitable, an act should not be so construed as to interfere with vested rights.

Section 16 of 54 V. c. 42, limiting the time for the enforcement of claims for compensation by persons injuriously affected by the exercise of municipal powers of expropriation, does not apply to a claim existing at the time of the passage of the act.

Judgment of the city of Toronto official arbitrator affirmed.

## Stephens vs. Township of Moore.

Drainage—Repairs to Drain—"Person Injuri-  
ously Affected"—Mandamus—Drainage Act, 1894.

Under section 73 of the Drainage Act, 1894, 57 V. C. 56, a ratepayer whose property has been assessed for the maintenance and repair of a drain, as deriving benefit from it, is a person injuriously affected by its want of repair, even though he has not suffered any pecuniary loss or damage by reason thereof, and is entitled to a mandamus to compel the municipality whose duty it is to keep the drain in repair, to do such work as may be necessary, unless the municipality can show that even if the drain were repaired, it would, from changes in the surrounding conditions, be useless to the applicant's property. Judgement of the Drainage Referee reversed. Sec. 73 of the Drainage Act, 1894, is as follows: "Any municipality neglecting or refusing to maintain any drainage work as aforesaid, upon reasonable notice in writing from any person or municipality interested therein and who or whose property is injuriously affected by the condition of the drainage work shall be compellable by mandamus issued by the referee or other court of competent jurisdiction to maintain the work, unless the notice shall be set aside or the work required thereby varied as hereinafter provided and shall also be liable in pecuniary damages to any person or municipality who or whose property is injuriously affected by reason of such neglect or refusal. The drainage referee held that the plaintiff Stephens was not entitled to compel the defendant to repair the drain without proving that he had suffered pecuniary damage but the court of appeal has reversed his decision. If the view of the referee had been concurred in by the court of appeal the act would have needed amendment because it is right that a person who has been assessed for the maintenance and repair of a drain should be entitled to have the drain repaired so as to prevent any loss or damage.

The annual report of the township engineers, Peter S. Gibson & Son, to the council of York Township for the year 1897, forms a model which, unfortunately, other township municipalities have not yet followed. It is in pamphlet form of ten pages, containing a detailed account of the work done in the township on roads under the supervision of the engineer. Accompanying the report are forms of pay-sheet used by engineer and foreman, forms for the foreman's return of available men and horses, statement forms of stone and gravel used, and forms of tender.

"I never kin feel no sympaty wit s'rikers," said Meandering Mike.

"I don't see dat you've got any cause ter blame 'em," replied Plodding Pete.

"Dere ain't no excuse fur 'em," was the emphatic reply. "It's deir own actions dat brings 'em to it. Dey didn't have no business goin ter work in de first place."

## 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 stamped addressed envelope. All questions answered will be published, unless \$1 is enclosed with request for private reply.**

## Tax on Transient Dogs.

86.—A. M.—The council of this municipality have instructed me to ask your advice as to the proper means of dealing with dogs of transient residents (fishermen) who come here after the assessment roll is returned in the spring and leave again in the fall, and dogs owned by indians living on a reserve on the island, wards of the Government and not assessable.

The awards for sheep killed by dogs whose owners could not be proven, have been an irritating item, and those non-resident dogs were strongly suspected as the guilty ones. By-law under sub-section 15, section 489, Municipal Act is in force. Is there any other remedy than by section 17, Municipal Amendment Act, 1893, and does that amendment apply to the districts or affect section 16 of the Act of 1892, as to killing dogs at large?

As the law stands at present we are unable to suggest any remedy for the grievances complained of. The council has authority by by-law to regulate the running at large of dogs, and the by-law at present in force should be amended, if not sufficient in its present form.

## School Debentures—Purposes to be Issued For.

87.—SUBSCRIBER.—1. Can school debentures be issued for any other purpose than those mentioned in section 115, sub-section 1 of the Public School Act, 1891?

2. Would it be lawful to issue debentures to pay for interior alterations, furnaces and such like?

3. Has there been any amendment to the School Act since 1891, enlarging the scope of said section?

1. No.

2. No.

3. No. Section 70 of the Public Schools Act, 1896, takes the place of the above section, but it is substantially the same in respect to the objects for which debentures may be issued.

## Sale of Electric Light Plant.

88.—A. A. W.—In 1893 the Council of this village passed a by-law with the assent of the qualified ratepayers, authorizing the purchase of an electric light plant.

Can the council now dispose of said plant by tender without first submitting a by-law obtaining consent of ratepayers to such sale?

If the property is no longer required the council may dispose of it, and we are not aware of any law requiring the consent of the ratepayers before a sale can be made. We think it advisable that the

purchase money when received should be applied towards the payment or purchase of the debentures.

## County High School Trustee Not Resident of District

89.—J. R.—A is a municipality under the jurisdiction of the county of Wellington, and is set apart by the county as a high school district. The county council appoints three trustees, the municipal council three, the public school one and the separate school one. B is appointed trustee by the county, but he is not a resident of the municipality or high school district, but is a resident of the county. Is he qualified to act?

2. Section 13 of High School Act provides that at the election of a chairman in case of an equality of votes the trustee who is assessed for the largest sum on the last revised assessment roll, shall have a second or casting vote. Can B's property not assessed in this municipality but in the adjoining municipality in which he resides, be taken into account in determining which trustee has the largest assessment.

1. Yes.

2. Yes.

## Contractor's Liability—Contract not Completed.

90.—A. S.—On the road allowance between the townships of B and P there is a piece of boggy swamp about 100 feet long. This portion has been sinking a little every year, making it necessary to repair it every year. In November, 1897, a landowner owning land opposite this marsh took a contract from a committee from the townships of B and P to fill up this sunken portion as high as the road at both ends and maintain it for three years at \$50 a year. There was no written contract, but plenty of witnesses to the understanding. The contractor commenced by drawing a large quantity of stone from his fields, throwing them over the sides, more than raising the roadway. This extra weight pulled down the roadway so that it is now three feet lower than it was when he commenced. He has now given notice that he is giving up the contract.

1. Can the township compel the contractor to finish the contract?

2. If so, how should they proceed?

1. No.

2. Assuming that there was a binding contract, the remedy is simply an action to recover damages for the breach of the contract. If you have not paid him do not do so as he has no right of action not having done his work according to contract.

## Dog Tax Abolished—Payment for Sheep Killed.

91.—Q.—A municipal council having collected a dog tax for a number of years, during which time they paid two-thirds of the value of all sheep worried or killed by dogs, but has not expended all the money collected for dog tax in doing so. Some two years ago a petition was presented to the council asking that the dog tax be abolished. A by-law was passed doing away with the collection of the same. A person getting sheep killed by dogs now and making the necessary affidavit, would they be entitled to the value of sheep so killed?

Yes, if the dog tax fund unexpended is sufficient.

## School Taxes on Lot Four Miles from School House

92.—SUBSCRIBER.—I have a lot of land in an adjoining township, which is assessed at \$400.

Last fall I received my tax slip from the collector asking me for \$12.20 for taxes, of this amount \$6 was for school taxes although there

is no school house within four miles of the lot. Was I obliged to pay such a school tax?

Yes.

## No School in Section—General Public School Rate.

93.—G. E.—A school section in a township has no school, there not being enough children in the section for that purpose. No school section tax was levied, but they were taxed the same as those of other sections for the municipal school grant. Is that legal?

It appears to be so under the Public Schools Act, 1896. Section 66 provides, "The municipal council shall levy by assessment upon the property of the public school supporters of the whole township, \$150 at least for every public school which has been kept open for the whole year exclusive of vacation. When the school has been kept open six months or over, a proportionate part of the \$150 is to be levied upon the taxable property of the whole township." In the face of this enactment we cannot see how the council could lawfully raise the moneys required under this section by a tax upon a part of the taxable property of the township.

## Dog Tax—To Abolish—Payment for Sheep Killed.

94.—T. S. NIPISING.—A by-law has been in force in this township since 1892, imposing tax and regulating the running at large of dogs. Claims for sheep killed by dogs have been made and the council have decided to abolish said by-law.

1. Would it be legal if the council passed a by-law to repeal by-law imposing tax and regulating the running at large of dogs without first obtaining a petition from twenty-five ratepayers?

2. Is it imperative that every township shall tax dogs where there is no petition from the ratepayers to abolish it?

3. Can the party who got sheep killed compel the municipality to pay without first demanding from the owners of the dogs that they know?

1. We presume that the by-law was passed under the authority of sub-section 15 of section 489, Consolidated Municipal Act, 1892. The council has the power to repeal that by-law.

2. Under cap. 214, R. S. O., 1887, now cap. 271, R. S. O., 1897, it is imperative to levy the tax unless it is dispensed with under the authority of a by-law passed pursuant to the petition of twenty-five ratepayers.

3. No, he must first proceed against the owner of the dog in the manner provided by section 17 of the act.

## Assess Personal Property—No Exemptions

95.—J. M.—In assessing personal property in townships is there \$100 exempt? Part of our council claim that there is \$100 exempt and the other part claim if there is \$100 worth that it is liable to be assessed. Please answer.

The net personal property under \$100 in value is exempt, but if it equals or exceeds \$100 in value it must be assessed for its full value.

## Damages Defective Sidewalk

96.—S.—I. Would a municipal council become liable in any way to an action for damages by a person sustaining an injury by a

fall caused by a loose or rotten plank in a sidewalk? No complaint regarding the unsafe condition of the sidewalk, nor had any notice been given within thirty days after accident, nor any action entered within three months.

2. A blind line was petitioned for, land granted, surveyed and located, by-law passed, and money expended on it by council. The road described in by-law was to be four rods wide, but the land holders on either side made it but two rods wide. This took place before the Statute defined what the width of a public highway should be, and before the parties who granted the right of way had their patents from the Crown. The said road being liable to heavy snow-drifts, the Council wished to widen it, but the parties now owning the land claim their Crown deeds show their right to the whole acreage of their lots, no Crown reservation being made for said blank line, and refuse to move their fences without being compensated therefor. What steps should the council take in the matter?

1. No.

2. You should proceed in the manner provided by section 546, Consolidated Municipal Act, 1892, now section 632, cap. 223, R. S. O., 1897.

Widow's Exemption from Taxes.

97.—H. M.—1. A widow owns 100 acres of land. The municipal council are willing to exempt her from taxes as long as she occupies the premises. Is there any mode of procedure whereby the said taxes can be registered against the property or must the same be sold at the expiration of three years?

2. What mode of procedure should be adopted where a portion of the ratepayers of the municipality are desirous of annexing themselves to an adjoining municipality, or can this be done?

1. The law declares that taxes shall form a lien on the lands, and that registration shall not be required to preserve such lien. The lands or a component part thereof should be sold after the taxes are in arrears for three years, but the council may extend the time.

2. We must first know what these municipalities are, that is, whether both townships, or village and township, etc.

Tenant's Statute Labor or Poll Tax.

98.—T. S.—I am a tenant living on part lot 12, concession 2. Owner pays statute labor tax according to section 93 of Assessment Act.

1. Am I bound to pay statute labor tax if my taxes amount to \$3.91 not including said tax?

2. If owner did not pay tax would I be liable?

3. Suppose I was the owner of the house and not owner of the land and my taxes were over \$2.00 would I have to pay tax?

4. What is the legal amount a township in Nipissing can collect as poll-tax from persons not otherwise assessed above the age of eighteen and under sixty?

5. Our collector was slow and did not collect any poll-tax last year from persons liable under section 88. Can he legally do so now?

1. If a person is not assessed at all he is subject to the provisions of section 91. If he is assessed he is subject to section 93. Section 88 applies to cities, towns and villages.

2. No, unless you were assessed.

3. You would be subject to section 93.

4. Not more than one dollar.

5. Section 88 does not apply at all to this case.

Cannot Adopt Revised Assessment of 1897.

99.—W. L.—Can a township council by by-law adopt the revised assessment of the year previous?

No. This power has not been conferred upon township councils.

License Law Amendments, 1897.

100.—J. K. C.—In the amendments passed in 1897 by Ontario Legislature, to the local option and license law, there is a clause that I do not quite understand the meaning or scope of, viz. Section 13, prohibiting the granting of licenses within 300 feet of a church or school.

1. Now what does this mean, does it refer to all old licensed places as well as new? Is not a license granted any hotel always a new license in as much as it is only granted for a year at a time, and may or may not be renewed? It strikes me that to make reference to only new applicants or places of business, that it would not accomplish the end intended. If it refers to all licenses, then we temperance people want to occupy all the field given us and shut off all within that limit of distance this year and always.

2. When a license inspector fails to do his duty re the liquor traffic, how can we get at him to make him do his duty or get out, so we can have a man in sympathy with the act in his place?

3. What are the duties expected of the local police, the mayor and council re enforcement of the liquor laws? Local police in some places refuse to enforce the license law saying they have nothing to do with it, that it is the Inspector's duty. What do you say?

1. Section 13 of the Act of 1897 provides: "No license shall hereafter be granted under the provisions of the Liquor License Act, for the sale of liquors upon any premises for which a license has not heretofore been granted, within 300 feet of a building occupied exclusively as a church or as a high school, separate school, university college or other public educational institution, to be measured from and to the main entrances along the street or streets, or across the same at right angles as the ease may be." This section is confined to premises in respect of which a license is being applied for for the first time. There is an express reservation in favor of vested rights.

2. If an inspector does not do his duty you should prefer specific charges against him and apply for an investigation under cap 194, section 127, R. S. O., 1887, now cap. 245, section 127, R. S. O., 1897.

3. Section 117, R. S. O., 1887, now cap 245, section 128, R. S. O., 1897, empowers the license commissioners, with the sanction of the Lieutenant-Governor, to appoint one or more officers to enforce the provisions of the act, and section 129, now section 129, R. S. O., 1897, provides: "Every officer so appointed under this act, every policeman or constable or inspector shall be deemed to be within the provisions of this act, and when any information is given to any such officer, policeman, constable or inspector, that there is cause to suspect that some person is violating any of the provisions of this act, it shall be his duty to make a diligent inquiry into the truth of such information enter complaint of such violation before the proper court, etc.

A British Subject or American Citizen.

101.—A. J. McD.—1. Of what country am I a Citizen?

2. If a Citizen of Canada in what way should I take "declaration of office," as a naturalized citizen or native born? I was born in Saginaw, Michigan in 1874, my parents being Canadians by birth. My mother died when I was a year old, and I was then adopted by my uncle on father's side, who was at the time a naturalized citizen of the United States. After mother's death, father again returned to Canada where he still resides. I lived with my uncle in Saginaw until I was eighteen years of age, I then came to Canada and have resided here ever since. At the age of twenty-one years, I was, and am still a property owner, in both Michigan and Canada.

3. Of what nationality is my son, he being born here nine months ago and my wife is a native born Canadian?

A year ago I was nominated for a Councillor and would not run, not knowing whether I was qualified or not.

1. Unless your father became a subject of the United States by naturalization, you are a British subject. If your father, while in the United States, took the oath of allegiance there, then whether you are a British subject or not depends upon section 25 of the Naturalization Act, which provides: "If the father, or the mother, being a widow, has obtained a certificate of re-admission to British nationality within Canada, every child of such father or mother who, during infancy, has become resident within Canada with such father or mother shall be deemed to have resumed the position of a British subject within Canada to all intents." From this it will be observed that even if your father naturalized in the United States, you would be entitled to the rights of a British subject provided your father obtained a certificate of re-admission here and provided you afterwards and while an infant, became a resident here with your father.

2. If your father never took the oath of allegiance to the United States then you would be a British subject by birth, but if he did and you are brought within section 25, we would say that you are a subject by naturalization because your rights of citizenship are acquired by the authority of the act.

3. The nationality of your son depends upon what your nationality is.

Time for Making Assessment.

102.—L. M.—Can Council pass by-law to make assessment in month of May instead of from now to first of April, also could not method of assessing be changed by By-law?

Section 55, Assessment Act, R. S. O., 1897, requires the assessor to begin to make his roll not later than February 15 and to complete it on or before April 30. Section 58 enables cities, towns and villages to have assessment made between 1st of July and 30th of September, and cities having 30,000 or more inhabitants may have the assessment taken between May 1st and September 30th, and section 61 empowers county councils to pass by-laws for taking the assessment in towns, townships and villages, between the 1st day of February and the 1st day

of July. The mode of assessing is provided by statute and the assessor must be guided by that alone.

Union School Section—Organized and Unorganized Township.

**103.**—Clerk Algoma.—Our municipality lies along side of an unorganized township, we have three schools in working order, one of which is a union section known as No. 3. The union section is composed as follows:—Assessment in unorganized township is \$2,350, in ours \$8,595. Our council has been paying a full grant each year as provided by the statutes to each section (the union as well as the others) until 1897. In that year they only gave a proportionate grant to No. 3. The trustees of No. 3 have been in the habit of putting the grant into the general fund for school purposes and levying a uniform rate upon all the taxable property within the limits section for the balance of what they require. They (the trustees) appoint an assessor and collector each year for the unorganized portion of their section.

1. What portion of the \$150 grant should No. 3 receive from us?
2. The trustees having lost a portion of the municipal grant can they levy an additional rate upon unorganized portion to make up what they have lost?
3. How shall the trustees of No. 3 section proceed to obtain possession of the Collectors Roll from the collector of the unorganized portion of their section, he has it illegally in his possession?
4. How can they have the assessment equalized, also who shall be the members of the Court of Revision for unorganized portion of their section?

1. Sub-section 2 of section 66, Public Schools Act, 1896, provides: "In the case of union school sections, the municipal council of each municipality of which the union school section is composed, shall levy and collect upon the taxable property of the respective municipalities, the said sum in the proportion fixed by the equalization provided under section 51 of this act." Section 51 of the act requires the assessors of the municipalities in which the union is situate, to determine what proportion of the annual requisition made by the trustees shall be levied upon the property of the respective municipalities. As one of the townships is unorganized this section does not fit this case literally, but we think that the person appointed by the trustees under section 26 of the act, takes the place of the assessor of the municipality and that your municipality is liable to contribute its share under section 66, upon that basis and no more.

2. If the assessment was not determined as provided by section 51, the objection may be raised that a foundation has not been laid to authorize the levy of the balance upon that portion of the section within the unorganized municipality, but notwithstanding this objection we think that the levy may be made, assuming that the assessment in both territories has been made according to the actual value of the lands, there can be nothing unequitable in this. Before taking this course you ought to have the assessors meet and have the proportions determined.

3. See sections 25 and 26 of the act as to revision of assessment.

Clerk's Notice of Drainage Assessment.

**104.**—G. S.—Where two or more municipalities are interested in a drain constructed under the Drainage Act, and the engineer makes a report for improvement of the drain should the clerk of the municipality which has to keep the work in repair notify all the parties assessed (including the other municipality) of the fact and of the amount of their assessment?

No. Section 69 of the Drainage Act, 1894, makes provision for the maintenance of a drain which passes through more than one municipality. Section 71 provides the procedure to be taken by the municipality undertaking the repair of any drainage work under sections 68, 69 and 70. It provides for the service upon the head of the municipality liable to contribute any portion of the cost of such repairs, a copy of the by-law for undertaking the repairs. If the assessment made against the contributing municipality is not changed in an appeal, the contributing municipality must provide the amount required and have it charged against the lands assessed within its own territory. The duties of each clerk are confined to his own municipality.

Union School Section Valued—Apportionment of Assets.

**105.**—J. H.—A union school section, consisting of an incorporated village and part of a township, having been dissolved by arbitration, that portion belonging to the township has been taken from the union section and added to two non-union school sections in the township. The award provided that a certain amount be paid to the trustees of the section to which the said portions had been attached. The said award took effect on the 25th day of December last. The said arbitration took place on the 29th of June, 1897. At the end of the year the treasurer's books of the school board showed a balance on hand of \$922, and besides there was grant due the school of some \$115, or a total of \$1,037.

1. Are the ratepayers of the portion which has been taken from the union section and added to the two non-union sections in the township entitled to a share, pro rata, of the balance on hand at the end of last year?
2. Has the school board power or a legal right to raise funds during the year 1897 for expenditure during 1898 under the circumstances?

1. We are of the opinion that they are. Sub-section 8 of section 43, Public Schools Act, 1896, indicates that the rights of the individual ratepayers are to be regarded.

2. No. Under sub-section 9 of section 62, it is the duty of the trustees to submit to the municipal council on or before the 1st day of August or at such time as may be required by the municipal council, an estimate of the expenses of the schools under their charge for the twelve months next following the date of application. Under sub-section 10, the trustees have power to borrow moneys until the taxes are collected.

One Person May be Clerk and Treasurer.

**106.**—R. F.—Please say whether or not a person can legally hold the position of Clerk and Treasurer in a township municipality?

Prior to the amendment to the law in 1897, we expressed the opinion that these two offices could not be held by the

same person. One of the reasons why we held this opinion was that the form of the declaration of office provided by section 271, Consolidated Municipal Act, 1891, indicated that it was not intended that the same person should hold the two offices. The Legislature in 1897, changed the declaration and also added the following sub-section to section 271. "(2) Any person who has been elected or appointed to two or more municipal offices which he may lawfully hold at the same time, may make one declaration of office as to all the offices to which he has been elected or appointed, but the same shall be made and subscribed before he enters upon the duties of the said offices." This amendment was no doubt made to meet this particular case, and therefore as the law now stands, these two offices can be held by the same person.

Council May Borrow Money for Schools

**107.**—FINANCE—Under section 16 Municipal Amendment Act 1898 would the words "ordinary current expenditure of the Municipality" include taxes levied for high and public school purposes? For instance, a town corporation might start the year with practically no funds in the treasury and likewise the board of education of the same town. The town corporation borrows sufficient to carry on its affairs and to make advances to the board of education monthly for salaries, etc. until the taxes are collected. If the words above do not include school taxes the board of education would require to borrow independently of the council.

Sub-section 4 of section 435, R. S. O., 1897, provides: "The council of any municipality shall have similar borrowing powers with regard to moneys required by the trustees of any public school within such municipality, or by the trustees of a high school district of which such municipality is a part or wholly composed; provided such sums of money do not exceed the estimate submitted by such public or high school trustees, as required by the Public School Act and the High Schools Act." But for this section the council could not borrow moneys for school purposes as being part of the ordinary current expenditure of the municipality.

Stone on Highway—Accident—Lawsuit.

**108.**—A. S.—A leases his farm and moves to the city. Some time after A employed a man who owned a stone machine to remove some stones for him, the tenant assisting at the work under pay from A. One of these large stones is left on the road allowance fifteen feet from the fence. This was done in 1891 without consent of the pathmaster. In October, 1897, a horse driven by a lady became frightened at the stone in passing it and ran away. She now claims damages for injuries thereby received from the township.

1. Can A be made a party to the action?
2. Can the township compel A to remove the stone?

1. Yes, but the claim appears to us to be barred by the three months limitation clause.

2. A having removed from the municipality and being now a resident of another municipality, we do not think you have jurisdiction over him.

Assess as Joint Owners.

109.—A SUBSCRIBER.—A mother, one son and three daughters, owners of a farm contain, ing 150 acres, assessed to the amount of \$1,900 (their interests being equal). Can each claim the right to be assessed jointly for their property and be entered on the voters' list? The son in part 1, etc. The ladies in part 2, etc. (The ladies are all unmarried.)

Sub-section 1 of section 25, Assessment Act, R. S. O., 1897, provides: "When land is owned by more persons than one, and all the names are given to the assessor, they shall be assessed therefor in the proportions belonging to each respectively." Section 93, Municipal Act, R. S. O., 1897, provides: "Where real property is owned or occupied jointly by two or more persons, and is rated at an amount sufficient, if equally divided between them, to give a qualification to each, they shall be deemed rated within the act, otherwise none of them shall be deemed so rated." The assessed value of the whole farm being \$1900, the proportion belonging to each is one fourth that is \$475 which is sufficient to entitle all to vote.

Assessor's Qualification—Assess Personal Property.

110.—J. M. W.—1. Does an assessor require to be a ratepayer of the municipality and does he require any property qualifications? If so how much?

2. Are the goods of a merchant in his store assessable and also the stock of a blacksmith, tinsmith, harness maker or any tradesman assessable?

1. No.

2. Section 7, Assessment Act, 1892, provides: "All property in this province shall be liable to taxation subject to the following exemptions:" The different kinds of property exempted is then enumerated. Sub-section 21 of section 7 exempts "so much of the personal property of any person as is equal to the just debts owed by him on account of such property." So it follows from this that if a person has not paid for his personal property he is entitled to have what he owes on account thereof deducted from the balance and to be assessed for the balance only. Sub-section 22 exempts, "the net personal property of any person, provided the same is under \$100 in value." If the personal property is of the value of \$100 or upwards there is no exemption under this sub-section.

Township Councillors not School Visitors.

111.—NEMO.—A township council has to pay the school levies out of the township funds. Have the Reeves and councillors any authority to visit the schools in the township to see that they are properly conducted, or would they be trespassing on rights of trustees in paying a casual visit.

Can they be ordered out of a school by master or trustees?

They have no authority to visit schools. For a list of the persons who are entitled to visit the schools and their rights see section 92, Public Schools Act, 1896.

Collector—Bailiff—Sale—Surplus.

112.—E. S.—As collector of taxes for this municipality, I handed to a village constable

here a warrant to collect taxes with instructions to seize and sell for the taxes, if not at once paid. He did seize and sell and realized \$16. The amount of taxes in arrears was \$8 and the constable's costs \$3. He paid me the \$8 but he refuses to hand me the balance of \$5 to apply it on same property for taxes due. I demanded the \$5. He refused to pay it and still retains it. The owner of the property resides in the United States and has not been here for several years.

1. What steps am I to take to compel him to pay me the amount, \$5?

2. If not me, who is entitled to have said sum?

The surplus should be paid over to you because the constable was acting for you and therefore accountable to you and you to the owner. In the absence of any claim being made to the surplus upon the ground of ownership or lien it should be handed to the person in whose possession the property was when this distress was made. If the constable will neither pay over the surplus to the person entitled to it or yourself you should sue him.

Expenses Trustee Election—Ballot—Union Section.

113.—G. M. H.—The trustees of a union public school section, which consists of an incorporated village and a part of two adjoining townships, gave notice to the village clerk that they want to have their trustees elected by ballot. The clerk accordingly procures from the clerks of the two townships a certified list of voters of the townships, for which he pays the township clerks a certain fee. He also incurs an expense of \$2 for ballots.

Should this expense be paid by the public school board or by the village council?

The amount paid should be borne by the school section and not by the village alone. The proper course would be to have the school board pay for the above services and to have the board afterward include the amount so paid along with the other items making up their estimates and the ratepayers of the school section in each municipality will then bear their respective shares of the total amount required upon the basis of the equalized assessment.

Squatters Assessment—Crown Lands—Collector's Duty—School Rates.

114.—P. S.—1. There are certain lots in our municipality which are occupied by squatters, that is persons who are living on the lands but not located by the Crown Land Department, nor cannot get located. Is it the duty of the assessor to place these parties on the assessment roll for these lands?

2. If he has done so, can the collector go on to these lands and distrain for taxes when payment is refused by the parties assessed?

3. Must the school tax be paid by parties living more than three miles in a direct line from a school, where a section is large enough to admit of this?

1. No. The interest in land purchased from the Crown is assessable under section 19a Assessment Act, 1892.

2. If these persons were assessed but did not appeal against the assessment they would be liable for the taxes and the collector would have the right to go on these lands and distrain for the taxes.

3. Yes, unless it is a section in an unorganized township and even in that case the objection ought to be raised by an appeal from the assessment. See sub-

section 3 of section 24 Public Schools Act, 1896.

Clerk to be Paid for Registration of B., D. and M.

115.—H. E. M.—As a member of our town council I desire to ask if the registering of births, deaths and marriages is the duty of the town clerk without extra pay therefor?

No. Section 11 of the act relating to the registration of births, marriages and deaths (chap. 17, 59 Vic.), makes the clerk of every municipality, other than counties, division registrar of such municipality, and section 31 provides "Every municipality in the province shall pay annually to the division registrar appointed therefor, under the act, a fee of 20 cents for each complete registration of a birth, marriage or death, etc."

Let Them Keep the Cow.

116.—A. W.—A family in destitute circumstances. The husband and father left the family destitute. He had a cow which he let out on shares before he left, to be doubled in three years.

1. Can the council take any steps to take the cow for the expense of the keep of this family?

2. If so, what steps should be taken?

1. No.

Councils Accepting Contractors Orders.

117.—A SUBSCRIBER.—The council let a wood contract to John Smith. He owes men working for him. He gives his men orders on the council. We don't want to pay orders. We prefer to deal with the man who took contract. If we refuse the orders can we be held responsible in any way?

The council cannot safely ignore these orders. Without having the orders before us we cannot say whether they amount to assignments of the moneys which are or may be payable to Smith. If they do then the council must pay the holders of these orders and not Smith or take the risk of having to pay the amount twice. On the other hand whether these orders amount to an assignment or not they are sufficient authority for the council to act on as against Smith.

Tenant's Liability for Taxes.

118.—J. S.—A leases a house from B which he occupied as dwelling and store. A is assessed for the house and his own personal property. He is charged with the taxes for both on the collector's roll for 1897. A leaves the township about the first of August and the taxes become due on the first October. He leaves part of his personal property in the township but not on the property assessed. Is he liable for the whole of the taxes?

2. Has the collector power to distrain the personal property therefor, the house is now occupied by another tenant? A occupied the house for a number of years and paid the taxes until 1897.

1. A is liable for the whole of the taxes.

2. The collector has the right to distrain the goods and chattels of the person who is actually assessed for the premises and whose name appears upon the collector's roll for the year as liable therefor whenever such goods and chattels may be found within the county in which the local municipality lies. If the taxes can-

not be made by distress they may be sued for in the proper court.

Lease of Town Hall for Twenty Years.

119.—J. E. S.—The town council of the town of Essex, Ontario, desire to lease a town hall from the I. O. O. F. lodge in the town, and I want your opinion as to the length of time the council has authority to lease property for, and if they (the council) have no authority to lease for term of years, what steps would it be necessary for the town council to take to make a lease for say 20 years legal?

The council has power to lease a hall for a year without the assent of the rate-payers, but it will be necessary to obtain their assent to a lease for 20 years in the manner provided by section 338, chapter 223, R. S. O., 1897.

Collector May Sue for Taxes.

120.—COLLECTOR.—Can collector sue in division court for taxes parties assessed on the resident roll and not residing in district? or what course should he pursue to collect taxes, nothing on the property to seize?

If the amount is within the jurisdiction of the division court, and it probably is, he should sue for the amount of the taxes in that court. The action should be brought in the name of the municipality. See section 131, Consolidated Municipal Act, 1892.

Alteration in School Section—Lot 3 1-2 Miles from School.

121.—SUBSCRIBER.—Council cut parcel of my land off school section and joined it to a new section and trustees of said new section in selecting site of said school, measured the distance and built school house three and one-half miles from said lot nearest corner and the council refuse to open road or even lay out a path beat. This section was made in 1895. I am living in the neighboring section and have no children. I have refused to pay all school taxes, general rate as well. The council claim I must pay the general school rate. Can they legally compel me to pay said rates, or what must I do? Please state and by so doing you will decide a question which has long been argued in the rural districts.

If you are in an organized municipality you are liable for all rates. So much of your lands as are within each section are liable for all rates for the school within the section in which the school is situated. See sub-section 2, of section 11, Public Schools Act, 1896. If you are in an unorganized township you are exempt from all rates for school purposes unless you send a child to the school, except that so much of your lands as are within the distance of three miles are liable to taxation. See sub-section 3, of section 24 of the same act.

Expense—Nuisance—Board of Health—How to Collect—Treasurer's Bond.

122.—C. S. D.—A has an hotel, from which he has run a box drain across one street and the corner of his neighbor's property to carry off refuse from hotel, said drain empties into lane that runs back of his hotel. Where drain empties is some distance from hotel. Verbal complaint was laid before the Board of Health, claiming that there was a nuisance at the mouth of said drain. Board of Health, at a meeting, passed a motion, and instructed secretary to notify A to build a cesspool in land back of his hotel. (Secretary not knowing

exact location of drain notifies A according to motion, but afterwards rectifies notice verbally.) A refused to build cesspool after the expiration of time given A to build pool, the Board of Health builds pool and has costs charged against the property of A to be collected as ordinary taxes, which costs A refused to pay.

1. Is collector justified in accepting the taxes of A less the amount charged against him for cesspool?

2. Can municipality collect cost of building pool, it being built on township property? If so what proceedings should be taken?

3. Our treasurer was engaged by municipal council for a term of five years, and gave satisfactory bonds. Is bond good for the five years, no time being specified, or will bond have to be renewed each year?

4. Can municipal council pass a by-law limiting dog tax to village, said village not being incorporated?

5. Has municipal council power to pass a by-law compelling residents of village to shovel the snow off sidewalks opposite their property in an unincorporated village?

6. B has a farm, being part of lot 8, in third concession, containing 240 acres, being located on two different concessions. Lots 8, 9 and 10, in third concession, are included in school section. B claims that his property only touches the three-mile boundary, and that he is not in school section. Is B exempt from school taxes on part of his property or can council collect taxes off whole of property?

1. Yes.

2. Yes, if the proper notice was given to A as required by section 60 of the Public Health Act. The costs and expenses are recoverable under ordinary process of law; that is, by suit of court.

3. Yes, if it is so worded that it extends to his whole term of office. Whether it does or not, we cannot say without having the bond or a copy of it before us.

4. No.

5. Yes.

6. If B is in an unorganized township and no child of his attends the school and his place of residence is more than three miles distant in a direct line from the school house, he is exempt from all rates, except that so much of his lands as are within the section are taxable. If he is in an organized township he is liable for all rates in the school section where he resides and his lands are taxable for the rates of the school section in which they are situated.

Disposition of Balance Drainage Debenture Monies—Responsibility for Obstructions in Drain.

123.—W. S. S.—The Township of Logan in the year 1880, passed a by-law under section 570 of the Municipal Act, 46 Vic. c. 18, for the construction of what is known as the North west drain and the work having been fully completed, the unexpended balance of the money borrowed for the purpose, was divided pro rata, among the parties assessed for the work. In 1894 it became necessary (the ditch having become badly filled up) to pass another by-law to put said drain in a proper state of repair and to make some slight extensions thereto and debentures were issued to raise the necessary funds for the work, payable in equal annual instalments. The work being completed in 1896, a balance of \$1,208 remained unexpended which was deposited to the credit of that special fund and now amounts to some \$1,230. In 1897, it became necessary to incur a considerable outlay to again clean out portions of the ditch, and some of the parties claim that the balance now on hand cannot be used to pay for these repairs (which will be con-

stantly required on account of quicksand, bush fires, etc.) but must be used to liquidate the debentures as they fall due. (See section 66, s. s. 3, Drainage Act of 1894) and consequently we must meet these expenditures out of the general funds of the township and collect from them next year. This to us seems unfair, in view of the fact, that the debentures were issued to raise funds for "repairs" and "maintenance" and not for "construction".

We would therefore solicit your opinion.

1. Must this balance be used in payment of the debentures issued, till exhausted?

2. If so, what must be done about the rate to be levied and collected in each and every year, during which said debentures have to run, as per by-law. (See section 367, 368, 369 and 370 of the Municipal Act of 1892 and also Statutory By-law, section 20, Ontario Drainage Act 1894.)

3. If the ditch becomes obstructed by falling timber during forest fires or the drifting in of quicksands, should the charges for repairs be paid only by the owners of the lands where the obstructions exist? Or are they properly chargeable to the whole Drainage scheme. (See section 78, Drainage Act of 1884.)

1. Yes.

2. So long as the surplus is sufficient it is to be applied to pay the rates required to provide for the payment of each debenture as it matures. It is not the intention of the Drainage Act that the whole rate should be collected each year without any regard to the balance on hand. If for example the balance is just enough to pay the first year's assessment, no rate would be required for that year.

3. If the owner or person in possession is responsible for the obstruction the course provided by section 78 must be followed. It would seem to us that the owner would be responsible within the meaning of this section for the falling timber, but unless it can be shown that the drifting in of quicksand has been caused by washing out of private drains through which the quicksand has drifted in we do not see how you can have any remedy against the owner under this section and therefor the cost of repairing the drain must as to this be borne by the work as a whole.

Clerk's Pay.

124.—TOWNSHIP CLERK.—A was township clerk during 1897. At first meeting of council in 1898 he acted as clerk. At that meeting B was appointed clerk, he—B—to take office at February meeting, 1898. At February meeting A demanded one-half year's salary. Could A collect half year's salary, according to law?

We are of the opinion that he is entitled to be paid for the time during which he was clerk. The council, under the Municipal Act, had the right to remove him at its pleasure.

Time for Reduction of Liquor Licenses—Sewer Ventilation, Etc.

125.—J. K. C.—1. When is the time to move for a reduction of licenses in towns, cities, etc.

2 What time are new licenses granted and why?

3 What is the law re sanitary conditions, ventilation, fire escapes and sewerage connections? Some of our old hotels here are not complying with recent requirements and we think they should be shut out.

1. Before the first day of March.
2. Between the first and fifteenth days of May in each year, why this time of year has been fixed by the Legislature, we cannot say. See R. S. O.; 1897, cap. 245, section 9.
3. We cannot do more than to state that the law relating to sanitary conditions is to be found in the Consolidated Public Health Act, and as to fire escapes and sewage conditions, these are matters for the municipal council to deal with.

#### Marriage Registers Who to Supply—Liability for Taxes.

126.—B.—1. Would you kindly give your construction of section 25 of the Marriage Act of 1896 as amended in 1897? Suppose that three or four resident clergyman of a village or town, order registers for as many municipalities as they perform marriages in, is the clerk of each municipality bound to comply with their requests? Might not one register do for all the municipalities in which the minister of any church performs marriages?

2. A ratepayer who becomes embarrassed with debt, sells all he has, removes all implements and chattels, leaving nothing of any value wherewith to pay taxes. Residing on the lot is also a man assessed with A as M. F. and pays rent for house and small plot of ground. (a) If the collector has had sufficient notice is he liable for the taxes? Can he seize and sell off occupant for the amount?

3. A certain lot (being at the request of an occupant) is assessed in non-resident roll saying they were not going to stay, but occupant stayed and took off crop. Lot recently sold under a mortgage sale, and the purchaser's lawyers state that they will not allow their clients to become responsible for taxes on account of neglect of assessor. The council recognize the error and give their word to the purchaser that he will not be responsible. Would the assessor or the municipality or both be responsible?

1. It is the duty of the registrar of the division in which the clergyman resides, to furnish all the forms which such clergyman may require.

2. (a) Yes, if it can be shown that the collector through negligence did not make the taxes. (b) We will require to know whose property he proposes to seize for the taxes, and also the kind of property, before we can answer this, as there are exemptions.

3. We do not think either is liable.

#### Expense Police Village Trustee Election—Who May License Pedlars.

127.—P. K.—1. A police village has been organized in our township for several years. This year the council of the township were all elected by acclamation, but in the village an election was held for trustees. Who pays the expense of said election, the township or the village?

2. Have township councils the power to pass by-laws to license pedlars and petty chapmen; or is such power only given to County Councils?

1. The village.
2. Township councils have not the power to pass such a by-law. The councils of counties, cities and towns have this power.

#### Clerk or Tenant no Vote on By-Law.

128.—J. W.—1. Can clerk vote when a vote is taken on a by-law to raise money, for I see by act if a tie he cannot give casting vote?

2. Can ratepayer vote on by-law who was assessed on last assessment roll as tenant, and during year of 1897 purchased other property and is owner of property now?

1. No.
2. He cannot vote in respect of the other property purchased, but for which he is assessed; nor can he vote as a tenant unless the property is of sufficient value to entitle him at a municipal election, and unless the lease extends over the full period within which the debt to be contracted or the money to be raised by the by-law is made payable.

#### Assessment of Exempted Property for School Taxes.

129.—BILLINGS.—When a water power and a certain tract of land adjoining is exempt of tax by municipality, is said water power and site to be assessed by assessor with all other lands in township, to enable rate to be struck for collection of school tax, or is it possible for municipality to exempt school tax as well?

The land should be assessed in order that it may bear its proper share of the school rates along with other lands. The council unless it passed a by-law after the 14th of April, 1892, could not exempt the property from school rates. See section 73 of the Public Schools Act. Even if the by-law was passed prior to that time and exempted the property from all school rates it ought to be assessed though in that case no rates would be chargeable against the property.

#### Cannot Rent Fair Grounds.

130.—REEVE.—Village owns show grounds. Former council sold pasture from year to year. Can council rent said grounds for a term of five or ten years, reserving rights such as show purposes, amusements, etc.

No. The council can rent for a period not exceeding three years. See sub-sections 8, 9 and 10 of section 504, Consolidated Municipal Act, 1892, and section 21 Municipal Amendment Act, 1893.

#### Burial Permit—Nearest Division Registrar's Duty.

131.—E.—Am a clerk of a village municipality. A death occurs in an adjoining township, the parties concerned, acting under section 7 of the amendment to the Vital Statistics Act, 1897, bring a registration slip to me and receive a burial permit.

In such case am I to make the registration in my book and semi-annual return, sending original slip to the township registrar? If this course is not to be pursued, I cannot see how the required certificate can conscientiously be given. Having deposited slip in the post office, my accountability for it ceases, I cannot guarantee that it will reach its destination.

The registrar of the division in which the death took place is usually the proper person to give the certificate, but when a death occurs in a township, the nearest division registrar may give the certificate. In the latter case it is the duty of the nearest division registrar to forward the original certificate to the registrar of the township in which the death occurred. If the registrar of the township in which the death occurred, gave the certificate you are not required to give another, and therefore you have none or should have none to forward. If you should be applied to and gave a certificate as the

nearest division registrar, you should give it and forward the original by post to the registrar of the township in which the death occurred.

#### Special Meeting—Hotel Licenses and Fees.

132.—T. Y.—1. What course is necessary for a councillor to take if he wishes the reeve to call a special meeting?

2. Have village councils the power to reduce or increase the number of hotel licenses?

3. What is the latest date in which the council can reduce or increase the hotel license fee for 1898?

1. A request in writing by a majority of the council to the reeve, to hold a special meeting.

2. Yes, within the limits of section 1, cap. 50, Act of 1897, and section 19, cap. 194, R. S. O., 1897, as amended by section 2, cap. 50, Act of 1897. See sections 18 and 19, R. S. O., 1897, cap. 245.

3. The last day of February, by by-law of the council. See section 20, cap. 245, R. S. O., 1897.

#### No Bonus for Telephone Line.

133.—W. P.—Has a township council any authority by statute to levy a rate for the purpose of assisting in paying for getting a telephone line erected through municipality and for use of instruments in the different villages in the same?

2. If authority is given, is it necessary to submit a by-law to the ratepayers?

1. The council of a township has no such power under the present law.

2. The assent of the ratepayers would not v talize such a by-law.

#### Correct February Answers Questioned.

134.—F. J. C.—1. In your reply to Question No. 34, February WORLD, you seem to conflict with sections 30 and 31, chapter 45, 1897. How can you reconcile section 186, Municipal Act, 1892, with the above sections which govern?

2. Also Question No. 84. If the council can appoint an officer by ballot, what becomes of each councillor's right to demand the yeas and nays on any question before the council? I claim that a by-law to appoint by ballot is illegal, as it would take away the right of any councillor to demand the yeas and nays, which the Municipal Act says is his right, and is not authorized by statute.

3. In regard to the appointment of clerk (Question No. 84). How is it possible to appoint another person when there is no vacancy? Can two persons be appointed to that office? It does not seem possible to fill an office already filled, until a vacancy is first created, and until the first clerk is discharged the second clerk cannot be appointed.

1. Question 34 of our February number is as follows: "At the nomination meeting to day there were only four ratepayers present, and the hour passed by without any motions being made, although their attention was repeatedly drawn to the fact. Now what I want to know is: 1. Do the old council take their seat and transact business for the ensuing year? 2. Will their transactions be legal? 3. If not, what steps am I to take in order to have a legal council?"

When sections 30 and 31 of cap. 45, 1897, are read it is evident that they do not apply to such a case as the one in question at all. Reading the question carefully who, may we ask, were the

candidates retired? No motions were made; consequently not one candidate was nominated. How can it be said that the council was incomplete by reason of the retirement of any candidate or candidates, so as to bring this case within either of these sections? The facts of this case bring it within section 186, and for these reasons we adhere to the opinion given in our February issue.

2. We cannot understand why you should raise the question whether the appointment of an officer by ballot is legal or not. We don't think we are asked to express our opinion upon that point. But if that was the point which W.R. desired to have our opinion on we did not so understand it, and we did not express any opinion upon it in that view at all. We repeat in effect what we said, that no difficulty should arise in the case submitted to us because all officers appointed by the council hold office until removed by the council, so that their retention of office depends upon the pleasure of the council. If the appointment by ballot was invalid why could not the council insert the name of some other person in the by-law, and why should not that by-law, approved by a majority of the council and under the corporate seal of the corporation be perfectly good?

3. In answer to this, we have to say that the objections raised are cavilling. We were not asked to say whether two persons could be appointed to hold the one office. The council may by the one by-law remove one clerk from office and at the same time appoint some other person to fill his place. The information which we gave showed that the old clerk should be first removed. We used the words of the Act, and we have no doubt that the council understood from our answer that they had the right to remove their clerk and appoint another in his place.

High School Fees—Liability For.

135.—J. J.—1. The county council having abolished the fees on county pupils, can the trustees in high school district "A" charge fees on pupils coming from high school district "B" as provided by sub-section 2, section 37, both districts being in said county.

This is as we understand the meaning of sub-section 7, section 2, High Schools Act, 1896.

2. Or is the county liable for cost of maintenance of pupils from district "B" attending the school in district "A" as provided by section 31 of said act.

- 1. Yes.
- 2. No.

Council Not to Divert Watercourse.

136.—A. L.—The municipality of Mulmer has diverted two streams that crossed the road allowance opposite my land, and put the two into one and run it down the side of the road, to the detriment to me and the road.

Can a corporation of a municipality divert water from its original and natural course, where it crossed a public highway, and divert it down the road allowance as a detriment to the highway and to my real estate?

The corporation has no right to divert water from its natural course to the detriment of a private individual.

County Councillor in Separated Town—Deputy Reeves in Towns.

137.—D.—1. As this municipality has passed vote to withdraw from county of York would that disqualify a resident of this town from holding his present position as county councillor?

2. Is this town legally entitled to two deputy reeves when we do not have 1,000 qualified voters in the town, although there are over 1,000 names on our last revised voters' list, but many of them are repeated three times, having property in the three polling sub-divisions?

3. In answering the many questions asked you "Are we to have deputy-reeves in 1898?" should you not have included in your answer, yes, "where there are sufficient number of qualified voters on voters' list".

- 1. No.
- 2. See section 2 of Municipal Amendment Act, 1898, on page 20, February issue, MUNICIPAL WORLD. This does not affect the council for the present year.
- 3. Yes.

No Free Taxes for Mill.

138.—J.—In February, 1896, our village council offered, by resolution and published, to remit the taxes for ten years to any person or firm who would establish in the village a roller mill, to the satisfaction of the council. During said year a firm completed a roller mill that meets all requirements, but it was found that school taxes could not be remitted, and the council, in order to carry out the agreement, made a grant to the firm out of the contingent fund, of a sum equivalent to the school tax. Our village is incorporated, and all taxes are paid to the treasurer, out of which he pays the amount of the requisition from the Board of Trustees.

- 1. Can the council legally make the grant?
- 2. Can the firm compel the corporation to free them from all taxes on the mill for said ten years?

- 1. No.
- 2. No.

Farmers' Income Assessment.

139.—H. McD.—We are at a loss to know the proper mode of assessing farmers' income, that is, money out on interest. I give here an example:

Example No. 1—

Suppose I owned a farm clear of all incumbrance, assessed at.....	\$ 4,000 00
Farm implements.....	200 00
I have in stocks, mortgages, notes, etc., at 5 per cent.....	4,000 00
Would be in some earnings, \$200.00, not assessable.....	
<b>Total assessment.....</b>	<b>\$ 8,200 00</b>

Example No. 2—

Assessed real estate.....	\$ 4,000 00
Farm implements.....	200 00
Stocks, mortgages, notes, etc., at 5 per cent.....	10,000 00
Would be \$500.00 interest, being \$100.00 over exemptions.....	100 00

As referred to in section 7, clause 24, Assessment Act, 1892.....\$14,300 00

Please give correct example with sections governing same, and suppose those mortgages or stocks were in property, in other municipality, would it make any difference when the owners reside in our municipality?

Section 26 of the Assessment Act lays down the principle which the assessor is to adopt in valuing all property which is taxable. The farm and farming implements, given in example, are not exempt and ought to be assessed according to the

rule laid down by section 26. The income from the interest made in this case are exempt because it does not exceed \$400. In the case of income, other than that derived from personal earnings, only the excess above \$400 is taxable. See sub-section 24 of section 7. The principal money secured by mortgage upon land is exempt under sub-section 16 of section 7. As to stocks, see sub-sections 17, 18 and 19. If you will look at sub-sections 8, 9 and 10 you will see what the Legislature has defined "Property," "Land," "Personal estate," etc., to mean. By sub-section 10, "Notes" are "Personal property," and are assessable under section 7, unless we can find that they are anywhere exempted, and in looking carefully through the list of exemptions we cannot find that they are, and, therefore, they ought to be assessed at their actual value, as provided by section 26. In regard to the stocks and mortgages, you ought to have given the kind of stocks and mortgages and by whom held. The owners being residents of your municipality, are assessable thereon.

Service on Head of Municipality Under Drainage Act.

140.—W. G. W.—Section 61 of the Drainage Act, 1894, says that in serving a drainage report, it shall be served on the head of the municipality. Is this to be carried out literally or would such service as mentioned in section 15 of the D. and W. Act do? The Drainage Act does not seem to permit of its being done this latter way, and if the "head" was not at home or wished to avoid service, the party serving report would have a difficult job.

Let me cite a case according to the facts. The clerk of B sent by mail a drainage report to the clerk of E. He had done so before, worked all right and saved time and expense. The clerk of E acknowledged receiving it and I understand laid it before the council. Council neglected to appeal within the thirty days allowed and fault was found with them for not doing so. Then to gain time it was maintained that report was not legally served. The clerk of B was advised to serve it again. He sent a messenger to the residence of the clerk of E who got the report and went with it to the reeve's residence. He was not at home but the messenger left it with his wife getting a receipt from her for it. This latter service is also repudiated. Would you kindly advise how a service is to be made on such a "head" as the above?

The Drainage Act requires service upon the head of the municipality that is the reeve or other head officer. The provisions of the Ditches and Watercourses Act cannot be read into the Drainage Act.

Railroad Crossings.

141.—CLERK.—Two mining locations in this township opened up for settlement. C. P. R. runs through both locations. The municipal council have located roads for the benefit of the settlers. Two or three of these roads cross the railroad track; crossings have been asked for from the C. P. R. Co. but are refused.

- 1. Can company be compelled to give crossings? In this district there are no road allowances in the original survey but 5 per cent. is reserved by the government for roads and it is where the lines between lots cross the railway track that crossings are wanted.
- 2. What steps must be taken to get crossings?

3. Two years ago government built road through one of these locations and also across said track but built no crossing and C. P. R. Co. will not make one or consent to the council making one unless council will sign writings to be responsible for all damage to property, etc. while engaged in building it. What can we do to get crossings?

4. Also in the year 1896 our assessor in assessing one of these locations omitted eight lots from the roll. This was the first year this location was assessed in separate lots. The error was not discovered until after the taxes had been levied and collected on all the lots upon the assessment roll. Can the taxes for 1896 be now collected from those lots? Some say that they cannot, as the error was not corrected at the court of revision, 1896.

1, 2 and 3. If your council cannot arrive at an agreement with the railroad company, your course is to apply to the railway committee of the privy council. This is not the case of an existing highway interfered with by the railway company, it is the case of a railway constructed when there was no established highway, and therefore the council must arrange with the company, and if it cannot do so the only course left is to apply to the railway committee.

4. Yes, in the manner provided by section 154, Consolidated Municipal Act, 1892.

#### Taxes—Toll Roads—Qualification to Vote at Municipal Elections.

142.—J. A. M.—1. A has a farm adjoining the town, part inside the corporation and used for agricultural purposes only, and not surveyed out in town lots, nor has any part of it been sold for town use. Now can the town lawfully collect a higher rate of tax than is collected by the township on the other part of the farm of the same value, if not, what must A do to defend himself?

2. Also Government toll road running through the townships. About nine years ago it was condemned by Government Inspector. Still collected toll for two years to amount of about \$2,500. Then the townships bought the worn out road. Now can the township council come on the Government for the money collected at the toll after the road was condemned, it being nine years since?

In your issue of February, 1897, you claimed that a party working for a railway company and living in the company's house gets assessed as tenant, and not rated for any sum is entitled to vote at municipal elections. What qualifies him? They were not allowed on voters' list in our municipality last year.

1. The mode of assessing such lands and the remedy of the person complaining are fully provided for by sections 8 and 29, Assessment Act, chapter 224, R. S. O., 1897.

2. No.

3. In answering the question referred to we assumed that the property was assessed for sufficient. We cannot understand why the assessor should have put the occupant's name on the roll as tenant if he was not assessing some property. If he put the name in the roll assessing no property, what was the object of it? If the assessor assesses a piece of property against the owner, and he at the same time places the name of the tenant or

occupant on the roll, why is that not a rating, and if the property is of sufficient value why is the occupant or tenant not entitled to vote? If, however, the assessor did not assess the house and land in connection with it at all, or if he did, that it was not of sufficient value to entitle the tenant to vote, then you are no doubt right. This question can be very easily brought before the county judge on appeal and in that way you can obtain a judicial decision upon the point whether an occupant or tenant, who occupies a house owned by a railway company which is assessed for such house and which house is of sufficient value for voting upon it, and the name of the occupant or tenant is also upon the roll in respect of it is or is not entitled to vote.

#### Assessment for Cut-Off.

143.—J. P.—1. Is there any other authority for "Assessment for cut-off" than that given in section 65 Drainage Act of 1894?

2. Does water which was admittedly diverted from its natural course by means of large ditches into a large drain form "a flow of surface water" to the lands along the large drain into which it is diverted and which overflows in very high freshets?

3. Are the lands along the aforesaid drain liable for "Assessment for cut-off" for a new drain which restores the water alleged to in question 2 to its natural course, but in no other way affects said lands?

1. No.

2. Yes.

3. Yes, making due allowance for prior assessment if any. Where a drain cuts off a body of surface water from certain lands, those lands should be assessed for benefit. If the course of that drain is changed, or if it has to be extended, any additional assessment upon the lands already assessed for benefit by reason of cut-off, must be made with due regard to the prior assessment so as to avoid a double assessment.

#### Assessment of Lots Under License of Occupation.

144.—X. X.—Booming Company sold certain lots of land under license of occupation from C. L. D.

1. Are said lots liable to assessment in incorporated township in Muskoka and Parry Sound?

2. Can they be put on resident roll if company is non-resident?

1. Yes, for their actual value, provided the Crown has no interest in the lands, but if the Crown is still interested in the lands they should be assessed for the actual value of the interest which the owner of the lands has in them.

2. No, unless the company has a legal place of business within the municipality or gives notice requiring the lands to be as the lands of residents, pursuant to section 3, cap. 224, R. S. O., 1897.

*We desire to remind our correspondents that answers will only be forwarded by mail when a stamped envelope is enclosed with question.*

#### Injury to Pipes by Electrolysis.

Many towns and cities in Ontario are installing electric railways. The overhead trolley system is used in every instance. In some agreements, the company is bound to make provision for the return current so as to prevent damage to water pipes by electrolysis, but these cases are the exception and even then no effort is made to see that such provision is made and maintained.

In connection with the installation of electric railway systems this matter is of vast importance and should be carefully studied. When entering into an agreement every precaution should be taken to provide against its ruinous effect. Water mains and services cost the municipality too much money to allow their destruction to be rapidly brought about by the establishment of another public service, when with care, the injury could at least be largely averted.

To prevent damage to the city's water pipes from electrolysis, the street car companies of Chicago equip their trolley lines with copper wire circuits. City Electrician Ellicott has reported to the mayor, the result of experiments made to determine the effect of the extended electrical current from trolley lines on water and gas pipes in various parts of the city, and in nearly every case the pipes showed serious damage from electrolysis. In many places the pipes were literally honeycombed.

Electricity is something of which we as yet know but little. We do not know what it is, we merely know a few of its effects. The closer study of electrolysis indicates that decomposition of water and gas pipes takes place chiefly at the point where the electricity leaves the pipe, not where the electric current enters or traverses the pipe. It would seem as though the damage in such a case might be trifling, but we know further of electric currents, that they enter the ground at all points along the line of a street car railway, that they travel along the lines of least resistance, that the least resistance is offered usually by iron pipes, particularly water pipes, that these currents do not enter the pipe at a particular point and leave at no one point, but leave the pipe largely as they enter it, at various points. The damage done by these currents leaving pipes may be very small or it may be very great, depending upon the strength of the current, and should be guarded against.

It can be guarded against almost perfectly by introducing a return wire to complete the circuit, instead of depending upon the ground to conduct the current back to the power house. Few companies installing electric railways, are willing to go to this expense, but the saving in current resulting from a complete circuit would largely offset this expenditure, at the same time preserving the rights of others whose capital, invested in water and gas mains, is as sacred as that of a street car company.

## Public Libraries in Police Villages.

1. The Public Libraries' Act is amended by inserting therein after section 4 thereof the following as section 4 (a) :

4 (a) Not less than thirty electors in a police village may present a petition to the township council praying for the establishment of a public library under this act and on the receipt of such petition, the township may pass a by-law giving effect to such petition, with the assent of the electors of the police village qualified to vote at municipal elections, obtained before the final passing of the by-law, as provided by the Municipal Act.

2. The public library board in a police village shall be composed of the police trustees and two persons appointed by the school trustees of the school section or each of the school sections comprised in, or forming part of the police village and two persons appointed by the separate school board, if any, having jurisdiction in the police village.

3. The council of the township in which a police village is situated and in which a public library has been established under the provisions of this act, in addition to all other rates and assessments levied and assessed for municipal purposes in the police village, shall levy and assess from year to year a special annual rate sufficient to furnish the amount estimated by the board of management to be required, as provided in the Public Libraries' Act, but not exceeding one half of a mill on the dollar upon the assessed value of all rateable, real and personal property in the police village, such rate to be called the "Public Library Rate."

## The Ontario Voters' Lists Act.

3. The Ontario Voters' Lists Act was amended at last session by adding thereto the following section :

92.—(1) The clerk of the municipality shall keep a book in which he shall enter particulars showing the day on which the copies of the alphabetical list were posted up by him and were transmitted to each of the persons mentioned in sections 8 and 9 and also whether such copies were delivered personally or transmitted by post. There shall be added to each such statement of particulars an affidavit or statutory declaration verifying the same.

(2) Any clerk who fails or omits to comply with the provisions of this section and of sections 8 and 9 shall for each omission incur a penalty of \$200 and shall also be liable to be imprisoned for a period not exceeding three months in default of payment.

We are prepared to supply the cash books for treasurers of school boards for \$2.50, and for treasurers of rural school sections for \$1.00. These books have been approved by the Lieut. Governor in Council, and are similar to the municipal cash books.

## Publications Received.

*Auditors' Report, Township of Arthur.*  
George Cushing, Clerk.

*County Council Proceedings, County of Wellington, 143rd and 144th Sessions.*  
James Beattie, County Clerk.

*Financial Statement, Township of Ennis Killen.* G. V. Wynant, Clerk.

*Financial Statement, Township of Mari-  
posa.*

This pamphlet, issued after the 15th December meeting, 1897, contains 56 pages, and is the most complete Township Statement we have received.

*Proceedings of Welland County Council,  
December Session.* R. Cooper, Clerk.

*Report of P. S. Gibson & Son, En-  
gineers, Township of York, 1897.*

This is the only township in the province in which road improvement, etc., is under the supervision of an engineer. The report shows that the township is divided into commuted and statute labor districts—the latter, 34 in number. The work in the commuted districts is done by eleven foremen, under the engineer, the foremen employing assistants when required. Ordinary repairs are done by day labor. After the statute labor is performed, the engineer has, in many cases, to assume the further necessary repairs, and in doing these the pathmasters are generally instructed to attend to the work and send accounts to the engineer. Considerable money was spent in draining and turnpiking, two graders being used. This class of work was done by day labor, and generally by ratepayers in the locality of the work. Some complaints were made as to the turnpiking being too high and narrow. This was necessary to raise the road to allow for settlement when used, and narrow to secure good drainage and also to lessen the cost of maintenance, and much less gravel or stone will be necessary to secure a fair road. These turnpiked roads can be easily widened when traffic requires it.

The use of traction engines in the township causes much injury to the bridges and culverts and the roads require continual inspection during the threshing season to protect the public from accidents, as the drivers make no pretence to repair the damages or put up guards. The report states that under the circumstances it will be necessary in future to build stronger bridges and culverts and strengthen old ones if the council assume the responsibility. The engines weigh about 7 tons and with heavy driving wheels armed with their deep mud-hooks make bad work on wooden structures. The opinion of the Township Solicitors as to the responsibilities of the owners of these engines was as follows :

P. S. GIBSON & SON,  
Township Engineers,  
Willowdale.

SIRS,—In reply to your favor of 9th inst., in reference to the rights of parties to run traction engines for threshing machines over township roads we beg to say :

By section 10 of chapter 200, R. S. O., 1887, it is enacted that "before it shall be lawful to run such engines, (referring to traction engines mentioned in the preceding section of the act) over any highway whereon no tolls are levied, it shall be the duty of the person or persons proposing to run the same to strengthen at his or their own expense, all bridges and culverts to be crossed by such engines and to keep the same in repair so long as the highway is so used."

S. S. 2. "The cost of such repairs shall be borne by the owners of the different

engines in proportion to the number of such engines run over such bridges or culverts."

Section 16 of said act enacts: "That if any person contravenes the act and such contravention is duly proved by oath of one credible witness before any Justice of the Peace, having jurisdiction within the locality where the offence has been committed, the offender shall incur a penalty of not less than \$5 nor more than \$25." In the discretion of such justice, with costs, section 17, 18 and 19 provide the remedy and manner of recovery of such fines and application of same.

Yours truly,  
BULL & MERRITT,  
Township Solicitors.

As a result of the use of such engines many culverts and the plank of bridges which are quite safe for ordinary traffic are made dangerous in a short time. If the drivers would lay plank lengthways over culverts and bridges for the driving wheels to run upon, they would cause less damage.

There are eleven miles of street railway and forty-eight miles of sidewalk in the township.

As soon as the Revised Statutes are ready to be delivered we will notify every clerk, stating price, etc. We have already booked a large number of orders.

The common road is to the farm wagon what the steel track is to the locomotive.

\* \* \*

Wagon manufacturers are turning out farm wagons, some of them with metal wheels, having tires four inches wide.

\* \* \*

Mayor Boyton, of Port Huron, Mich., is actively interested in the Good Roads Association lately organized in that town.

\* \* \*

Agitate to arouse public sentiment; diffuse information to strengthen and confirm it, and organize to make it effective.

\* \* \*

Every agricultural paper in the country which is alive to the interest of the farmers ought to conduct a Highway Department.

\* \* \*

Good intentions, loud professions and gilded promises build no roads. Thorough organization and persistent labor alone can secure them.

\* \* \*

Hard roads yield large returns when intelligently constructed and suitably cared for. It is only when badly made and shamefully neglected that they prove an expensive luxury.

\* \* \*

Turnpike companies have killed the goose that laid the golden egg. They have failed to read aright the signs of the times, and their sources of income will be taken from them.

\* \* \*

Nothing is more ruinous to a macadam road than water. Ruts hold water, and therefore, should never be allowed to exist. To guard against their formation and development is one of the principal parts of proper care of a roadway.