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Calendar for September and October, 1903.

Legal, Educational, Municipal and Other Appointments.

SEPTEMBER.

1. High Schools open first term.—High Schools Act, sec. 45. Public and Separate Schools in cities, towns and incorporated villages open, first term.—Public Schools Act, sec. 96 (2); Separate Schools Act, sec. 81 (2).

2. County Model Schools open.

5. Make returns of deaths by contagious diseases registered during July.—R. S. O., 1897, chap. 44, sec. 11 (4).

7. Labor Day.

15. County selectors of jurors meet.—Jurors' Act, section 13.
Last day for county treasurers to return to local clerks amount of arrears due in respect of non-resident lands which have become occupied.—Assessment Act, section 155 (2).

20. Clerk of the peace to give notice to municipal clerks of number of jurymen required from the municipality.—Jurors' Act, section 16.

OCTOBER.

1. Last day for returning Assessment Roll to Clerk in cities, towns and incorporated villages where assessment is taken between 1st July and 30th September.—Assessment Act, section 58.
Last day for delivery by Clerks of Municipalities to Collectors, of Collectors' Rolls, unless some other day be prescribed by by-law of the municipality.—Assessment Act, section 131.
Notice by Trustees of cities, towns, incorporated villages and township boards to Municipal Clerk to hold Trustee elections on same day as Municipal elections due.—Public Schools Act, section 61 (1).
Night Schools open, (session 1903-1904).
Ontario Normal College opens.
Last day for passing resolution by Boards of Separate School Trustees in urban municipalities adopting voting by ballot at elections of Separate School Trustees.—Separate Schools Act, section 32. sub-section 1.

NOTICE.

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The Municipal World

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K. W. McKAY, Editor,

A. W. Campbell, C. E. } Associate
J. M. Glenn, K. C., LL.B. } Editors

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ST. THOMAS, SEPTEMBER 1, 1903.

Mr. G. H. Larocque has been appointed clerk of the village of Casselman to succeed Mr. J. A. Riddell.

* * *

Mr. N. H. Young has been appointed clerk of the village of Blyth to succeed Mr. T. W. Scott, resigned.

* * *

Mr. Wm. McIntyre, of Grand Valley, has been appointed clerk of the township of East Luther, in the place of Mr. J. D. Watson, who has resigned with the intention of removing to Western Canada.

School Exemption Regulations.

Under the provisions of section 4a added to the Assessment Act by subsection 1 of section 1 of the Assessment Amendment Act, 1903, special conditions for the exemption of private schools and colleges were drawn up by an order-in-council passed on the 21st August last. The regulations are as follows:

A copy of the calendar or prospectus of the institution must be furnished to the Education Department. The approximate value of the property for which exemption is claimed shall be duly certified to. Exemptions cannot be claimed for any property not in bona fide use for school purposes. Incorporated institutions giving instructions to pupils in training solely for philanthropic and benevolent work without expectation of gain to the members of the corporation shall be exempt. The attendance of pupils of school age pursuing the obligatory subjects prescribed for public, separate or high schools must not be less than 25. A certificate as to sanitary conditions of the schools must be furnished by a physician.

Business corporations under the designation of schools or colleges formed for the primary purpose of gain, whose students are mainly adults taking special limited courses only, are liable for assessment. A statement of the annual receipts and expenditures and such other information as the Minister of Education may require shall be furnished to the Department of Education on or before February 1 in each year. These regulations are provisional, and are valid only for the present year.

Union School Section Arbitrators.

From a newspaper report of the meeting of the council of an eastern township, we learn that it appointed its clerk as an arbitrator to participate in the formation of a union school section, to be composed of part of the township of which he is clerk, and the adjoining municipality, under section 46 of the Public Schools Act, 1901. Though the Act does not, in express terms, prohibit a council from appointing its clerk to act as an arbitrator under section 46 of the Act, we consider it unwise on the part of such council, to appoint this official to fill the office in question, as there is a strong possibility of its being an invitation to litigation. It is always best in a case of this kind, to fill the office by the appointment of some competent person, who has no interest directly or indirectly in the subject matter of the arbitration.

Time for Effecting Change in Composition of County Councils.

In a recent issue of a contemporary in an editorial comment on the section (68a) added to the Municipal Act, by section 14 of the Municipal Amendment Act, 1903, providing for a change in the existing composition of county councils, we find the following:

"If the municipal electors of the county desire to take advantage of this change in the composition of the county council in time to take effect *next January*, preliminary steps should be taken at an early day; and it is likewise up to the local town, village and township councils to pass the necessary resolutions and file the same with the county clerk, as provided by the above amendments."

In this same connection the council of a western township has passed the following resolution.

"That the county council of E. be composed, in 1905, of the reeves of townships and villages and the mayors of towns not separated from the county, in accordance with section 68a of the Municipal Act, 1903, instead of representatives of the county council divisions, constituted under County Councils Act, chapter 223."

The above extract is misleading, and the resolution quoted was passed prematurely. Sub-section 1 of section 68a provides that if the council of any local municipality within a county, so desires, it may, at a special meeting called for the purpose pass the resolution therein mentioned "and may cause a copy of such resolution, duly certified by the clerk and head of the council, under the corporate seal, to be deposited with the clerk of the county, on or before the first day of October, IN ANY YEAR IMMEDIATELY PRECEEDING A YEAR IN WHICH COUNTY COUNCILLORS ARE TO BE ELECTED UNDER THIS ACT." There can be no general election of county councillors under the Act, until January, 1905. The year immediately preceeding it is 1904. Therefore, the change provided for by section 68a cannot come into effect until the year, 1905, and the resolution required to bring it about, should not be passed by local municipal councils until the year 1904, and should be filed with the proper county clerk, on or before the 1st day of October in the year last mentioned.

Municipal Waterworks.

Municipal ownership of waterworks is becoming general in the United States. There are now but nine cities in the Union with over 100,000 of population whose waterworks are still under private ownership. These nine cities, according to Engineering News, are San Francisco, New Orleans, Indianapolis, Denver, Paterson, New Haven, St. Joseph, Omaha and Scranton. Two of these, Omaha and New Orleans, are already committed to municipal ownership. There are 97 cities with populations ranging from 100,000 to 30,000, and of those nearly 70 own waterworks, while a number of others are making more or less rapid progress toward municipal ownership. In discussing the cause of the drift to municipal ownership, an exchange says, "that a water supply is so essential to the general prosperity of a community, and so closely related to the comfort and health of every citizen, as to give rise to a strong feeling that its supply should not be intrusted to those whose primary object is profit."

There has been some agitation of late years in different sections of the Province for the publication of the Assessment Rolls of municipalities. In this connection a gentleman of experience recently made the following statement to the Belleville "Intelligencer":—"I believe that the only places where strictly correct and satisfactory assessments are made, is where the assessors' rolls are printed for distribution among the taxpayers. There is nothing like publicity to bring about the correction of abuses. As it is now not one man in a hundred cares to take the trouble to go and look at the assessors' rolls to see what other people's assessments are, but with the roll printed a surprising amount of interest is speedily shown. I know places where this is done, the township of Pickering, for example. People there told me they never had a thoroughly satisfactory assessment till the roll was printed, and I don't believe we will ever have one in Belleville till the same thing is done."

Ontario Municipal Association—Annual Meeting at Guelph.

(From the News, Toronto.)

The annual meeting of the Ontario Municipal Association was held at Guelph on the 12th and 13th August Thirty-five delegates were in attendance, representing eight cities and eight towns. Mr. Robert P. Slater, of Niagara Falls, president of the Association, presided.

The delegates were strongly opposed to the Assessment Act prepared by the Commission and submitted at the last session of the Legislature.

Being informed, however, that representations as to the principle would not be considered, the Association was placed on record in the following terms:

"That this Association, having considered Bill No. 112, respecting municipal taxation, proposed to be introduced by the Provincial Government, and having carefully considered the same, so far as it affects the assessment of property, consider that the bill should not be passed in its present form, or in any similar form, as it is now reasonably clear that the taxes under it will not enable the municipalities to pay their way unless by increasing the general taxes far beyond the former limit of two cents on the dollar, and so making the taxes to property owners far beyond the ability of the average taxpayer to pay."

The amendments suggested were to provide for the taxation being (1) upon real property; (2) by a business tax similar to what is provided in the bill, but to be applied to all trades, businesses and professions, and that the rate be increased and graded so as to be equitable between the retail and wholesale dealers; (3) by an income tax upon all persons whether engaged in business or drawing same from private or other sources; the taxation on the real property and income to be as fixed by each local municipality; (4) by a house tax, and that the proposed exemption thereon should be reduced and the rate for determining the annual value increased.

INFORMATION FOR MINISTERS.

In order that the Government might be fully informed as to the effect of the new taxes, the following instructions were given to the secretary by resolution: That the secretary be requested to procure from the local municipalities in Ontario affected by the proposed Assessment Act such data as may be considered necessary to determine what exemption should be made in the proposed house tax, the rate to be used in determining the annual value of the property occupied, and the available taxation from the business tax, with a comparison of the income derived from the present and proposed systems and an expression of opinion as to the desirability of passing the whole bill.

LACK OF INTEREST.

The comparative lack of interest displayed by the municipalities in the work of the association was deplored by many delegates. Ald. Hubbard particularly made a strong appeal for the adoption of measures to strengthen the organization. The need of this is apparent when it is said that of the 150 municipalities that are eligible for representation, only 16 sent delegates, and that, instead of 150 present there were but 35. Some cities sent three or four, and showed a genuine interest in the work of the association, while others either had never taken any interest, or it had waned and vanished.

MUNICIPALITIES IN DANGER.

Several delegates spoke strongly about the aggressions of corporations, which made united action on the part of the municipalities necessary. Ald. Leitch was emphatic upon this line, and urged increased diligence on the part of the officers of the association in enlarging the organization. It was this gentleman who suggested the employment of special officers at Toronto and Ottawa for the purpose of examining all legislation introduced, and warning those whose interests were jeopardized thereby. Mr. Leitch wanted the association to appoint such officers, but the question of funds stood in the way.

PERMANENT DELEGATES.

Another excellent suggestion that came from Brantford was for the appointment by municipal councils of a permanent official to act as a permanent delegate to the conferences of the association. By that method continuity of service would be secured, and a proportion of the delegates having expert knowledge on some branch of civic administration would gain experience year by year that would be of the utmost value to the association Being a permanent delegate, such an officer would keep the association constantly before his council and thus materially strengthen the association, and greatly advance its purposes. The secretary will bring this suggestion to the attention of the councils officially.

CHANGES IN POLICE BOARDS.

In some of the Provincial cities the Police Commissioners have made themselves disliked by their autocratic actions, and there is a disposition upon the part of the people's representatives in municipal councils to make them more responsive to public sentiment. To this end a resolution was presented providing "That municipal councils may appoint two persons (not members of the council) on the Board of Police Commissioners in addition to the Mayor, the County Judge and the Police Magistrate who now constitute the Board."

The idea originated with Mayor Burgoyne, of St. Catharines who recited at length the long-continued friction between the Commissioners and council of that city. He declared that the members of the Police Board paid no attention to the council, defied the press and set at naught public opinion. He read from the statutes a clause of the Municipal Act empowering towns to dissolve Police Boards and administer the police force by a committee of the council. He went so far as to advocate the extension of that clause to the cities, but in deference to the opinions of other members of the Committee on Resolutions he had consented to the milder terms of the resolution.

POLICE IN MUNICIPAL AFFAIRS.

A long discussion ensued upon the clause, ex-Mayor Kennedy, of Guelph, opposing flatly and vigorously any recommendation looking to the placing of the police force, wholly or in part, under the control of the city councils. He described it as a retrograde step in municipal government, and wanted the clause struck out.

A fellow townsman, Ald. Carter, claimed the privilege for cities to dissolve the Police Board, so that it would be made more amenable to public opinion. He told of insults suffered by the city council of Guelph as a reason for desiring to have more influence on the Commissioners.

Mr. D. M. McIntyre, city solicitor of Kingston, where there has also been friction between the Commissioners and the Aldermen, and who is the author of the resolution, emphasized the need of a change in the constitution of the Police Boards, and believed the Legislature would readily listen to representations made in the proper spirit. He opposed an amendment offered by Ald. Woods of Toronto, providing for the appointment of two members of the city council as Commissioners, on the ground that it would tend to throw back into the hands of municipal councils a measure of control of the police, which would be a retrograde step in the management of the force. The clause had been framed to avoid the appearance of bringing about that end, while making the Board more sensitive to public opinion.

It was finally decided to strike out the works "not members of the council," and to leave the recommendation so that it would be optional with municipal councils to appoint two of their own members or two independent ratepayers.

These were the two matters of deepest interest dealt with, but the delegates came with other ideas in their heads, and these were crystallized by the Committee on Resolutions in the report they presented in a series of ten resolutions, as the result of two lengthy conversational sessions on Wednesday afternoon and evening. The first of these resolutions was as follows:

FIRE INSURANCE ASSESSMENT.

"That in cities and towns fire insurance companies be required to file annually on June 1, with the clerk of the municipality, a sworn statement showing

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Engineering Department

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

Modern Road System.

At this season when the roads are all dry and in good condition, little interest is taken in the question of road-building. Fortunately during the long season of summer the roads in this country are all fairly good, and unfortunate it is that this condition is lost by the early rains of autumn, to remain in some sections very bad almost continually until the return of summer, with the exception possibly of the few weeks during which they are made firm by frost or covered by snow. When the roads are bad in spring and fall the greatest interest is taken in the question, and the people are almost prepared to accept any suggestion at that particular time that will tend to make these roads better. This interest, however, is, pretty generally speaking, spasmodic; it comes to us only when the roads are bad, and at that time when we are obliged to wait for them to dry up before anything can be done. When this time arrives they are then in such good condition that we are not willing to undertake any extra expenditure, being contented with their then condition. We are very much in the position of the man who could not put the roof on his house while it was raining, and did not require a roof when the weather was dry. Our roads generally will not be improved until we take up the question as a business proposition and lay down some regular and systematic plan for doing the work in a uniform way, making such an expenditure each year as our means will admit. The work should be done at such time as it can be most profitably performed, whether it be in June, September or January, or partly in each of these seasons, and then by providing some simple but competent method of keeping these roads in repair. It almost appears that the people think they have no right to consider questions of road-making at this season, because the season of road-making is past. June is the month in which the work should be done, and our work was then performed. Why should we be asked to give it any further thought until the return of the road-making season in June next? Councillors and others who are familiar with the question know that the amount of labor and money now being expended upon our roads is very large. That the people are contributing very generously to this work; that in many sections where an interest is taken a large amount of work is annually performed, often by statute labor, and much very inexpensive work is done under contract, but to the real student of road-making, to those who measure the results that should reasonably be expected for that expenditure, it is a regretable fact that more substantial good is not accomplished. It is not always that labor is not fully expended and money justly earned or contracts fully completed that is responsible for poor results, but that the work is not properly performed, that proper materials are not used, and that implements sufficient to do the work easily, cheaply and well are not employed. In addition to this there is that want of system that should provide for giving to these works that have been performed that amount of constant attention that is so absolutely necessary to a proper condition of the roads, and to a wise direction of the investment that is annually being made, and that is annually growing into an enormous outlay for road construction. Roads cannot be built without cost, as no other work can be carried out without cost, and whether the tax be one of labor or money the results are the same. Labor costs money, and wherever men spend of their own time in working on the road, they must withdraw that time from their legitimate occupation, and that at a season in the month of June, when the few days taken from their farm work effects possibly the result of a large portion of their crop. It is idle to say that the people of Ontario have days to spend upon the roads, when they haven't got dollars, in a useless attempt to justify the statute labor tax. There was a time when labor was plentiful that this statement was justified, but the scarcity of men even to perform ordinary farm work is materially interfering with the success of many farmers, and in many sections this year where the statute labor system still holds, the work has been practically a failure, and clearly demonstrates the incompetency of the system. Where all the attention of the farmers at that busy season in the month of June is required upon the farms, and where so much depends upon their close attention to this work, it can hardly be expected that people will drop everything and go out and perform their statute labor, and with the high cost of labor and its scarcity, people can almost be excused for refusing to do their statute labor, especially at that particular season. In some instances this year we find that the system has practically been winked at in a sort of organized way, and the improvement to the roads so far as statute labor is concerned has amounted to little or nothing. On the other hand, even where the statute labor system has been abolished or the tax commuted into money, it has been very difficult to secure teams and men to do the work that has been laid out, and at least the labor that has been available, has not been of the most desirable class. Consequently almost a new condition has been created in this country by the labor market, and much alteration will of necessity have to be made, even in our present much improved road-making system. Many townships are now discussing the wisdom of having a complete outfit of machinery placed in the hands of a regularly employed gang of men, whose services will be maintained by the inducement of constant employment. This gang need not be large, but the work which they are to perform should be so arranged that it may be continued throughout the open season of the year. Provision should be made as far as possible for crushing and hauling stone, hauling gravel and other such material during the winter months or slack season and having it deposited in large heaps or beds along the roadways wherever repairs are to be made, or new work constructed. This work of hauling should engage at least the whole of the statute labor. The work of grading, making pipes for culverts, repairing culverts, opening and cleaning drains and outlets, and the distributing of material to where it is required, should be done by the regularly employed men. It is urged by some that hauling the material in winter means double handling and increased cost, but with the many benefits resulting from the storing of material in piles along the way and distributing this at seasons when it will do the most good is taken into account, this contention must fall to the ground. Again, it is clearly manifest that the work cannot be done at the busy season of summer, and it is clearly manifest that the slack season of winter must be designed for this purpose. The many benefits which must be expected from the constant attention given to the roads and the securing of the work being constantly performed by trained and experienced men with a complete outfit of necessary implements will soon prove to the ratepayers the cheapness of such a system, and the gradual improvement in the condition of the road will very soon demonstrate the economy of the change.

Roads should be repaired, not once a year, nor twice, but as soon as signs of wear appear. Ruts should not be allowed to form in a gravel or stone road when once properly constructed, but the material should be kept in place by a constant use of the rake. This is especially necessary if gravel or stone is placed loosely upon the road and left for traffic to consolidate. Settlements and hollows should not be allowed to hold water and create pitch-holes for the want of a load of metal. Drains should not be allowed to become obstructed, thereby saturating and softening the whole roadbed. Culverts should not stand full of water to be burst by the expanding ice because of a neglected outlet. An almost inexhaustable list of these every-day occurrences could be mentioned, which in themselves apparently trifling, become in the aggregate of very great importance. Road-making is made up of details, none of which can be overlooked, except at a loss.

The overseer should give immediate attention to all emergency work rendered necessary by washouts, etc., either by personal or hired labor. He should be able to send a man over the roads as often as necessary to repair the effect of ordinary wear. Better still, a man should be employed to devote his whole time to a certain mileage of roads, to make repairs as they become necessary. Every farmer, too, should appreciate the value of good roads sufficiently to voluntarily devote time to the roads passing his property, rather than permit them to become bad or impassable because of neglect.

It is one of the great advantages of the new system of road management being adopted by townships and counties, that men can be employed to work on the roads whenever and wherever needed. Neglect to keep the surface of a road smooth and in repair permits it to break up badly in the spring and fall, and the gravel or stone is largely wasted, being mixed with the mud from beneath. When this occurs a comparatively great expenditure is needed to make the road as good as before.

Watering Troughs on Public Highways.

It is very gratifying to one who has occasion to travel much through the country to observe the number of watering troughs that are being erected along the highways. In some sections these troughs are erected systematically wherever a suitable supply of water can be provided. To the users of the highway these troughs are very attractive, inasmuch as they provide the greatest pleasure to people who can see their horses agreeably refreshed while travelling on a dry and dusty road during the hot days of summer. It is an extremely humane act on the part of the people, and where the expense is not great, those who contribute to the erection of these water troughs feel many times repaid, while not using the troughs not more than once or twice a year. As a general thing these troughs are erected by private subscription, while in some instances the work is being done by the municipal council. Municipal councils generally could well afford to undertake a regular system of water supply throughout the township, and the small amount that would be necessary to contribute each year for this purpose would not materially influence the tax rate, and the benefit resulting would equal many times the outlay. In most localities in central and eastern Ontario, where the land is rolling, springs are found pretty generally on hillsides, many of them along the roadway, and others not far distant; in such cases a small amount of ordinary gas pipe and a wooden trough costing not more than twenty dollars is sufficient. In some counties in southern and western Ontario, where the land is flat, more difficulty would be experienced, and no doubt it will be some years before people will go to the expense of supplying such public convenience. There is, however, little or no excuse for immediate action in three-quarters of the Province, and municipal councils should give this matter careful thought, and erect if possible one watering trough each year. Once this work is started and its benefits realized it will grow in public favor, and in a very few years watering troughs will be distributed throughout these municipalities.

Bridge Building.

The bridge just completed across the River Thames between Elgin and Middlesex, at the joint expense of these counties, is a splendid sample of modern bridge design and construction, and is worthy of the study of those who are interested in but not familiar with the details of such structures and the handling of cement concrete in similar works. The bridge is a single span of two hundred and forty feet. The abutments are made of cement concrete with wing walls of the same material to retain the earth approaches. The super structure is of steel. The roadway is sixteen feet wide, and the flooring is cement concrete laid on expanded metal. Cement concrete or stone masonry is now being pretty commonly used in the construction of highway bridges, and in order that no perishable material requiring frequent and expensive renewals will enter into the construction, cement concrete is also being used for the flooring. These materials have been used to a considerable extent in western Ontario, and where good practice and experienced workmen have been employed excellent results have been reached. The use of cement concrete by municipalities in Canada is of quite recent date, consequently people skilled in the manipulation and use of this very sensitive but substantial material are scarce. Mistakes are made and the use of such material often condemned by those in charge of the work not being sufficiently posted in its use to see that the work is properly done, and in order to gain this experience, it is well that successful work should be visited and information obtained from those who have had charge in order that no failures will result, and that all moneys expended in this class of substantial work should be profitably managed. When timber of the best quality was cheap and plentiful, wooden bridges were more economical, but with the growing scarcity of timber, increased price, poorer quality, more durable, even if more expensive materials, will be found to be the cheapest, and of necessity must be employed. Wooden bridges supported on piles do not last more than from eight to ten years, during which period a considerable amount has to be expended in repairs. Cement concrete piers and abutments, if well built, should last at least a century, while the steel super-structure with proper attention should last half that time. Although the initial cost of a wooden bridge may be only one half that of steel and concrete, the latter will in the end be the cheapest; in addition it will be safer, less liable to collapse, and will be more convenient for traffic. Well-made concrete is cheaper and fully as durable as stone masonry, but just as the cost of masonry varies at different localities, in accordance with the cost of stone, length of haulage, labor, etc., so the cost of concrete will vary according to the cost of gravel or broken stone used, length of haul, cost of cement and labor. For piers and abutments the average cost of concrete is five dollars per cubic yard as compared with stone masonry at about twelve dollars per cubic yard. Generally speaking concrete costs about one-half that of stone masonry. While attention has been given to the building of the sub structure of suitable material, and while much attention for years has been given to the use of iron and steel in superstructures, the flooring has usually been made of wood. This being perishable, the cost increasing and the quality degenerating, has reduced the life of such material, and has proven the maintenance so expensive that municipalities have been compelled to look for some more substantial material. Cement concrete is now being used as successfully in the flooring of bridges as in the building of sidewalks in cities and towns, and where materials have been selected, where the proportions have been carefully measured, and where the mixture has been properly made and the material carefully and successfully laid, cement concrete is an absolute success, and none need hesitate to adopt it for this purpose. Where cement floors are used the bridge must be designed of a slightly greater strength to provide for the additional dead load. The cement concrete is supported on a net work of expanded metal placed over the joist. The floor should be about six inches in the centre, gradually tapering off to four and one half inches at the sides. The surface layer of one and one-half inches in thickness should be composed of one part of cement to two parts of sand and crushed granite, the sand being sufficient to fill the voids. The remaining portion should be composed of one part of cement, two of sand and three of broken stone, granite or lime stone. The cost of cement concrete floors when first undertaken in Ontario was about forty cents per square foot, but this, however, has been reduced to about twenty-five cents per square foot. Concrete increases considerably the dead weight of the bridge, but this more than compensates for all the extent to which it distributes the live load. With a plank floor the weight of every vehicle passing is transmitted to the individual members of the bridge, causing a constant jar and distortion that is very trying to steel. With concrete, on the other hand, a more staple and continuous mass is created,

and the weight of the vehicle is consequently spread over a much greater area. In this way the injury to bridges is much less with the concrete than with the plank floor.

Heating County Buildings.

Much improvement is being made in the character of county public buildings. Many counties have abandoned the old structure and have built new, large and spacious ones. Other counties have partly torn down, remodelled and extended their old buildings. Durable and substantial structures are being provided, embodying ample space and modern conveniences. Much thought and study has been given to the outward effect and design, to the materials that are being employed and to the dividing up of the interior, and it is an unfortunate thing that the same success which attends the efforts in every other particular should be so wanting in the matter of heating and ventilation. Possibly no problem to-day in connection with public buildings is of greater importance and at the same time less understood than that of heating and ventilating. There are those who profess to have made a special study of the question of heating, while others claim to be experts in the matter of ventilation. If these claims are well founded the number so posted in these subjects are few, otherwise their opinions are not solicited, because, generally speaking, our buildings are extremely defective in these respects. The heating is essentially part of the building, and the ventilating is essentially a part of the heating. These two matters cannot be separated, they must be considered conjointly. To understand the one subject necessarily involves the study of the other, and these matters become an essential part of the building, and should be considered in connection with the design. The architect should be as conversant with matters of heating and ventilating as with the strength of the materials, how they should be shaped, and how placed in the work. To be successful in his design means that he should fully understand these problems, otherwise how can an architect properly design a building if certain elements which necessarily form part of the construction, and must be provided for or against, are not understood by him. The plans of the building should be so drawn that the heating and the ventilating systems can be economically installed. The specifications for the building should provide for the construction of ventilating, heating and smoke flues, and the plans should show their location, including pipe lines of every part of the heating apparatus. The general plans of the building should be assumed by the architect, and he held as responsible for the proper working of heating and ventilation as for the proper building of the roof. If the heating system is designed at the same time as the building it will cheapen materially the construction and add to the efficiency of the operation, the general appearance of the apparatus, etc. The heating apparatus may be so skillfully designed as to bring the air to a certain required temperature, but if the ventilation is not carefully provided for the apparatus cannot be operated economically, nor can the temperature in the building be maintained to that fixed degree of heat. The air will be unwholesome, the health of the occupants will be injured, valuable books, documents, etc., will be destroyed, the building itself will be affected, and much additional fuel will be consumed in an unsuccessful attempt to keep the building warm. A careful study of the outward design is necessary for external effect, careful selection of the materials employed is necessary to secure stability and permanence. In order to provide some substantial asset for the expenditure, much thought must be given to the internal arrangement so as to economize in space and provide suitable and convenient quarters for the occupants, but the question of heating and ventilating is one of such vital importance to all concerned that the greatest amount of care should be given to it while planning new buildings or remodelling old ones, and any existing buildings where these matters are now defective, immediate steps should be taken to have them remedied, and in doing this, services of the most experienced nature should be employed.

All heating plants are constructed by contractors, who agree for a specified sum to install a heating plant in accordance with plans and specifications, and in the absence of specifications one which is guaranteed to fulfill certain stipulations as to warming and ventilating up to a certain degree at the zero weather. Specifications are usually prepared by the parties submitting the proposal. Where each contractor bids on his own specifications and arranges for the apparatus in accordance with his own judgment, there will be a very great difference in the quality and method of construction proposed, which is likely to result to the advantage of the contractor, who would, if possible, use cheap material, and the lowest quantity of heating and radiating surface. For these and other reasons it is to the advantage of all concerned that the plans and specifications should be prepared by a disinterested party, but the most important reason is that the plans should be designed by men, who have no other object in view than to install a system that will perform the work required, and that will be so complete in every detail as to easily maintain a uniform temperature throughout the building, and not consume any more fuel than should be required to create such a temperature. So much attention is now being given to this important matter of heating and ventilating that men are making it a special study, and where the architect in charge of the work is not competent to handle this phase of the question, he should, while preparing his plans, have in consultation one of such experts. Where the services of a capable and efficient man can be secured, the small amount paid for his services can be many times saved, possibly in one season, by the fuel saved by the competent and well-designed apparatus.

The Union of Canadian Municipalities.

The third annual convention of the Union of Canadian Municipalities is to be held at the city Hall, Ottawa, on the 16th, 17th and 18th of the present month. Every Canadian municipal council is invited to send a delegation of one or more persons. So many unions, conventions, associations are now being organized with the customary invitation extended to municipal councils, that these bodies are now confused as to which of these organizations, if any, they should belong, and as to what is the real object of so many conventions. A country cannot be better served than by having delegates from each district called together for the purpose of discussing questions of interest to the general community and where such meetings are held for the express purpose of honestly considering questions before the people much benefit should result, and no municipal council should hesitate to pay the expenses of such delegation. Those who have made a special study of the subject under consideration, should be asked in due time, to as briefly as possible, place before the meeting the fullest information in the form of a paper or essay. This is done for the purpose of placing the question broadly and fairly before the meeting and should form only the ground work for discussion. No delegate should hesitate to offer his views, and nothing should be done to limit the fullest and freest discussion. Complete notes of the business transacted should be taken and arrangements should be made for having the proceedings printed and liberally circulated. Where this is done good results. With the prosperous condition of the country at the present time, with the rapid advancement in its population, with the great demand for efficient facilities for handling the produce of the country and for the convenience of the people, the improvement of streets and roads, the necessity of improvement in systems of sewerage, drainage, water supply and lighting in places where only primitive methods are now employed. The demand for the enlargement, extension or alteration of these, in places that have outgrown their present facilities. The question of which of the many systems of sewerage, etc., should be employed. The generating and transmitting of electrical energy created by water powers for the cheaper lighting of street and houses. the operating of street railways. The supplying of cheap power to manufacturers. The revision of laws relating to taxation. The amendment of our municipal acts, and the

suggestions of new measures in keeping with the rapidly changing condition and requirements of the country, and many other such things are all worthy of our best thought and consideration. The list of subjects so far as notice had been given to be brought before the Ottawa meeting are the Canadian Municipal Movement, Town Improvements and Embellishment, Municipal Home Rule, Provincial Rights in Municipal Legislation, the present position of Telephone Legislation, Municipal Ownership, Level Crossings, Good Roads and Public Lighting systems.

It will be noticed at a glance that this is a pretty heavy programme, any one of the subjects requiring possibly one-half of the time of the meeting to discuss at all fully. Unfortunately for many such conventions the programme is so weighty and extensive that it is almost impossible to do more than hear lengthy papers read on the many subjects. The time for discussion is so limited that there is little for the delegates to do, but form an audience for the reader of papers or the champion of some pet cause. But often these associations are called together for a purpose not always designed in the interest of municipalities, but often for the purpose of passing some resolutions that will aid in advancing the platform of a few municipalities or their councils, or assist in securing an expression of opinion in favor of some private corporations that are working distinctly in opposition to municipal interest, or to create a feeling adverse to some political party. There is such a wide range of difference between things of interest to the largest city and that of the most remote township or municipality that it is practically absurd to make the call for a three day's convention a general one. Often cities appoint delegates to a convention where almost purely township matters are discussed, while, on the other hand, conventions frequently invite delegates from township and village municipalities, who can find no benefit whatever from the discussions, owing to the fact that the meeting is managed largely by the representatives from the larger places. In holding public conventions, municipalities should be classified according to their interest in the question to be considered. Regular invitations should be sent to these councils, and fixed representation properly credentialed should be drawn from each. Securing that whatever resolutions are passed will embody a sentiment fairly expressed by the municipalities interested. The programme of the Ottawa convention is an extremely important one and it would be unfair to attempt to dispose of each of the questions within the limited time. It is to be hoped that a few of those most important to the people of the present time will be selected and that ample time will be given for a thorough discussion, so that the result of the meeting will be of some substantial benefit.

Municipal Ownership.

Some idea of the extent to which the municipal ownership idea is extending in Ontario will be gleaned from the appended statement of works of this class which have recently been undertaken or are now in contemplation :

Whitby—Plans for water works and electric lighting prepared.

Iroquois—$19,000 voted for completion of electric light and waterworks.

Port Arthur—Decided to install waterworks ; has municipal telephone.

Gananoque—Decided to install waterworks for domestic purposes.

Listowel—System of waterworks to be extended for a domestic supply. Electric light and waterworks purchased this year from company.

Rat Portage—Has been given the right to develop 5000 horse power by water power. Has municipal telephone.

Palmerston—Has voted in favor of purchasing electric light plant.

Bruce Mines—Is getting plans for purchasing Electric light plant.

Sturgeon Falls—Contracts let for $40,000 for waterworks.

North Toronto—Extension of waterworks proposed.

Stratford — Waterworks purchased by city for $95,000.

Elmira—Waterworks proposed to cost $14,000.

Oshawa — Waterworks and sewerage proposed.

Strathroy—Waterworks under construction and electric light purchased, $50.000.

Guelph—To purchase gas and electric light plants, $155,000 ; proposed to purchase street railway.

Fort William—Electric light extension $40,000, and municipal telephone installed.

St. Thomas—Street railway taken over.

Renfrew—A water power to be purchased.

Berlin—Gas and electric light plants purchased for $90,000.

Owen Sound—Gas and electric light plant purchased for $71,000.

Midland—Electric light plant purchased for $20,000.

St. Mary's—Waterworks and electric light extended at a cost of $6,000.

Coldwater—Waterworks considered.

It will be noticed that the municipalities are not confining themselves to the acquiring of gas, waterworks and electric light plants, but that the operation of street railways and of municipal telephone systems is also engaging their attention.

The officials of Hamilton cut down a tree in front of Mr. Young's house in that city. He sued the city and got $60 damages.

Municipal Service at Fort William.

The following is from The Fort William Times-Journal of July 23, and is over the signature of A. F. Woodland, of Fort William : "The public (electric light and telephone) services have been administered with inefficiency and inaptitude, culminating in the destruction of the town hall, with its valuable records, a costly law suit, in which the town has been signally worsted, and to-day we have another break-down in the electric light plant, simply through sheer mismanagement, which will cost a large sum and deprive the citizens of light for probably some weeks. The municipal telephone service is so bad that every user of it is disgusted, and supporters of legitimate public ownership are chagrined and disappointed."

The following article from the Canadian Engineer and Electrical Science Review would lead to the conclusion that Mr. Woodland is mistaken in his opinion as to the above :

"Port Arthur and Fort William are well satisfied with their experience of municipal ownership, having not only the municipally owned telephone system recently described in the Engineer, but waterworks and electric light. It will be remembered that the telephone system was put in, in opposition to the Bell, at a cost of $15,000. That at Fort William has already 350 subscribers, and the income is $5,000, the rates being only $1 a month for residences and $2 a month for business phones. Port Arthur, three miles distant from Fort William, has a similar system, and there is free exchange between the two towns. By parliamentary enactment neither town may sell, lease or impair its system without the consent of the majority of ratepayers of both towns. The cost of maintaining the system is not over $3,500 per annum for each town, which also includes interest, and sinking fund payments on 20-year debentures, provision for depreciation of plant and operating expenses. It is fully expected that by the end of the current year, the system will be earning from $1,000 to $1,500 net profit to each of the towns.

At its meeting on the 15th July last, the council of the township of Dover passed a by-law commuting statute labor to a money payment of fifty cents per day.

By-laws were voted on recently in the town of Parry Sound, for $10,000 for waterworks improvements and extensions, and $3,000 for piers for a steel bridge. Both by-laws carried by large majorities.

Port Perry council has caught the merger idea. At its last meeting a by law was passed appointing Mr. R. McKnight, Chief Constable, Street Commissioner, Caretaker of Hall and Grounds, Sanitary Inspector, Pound-keeper and Market Clerk etc. His salary for his multifarious duties was placed at $450.—*Ex.*

Question Drawer

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

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

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

Payment of Salary of Lock-Up Keeper—Sweet Clover Not a Noxious Weed.

-A SUBSCRIBER—1. Our lock-up keeper was appointed by the general session, January 1901 and has held office continuously. In July last the county council notified the keeper that they would not pay him his salary thereafter. The keeper still has key and performs his duties. Who is responsible for his salary?

2. The lock-up is used and is a necessity; has been inspected by the Judge and found in good condition. Can the general sessions make appointment of keeper and compel village council to pay his salary?

3. Is sweet clover a noxious weed? If so, how long has it been classed as such?

1. No one appears to be responsible for the salary of the keeper of this lock-up under present conditions. The county council has refused to pay it any longer, and the village council has apparently not undertaken this responsibility by a by-law passed under the authority of sub-section 1 of section 520 of the Municipal Act.

2. By section 519 of the Act the magistrates of the county at a general sessions of the peace therefor, are required to place every lock-up in the county in the charge of a constable, especially appointed for that purpose, but they have no authority to compel the village council to pass a by-law for the payment of his salary.

3. "Sweet Clover" is not a noxious weed within the meaning of chapter 279, R. S. O., 1897, (as it is not amongst those named in section 2 of the Act), unless the village council has passed a by-law pursuant to sub-section 1 of section 3 of the Act, extending its operation to this particular weed.

Collection of Fees From Non-Resident Pupils.

462—W. T. K.—Our board charges non-resident pupils a fee of fifty cents per month. One non-resident refuses to pay the said fee, as he owns shares in a company located here. There are about twelve shareholders in the said company, which is assessed at $6,000, and our school rate is seven mills on the dollar. The said non-resident's name does not appear on our voters list. Can the board legally collect the fee in his case or not? I may say that the annual cost of educating each pupil was last year $10.23, and will be about the same this year.

We are of opinion that the fact that this non-resident is an owner of shares in a company whose property is assessed in the municipality over which the board has jurisdiction, does not entitle him to take advantage of the provisions of sub-section 4 of section 95 of the Public Schools Act, 1901, or to escape payment of the fees imposed by the board under the authority of section 95 or section 21 of the Act (as the case may be.) If this non-resident refuses to pay the fee required by the board, it may refuse admission to the school of the pupils he sends. We are assuming that the person referred to is not assessed personally in respect of any property.

Proceedings Should be Taken Under the Ditches and Watercourses' Act.

463 D. R. J.—1. A owns a flat of land lying slightly higher than a flat owned and occupied by B. A has tiled his land to the line fence between them and to an open ditch on B's land but the open ditch is not low enough to take the water from A's tile drain. Can A compel B to keep his open drain sufficiently low to permit the water from tile to run away, or can he compel B to put in a tile drain, as that is really the only kind that will be satisfactory and not fill up?

2. If A cannot compel B to put in a tile drain can he go on B's land and put in a tile drain?

3. A five inch tile across B's land would be sufficient to take off the water from A's land, but it would require say a six inch tile to take the water from B's land if he B, should put in branch tiles into this main tile. Now if A goes on and puts in a five inch tile at his own expense, can he prevent B running his branch tile into this five inch tile?

1. A can compel B to give him a sufficient outlet for the former's drains through the lands of the latter, if he takes the proceedings prescribed by the Ditches and Watercourses Act, (R. S. O., 1897, chapter 285) and the engineer in his award made under the Act declares that such an outlet is the proper one and necessary in order to drain A's land.

2. A can obtain the drainage he requires on B's land, if he takes the proceedings mentioned in our answer to the previous question, but he has no right or authority to enter on B's land and dig drains thereon, unless so authorized by an award made under the Act.

3. A has no authority to put in any tile on B's land unless so empowered by an award made under the provisions of the Ditches and Watercourses Act. He should take proceedings under this Act, and then the rights of all parties interested in this drainage could be properly adjusted.

Township Council May Permit Cement Co. to Lay tramway on Road Allowance.

464—X. Y. Z.—The council of the township municipality of A is about to enter into an agreement permitting a cement company to lay down a tramway on one of the public streets or highways of the municipality, so that said company can convey their clay from the clay-beds to the works. This tramway is intended for the exclusive use of the cement co., and not for the convenience of the general public.

1. Can the council of their own motion legally give the cement co. power to lay down a tramway for private purposes, or if it is claimed to be for the use of the general public has the council the power to allow the street or highway to be used for such purposes without submitting the question to the ratepayers?

2. If the council has the power, who is responsible for the damages to property, even if the company agrees to make good any damages that may be caused by the construction of said tramway?

3. In the construction of works of this kind, have the tracks to be laid in or about the middle of the street allowance, or can the council permit the company to put the track down where the sidewalk should be built?

1. The latter part of section 679 of the Municipal Act provides that the councils of townships "may pass by-laws to authorize COMPANIES or individuals to construct TRAMWAYS and other railways along any highways on such terms and conditions as the council see fit." This provision enables a township council to grant such permission by by-law to a cement company, and it is not necessary before the final passing of such a by-law to submit it to the vote of the electors of the municipality.

2. The municipality would be responsible, in the first instance, for any damages sustained as a consequence of any accident happening by reason of the construction and existence of such a tramway upon a highway thereon, but if the cement company has by a sufficient agreement, undertaken to indemnify the municipality in the event of the recovery of such damages, the latter can look to the former for reimbursement.

3. This is a matter for arrangement between the municipality and the company and in entering into the agreement, the council should be careful to require that the tramway should be laid on the highway, where and in such a manner, as to cause the least possible inconvenience and danger to the public.

Time For Changing Composition of County Councils.

465—CLERK.—Is it proper for the council of a local municipality within a county to have a resolution passed this year, 1903, declaring it expedient that the council of the county in which the local municipality is situate should be composed of the reeves of townships and villages and the mayors of towns, and to have such resolution certified by the clerk and head of the council and deposited with the clerk of the county on or before the first day of October next, or must the council wait under the amendment 68 (a) of the Municipal Act until next year before passing such resolution?

Section 14 of the Municipal Amendment Act, 1903, adds a new section to the Municipal Act, (68 a), sub-section 1 of which provides as follows:

The council of any local municipality within a county, at a special meeting called for that purpose, may by resolution declare that it is expedient that the council of such county should be composed of the reeves of townships and villages and the mayors of towns not separated from the county, instead of representatives of the county council divisions constituted under this Act, and may cause a copy of such

resolution, duly certified by the clerk and head of the council under the corporate seal, *to be deposited with the clerk of the county on or before the first day of October, in any year, immediately preceding a year in which county councillors are to be elected under this Act.*

The last general election of county councillors throughout the Province was held in January last, (1903), and the next general election of such councillors will not be held until January, 1905, consequently no change can be effected in the composition of county councils until the latter year, and then only, in case a resolution has been passed and deposited with the county clerk, in the year 1904, prior to the 1st day of October, pursuant to the provisions of section 68 a.

Closing Old Road and Opening New—Destruction of Noxious Weeds.

466—J. E. H.—A certain street was opened up for convenience in a certain locality of the township, It is not an original road allowance. Those interested have signed a petition to close up one part in exchange for a similar road in another direction and all are agreed. They have asked the council to pass a by-law to that effect and council have done so, but not yet sealed.

1. Is the township legally qualified to grant their request?

2. Can the township collect any money in the exchange of the roadways, they giving nearly three times as much land as what they are getting?

3. If so, what would they do with the money as it is not a township road allowance?

4. What jurisdiction has the township over such road?

5. If they own the road why not collect money for exchange? If not how can they grant such power to open a new road?

6. What are the necessary steps to be taken?

7. What can be done with a neighbor who has allowed about fifty acres of his land to run wild and grow up with all manner of wild weeds, his neighbor having a clean farm across the line fence? Is there law for such?

1. Assuming that this is a regularly established public highway, (although not an original road allowance), if it deems it in the public interest to do so, the council may pass a by-law closing up the road, or part of it, pursuant to section 637 of the Municipal Act, after all the preliminary proceedings prescribed by section 632 have been strictly observed, provided however, that the closing of the road does not exclude any person from ingress and egress to and from his lands or place of residence. If it does, the council cannot pass a by-law closing it, without in addition to compensation, also providing for the use of such person some other convenient road or way of access to his lands or residence. (See section 629 of the Act.)

2. Yes, if this was part of the basis of the arrangement for the closing of the road.

3. This money should be placed in the township treasury to the credit of the general fund, to be used for the general pur poses of the municipality.

4. If this is a regularly established public highway of the municipality, (as to which we cannot say, not having sufficient information as to its origin), the council har the same general jurisdiction over it, as it has over any other public road in the municipality.

5. This question is not very clear, but a township council has a general power to open or close public highways within its jurisdiction under section 637 of the Municipal Act, when public convenience requires it, observing, of course, such limitations and conditions, as are elsewhere provided by the Act, under the circumstances of any particular case.

6. These will be found in sections 632 and 637 of the Municipal Act.

7. It is not stated whether these are noxious weeds within the meaning of chapter 279, R. S. O., 1897. (See section 2 of the Act), or have been made such by by-law of the municipality passed under the authority of sub-section 1 of section 3 of the Act. If they are sub-section 2 of section 3 provides that the council may, and upon a petition of fifty or more ratepayers, shall appoint an inspector to enforce their destruction. Section 4 of the Act defines the duties of the inspector in this regard and section 7 makes provision for the enforcement of the payment of the expenses incurred in performing them.

Township Council May Grant Aid to Agricultural Societies—Must do so by By-Law.

467—J. C. E.—The council by resolution (no by-law) voted $80 as assistance to three local agricultural exhibitions viz. $50 to one and $15 to each of the other two. Grants were made in former years unanimously, so far as I know. This year the council divided on the question, three voting "Yes" and the reeve and one councillor voting "No."

(a) Is the vote legal without a by-law for the purpose?

(b) Could the three assenting members pass a by-law for the purpose in the face of the opposition?

(a.) Sub-section 1 of section 591 of the Municipal Act empowers councils of townships to pass BY-LAWS for GRANTING or loaning money or granting land in aid of the Agricultural and Arts Association or of agricultural or horticultural societies as authorized by the Agriculture and Arts Act." These grants must be made in accordance with section 45 of chapter 43, R. S. O., 1897. They cannot be legally made by resolution of the council, but a BY-LAW should be passed for the purpose.

(b) Yes, since the council is composed of five members. (See section 269 of the Municipal Act.)

Time For Return of Statute Labor Lists.

468—J. M. W. R.—I notice in your August number an answer to question No. 451 in which you quote sub-section 1 of section 110 of the Assessment Act, as authority that all statute labor lists must be returned to the clerk before August 15th in each year. I note that subsection 1 of section 109, chapter 224 R. S. O. 1897 gives that law for non-residents, but subsection 1 of section 110 gives up to November 15th of each year for resident ratepayers. Our township by-law is passed in accordance with sub-section 1 of section 110, and gives to November 15th of each year. Has the section been amended so as to read August instead of November?

The present law as to the time for the return by pathmasters of their statute labor lists, in so far as they relate to resident landowners, is as stated in our answer to the question quoted. Sub-section 1 of section 110 of the Assessment Act was amended by section 9 of chapter 27, Ontario Statutes, 1899, (the Assessment Amendment Act), by striking out the words, "15th day of November" in the sixth and seventh lines of the said subsection, and inserting in lieu thereof the words "15th day of August."

A Teacher's Agreement—Municipal Holidays—Clerk Can be Pathmaster.

469—F. L. T.—My agreement (written and sealed) with my school trustees states that I should be paid at least monthly. Since I have been teaching in that school the trustees have not complied with the agreement, and, with the exception of about $25.00, have let my salary run unpaid until the end of every six months, obliging me thereby, by taking on credit to buy stuff of an inferior quality at 50 per cent, 60 per cent and sometimes more, dearer that good wholesome stuff that I used to get for cash. And this inferior stuff causing sickness in my family, which caused me in turn a good many times to be late at school, and was also the cause that I was obliged to lose two or three days on account of sickness in my family. When asked for an order, they would say, no use, no money. Besides that I lost four days on account of two snow storms, the roads were completely blocked. I had to open them myself to get to the school. Now they want to have me make good the time lost and late at school. They have hinted at cutting off one hour a day from my salary, five or six times only in the year have I been late, nearly an hour, but never an hour late. The other times that I was late it was 5, 10 and a few times 15 or twenty. And they want to have it pass it was every day and one hour each time, and they the cause of it, they brought it on on purpose. The time lost in the morning was made good during the same day or some other day, but not the days lost.

1. Can they make me pay for that time lost?

2. If they bring an account for lost time against me, can I also bring an account against them to recover the 50 per cent, 60 per cent and on some articles more per cent that I have lost through their negligence in paying me, besides from $25 to $30 of medicine as I have papers to shew the same to be true?

3. If they offer me an order for less than they owe me in full payment of account, shall I accept it and sue them for the remainder? And if I refuse it, shall I lose my claim over them?

4. Are exhibition days in a town local municipal holidays for the neighboring townships?

5. Can a township clerk be lawfully a pathmaster in a township?

1. No, especially since it is stated that during the day, or at some other time, the time alleged to be lost, was made up.

2. No.

3. Take the amount offered under protest, giving a receipt on account, and proceed against the trustees for any balance claimed to be still due.

4. No.

5. Yes.

Insolvency Vacates Seat in Council—New Election—Payment of Arrears of Taxes After Lands Advertised for Sale.

470—A. V. F.—1. A member of the council of this municipality has recently become insolvent. Does this disqualify him from remaining a councillor for the remainder of the year? If so, what steps are necessary before holding an election to fill the vacancy, he not having resigned?

2. Some village lots are advertised for sale for arrears of taxes. The owner paid a part of the arrears since advertisement. Can this money be accepted and applied on the arrearage, the lots or necessary portion of them being sold for what still remains due; or should the money be refused unless payment is made in full?

1. Section 207 of the Municipal Act provides that "if, after the election of a person as a member of a council, he becomes insolvent within the meaning of any insolvent act in force in this Province, or applies for relief as an indigent debtor or assigns his property for the benefit of his creditors, his seat in the council shall thereby become vacant and *the council shall forthwith declare the seat vacant and order a new election.* As to the method of conducting the new election, see section 212 and following sections of the Act.

There is no insolvent act in force in this Province and therefore no person can be an insolvent within the meaning of this section and though a person conveys away all his property after his election and is not worth a farthing he does not become unqualified. If, however, he makes a general assignment for the benefit of his creditors he becomes disqualified under this section.

2. The municipality in which these lots are located, being in an unorganized district, is a local municipality having power to sell lands therein for non-payment of taxes within the meaning of sub-section 2 of section 162 of the Assessment Act, (enacted by section 13 of chapter 27, Ontario statute s, 1899.) This sub-section provides that "the treasurer of any city, town or other local municipality having power to sell lands for non-payment of taxes may receive payment from time to time on account of the taxes returned to him as in arrears upon any parcel of land or upon taxes due upon personal property, *but no such payments shall be received after he has advertised such lands for sale for arrears of Taxes.*

Clerk Has no Casting Vote on Bonus By-Law—Preparation of Voters' List.

471—E. C. C.—1. Has the clerk of a municipality the right to vote on a bonus by-law?

2. Should the voters' list to be used for a vote on a bonus by-law, now be that for 1903, which has not been finally revised, or that for 1902?

1. No. Section 365 of the Municipal Act provides that "where the assent of the electors, or of the ratepayers or of a proportion of them is necessary to the validity of a by-law, the clerk or other officer shall not be entitled to give a casting vote." (See also section 351 as amended by section 74 of the Municipal Amendment Act, 1903.)

2. The voters' list, prepared by the clerk under the provisions of the Ontario Voters' Lists Act for any year cannot be used for a vote on a bonus by-law. The list should be specially prepared by the clerk pursuant to the provisions of sections 348 and 349 of the Act from the *then last revised* ASSESSMENT roll and should contain only the names of those appearing by said roll to be entitled to vote on any particular by-law.

Powers of Police Trustees as to Cement Sidewalks.

472—AN OLD COUNTY COUNCILLOR—1. Please say in your Journal if police villages *not incorporated* under the Act of last session have the power to issue debentures to pay for the construction of cement sidewalks?

2. *If incorporated* under the new Act, would they have this power; also does the new Act give tnem the right to apply the frontage tax system in paying for cement sidewalks?

1. No.

2. No. Section 752 of the Municipal Act, (enacted by section 165 of the Municipal Amendment Act, 1903), empowers the trustees of a police village when they have become incorporated under the provisions of section 751 to pass by-laws for the CONSTRUCTION and MAINTENANCE of any of the works, improvements or services to be paid for by local rate mentioned in section 664 (included in which is the building of cement sidewalks) but does NOT authorize such trustees to pass by-laws to raise by the issue of debentures the moneys necessary to meet the cost of the work.

Council Has Nothing to do With Preparation of Voters' List.

473—COUNCILLOR—Will it be legal for the council to add opposite each name the assessment values to the voter's name?

Neither the municipal council nor any of its members has any power or authority to interfere with the preparation of the voters' list for the municipality nor have they any right whatever to say what shall be inserted in such list. Section 6 of the Ontario Voters' Lists Act, (R. S. O., 1897 chapter 7), makes it the duty of the CLERK of the municipality to prepare the voters' list in accordance with the provisions of the statutes. There is no authority for placing the assessed value of the voter's lands on the list opposite his name, nor do we consider it would be proper to do so.

Calling, Proceedings at, and Effect of Meeting of Ratepayers to Consider Acts of Council.

474—W. F. L.—1. Can a reeve call a meeting of the ratepayers without the consent of council?

2. Can reeve pass or pay orders for printing etc., without majority of council?

3. What majority of ratepayers is required to pass a resolution asking council's resignation, or can council be forced to do so, they doing no illegal act?

4. The object of meeting called was to ask ratepayers what they thought of a by-law regulating the fire company, said fire company refusing to act under the by-law, and resigning, thereby leaving corporation without protection? What proceedings shall the council take when the resolution comes before them?

5. Can reeve draw money by his own order from corporation funds?

6. How proceed to stop it?

1. We cannot recall any statutory provision authorizing either the reeve or the council to call a meeting of the ratepayers of the municipality.

2. No. A resolution or by-law of the council, (as the circumstances may require) must in every instance be passed, authorizing the payment of all accounts against a municipal corporation.

3. There is no provision made for proceedings of this kind. The ratepayers have no authority to interfere with the council in the exercise of its judgment when performing the duties imposed upon it by law.

4. The council is under no obligation to take any notice of such a resolution.

5. No.

6. The treasurer should be warned not to pay money on the strength of the reeve's orders. A treasurer paying moneys belonging to the municipality on the order of the reeve alone runs the risk of having to make the amount good to the ratepayers out of his own pocket. A treasurer can only pay out moneys of the municipality under the authority of a by-law or resolution of the council authorizing the payment. See section 290 of the Municipal Act as amended by the Act of 1903.

Collection of Taxes—Collector's Obligation to Give Receipt.

475—J. A. S.—1. In our township there is a by-law that all the taxes must be in the hands of the collector on the 15th December. A ratepayer owning land in the township, but living out of county, sent his by mail, reaching the collector on the 17th. Collector kept the money and demanded the 5% but did not get it. Should he have sent the money back and collected all of it, or could he collect the 5% as it was?

2. Our tax notices, when signed by the collector is the receipt. A great number do not bring them along when paying and then want another. Is the collector forced to give them one, as on a busy day it is very inconvenient?

1. This ratepayer should have forwarded the amount of his taxes to the collector so that he would have received it on or before the 15th December. The collector was not bound to return the money when it reached him. He could consider it a payment on account of the taxes and proceed against the party liable as authorized by statute to realize the balance.

2. A collector is not obliged to sign and deliver to each ratepayer a receipt for the amount of the taxes he pays. He can use his discretion in the matter. All he is required to do is to enter the date of the payment in the proper column of his roll and this is sufficient evidence of its having been made. If a ratepayer, however, tenders the collector a receipt for the taxes for his signature it is his duty to sign it.

Statute Labor of Farmer's Sons.

476—A. H. K.—In your answer to subscriber's question No. 6 of 437, August No. you say: The simple fact that a farmer's son is

rated and entered as such, entitles him to exemption from performance of statute labor under section 106 of the Assessment Act. I fail to get that meaning from section 106. Will you kindly explain?

The answer quoted is inadvertently misleading. It should read "The fact that a farmer's son is rated and entered as such does NOT entitle him to exemption from performance of statute labor, etc." A farmer's son is so exempted only when he is assessed as a joint owner with his father or mother as provided in section 14 of the Assessment Act.

Requisites of Petition For Silex Walk.

477—S. L. M.—Will you kindly advise us as to the following; viz: Over three-quarters of the freeholders on the north side of a street petition for a silex walk, agreeing to pay 60% of the cost of the same, the town, as is the custom here, paying the 40%. One of the freeholders on this street objects to the council putting down the walk, on the ground that the people on the south side of the street did not sign the petition, and that according to a recent Act, a three-quarter majority of the freeholders on both sides of the street must sign the petition, and both sides of the street pay their share of the 60%.

We assume that the council is doing this work in pursuance of the provisions of section 678 of the Municipal Act. The petition required is that mentioned in sub-section 1 of section 668 of the Act. This must be signed by two-thirds in number of the owners of any real property to be benefited by the construction of the works or improvements according to the last revised assessment roll of the municipality, such owners representing one-half in value of such real property, and there is no recent legislation affecting any change in the provisions of this sub-section. Sub-section 2 of section 678 provides that the remainder of the cost of the work in excess of the 40 per cent shall be assessed and dealt with in the manner provided in the Act as to assessments for local improvements in other cases. Sub-section 1 of section 665 provides that "the special rate to be assessed and levied shall be an annual rate according to the frontage thereof upon the real property immediately benefited by the work or improvement." The real property immediately benefited by the construction of the silex walk on the north side of the street, is the real property abutting thereon on that side.

Illegal Exemption From Taxation—Personal Liability of Councillors—Collection of Taxes.

478—A. B. C.—1. Does a municipal councillor render himself personally liable for supporting or allowing an illegal exemption from taxes, as such exemption requires an annual recognition by the council?

2. Could there be a distress issued and collected for taxes, party whom distress was issued against taking the stand that his taxes were not the amount stated owing to the fact that all taxes were not collected that should be, therefore making his taxes more by reason of the illegal exemption?

3. Can there be a valid sale of lands for taxes when an illegal exemption is in existence?

1. No. If the council has no power to exempt property the vote of a member in favor of such exemption has no validity and he can incur no liability for so voting.

2. The existence of a by-law, it illegally providing for the exemption from taxation of certain property in the municipality is not a ground for the neglect or refusal of any ratepayer therein to pay his taxes and if they are not paid within fourteen days after notice or demand (as the case may be), the collector may destrain the goods and chattels of the person liable therefor to realize the amount.

3. Yes. This fact cannot affect the validity of the sale of lands for taxes in the municipality.

Oath of Census Enumerator—Method of Taking Census.

479—N. H. P.—1. When the enumerator of this village gave in his returns when the last census were taken, he reported 407 persons. The county commissioners on these grounds were asked to do away with one of the hotels and cancel one of the licences, which they did, the law requiring 500 people to have two hotels. The village council thought that perhaps now there might be 500. What I want to know is, what oath the enumerator has to take, if any, before or after he has taken the census. Of course the council had to pass a by-law before an enumerator could be appointed?

2. Can the enumerator appointed to take the census for this incorporated village put on his roll people who just come here to spend one or two months of the summer and then go away again?

1. We assume that reference is made to an enumerator appointed to take the Dominion census in your village in 1901. Section 14 of chapter 58 of the Consolidated Statutes of Canada, 1886, provides that "every officer, census commissioner, enumerator and other person employed in the execution of this Act (that is, the "Census Act,") before entering on his duties shall take and subscribe an oath binding him to the faithful and exact discharge of such duties, which oath shall be in such form, taken before such person, and returned and recorded in such a manner as the Governor-in-Council prescribes." A copy of this oath could be obtained by writing to the Minister of Agriculture, Ottawa, Census Branch.

2. Yes.

Proceedings For Maintenance of Municipal Drains.

480—R. J. H.—A township council receives written notice from parties assessed for drains constructed under Municipal Drainage Act to repair same. The council authorize engineer to make report on same. The engineer's report combines the repair of both drains and says it is virtually one system, although constructed under separate by-laws.

Is it necessary to notify parties assessed to meet to consider report?

2. If the parties at said meeting to consider report decide that they do not want the work done, where are the expenses of the engineer to come from?

3. If the council decide to abandon the work can the parties who served notice compel the council to carry out the repairs?

4. Would the council be justified in going on with the work (even the parties or quite a number of those assessed object) by serving the by-law and giving chance to appeal?

5. Does section 83 of the Drainage Act prevent debentures being issued for a longer term than seven years for repairs?

1, 2, 3 and 4. As we understand this matter the drain referred to is said to be out of repair and notice has been given to the council by one of the persons interested in its maintenance. If the drain is confined to one municipality it comes within sub-section (a) of section 68 of the Drainage Act and it is the duty of the municipality in which it lies to maintain it by doing the necessary repairs and the cost of such repairs is to be levied upon the lands and roads assessed for the construction of the drain according to the assessment for the original construction, and if the municipality neglects or refuses to maintain it upon reasonable notice in writing, it is compellable by mandamus to do the necessary repairs. (See section 73). If the drain is out of repair and a person interested gives notice in writing, he is entitled to have the repairs done and he is not concerned about the opinion of the engineer as to whether there are two systems or one. If the engineer reports that it is necessary to change the course of the drain or make a new outlet. etc., as provided by section 75, the procedure in that section must be followed, or if the cost of deepening, widening or extending the drain comes within section 74 the council may, without a report, deepen, widen or extend the drain in the manner provided by the section. If this is simply a question of repair the parties interested are not entitled to notice. The council must make the repairs without regard to them.

5. Yes.

Council Not Liable for Defective Walks on Private Property.

481—J. W.—In our village has been built on a main street cement sidewalks. Opposite one block of five stores the owners built from walk level with the walk to their store doors of cement and had step at door. The next block post office and five other business places made step next to walk near level with their doors, and several coming out of post office have fallen. If an accident should occur who would be liable for damages, the village or the parties who put in cement platform?

It is not stated whether the cement structure between the sidewalk and the buildings adjoining built by the private owners is on the highway or the lands of such owners. If the latter is the case, the municipality cannot be held responsible for any accident that may happen by reason of its unsafe condition.

If the structure is erected on the highway between the buildings and the sidewalk, the municipality is responsible for any accident that may happen by reason of its non-repair or unsafe condition. The municipality is not bound to build approaches on the highway from the sidewalk to the adjoining buildings, but if they are so built on the highway

and allowed by the municipality to remain there, the corporation is bound to keep them in a condition of safety.

"Ontario Municipalities Fund" Should Not be Invested in Railway Bonus.

482—P. F. S.—A considerable amount of railroad talk is in circulation in our municipality, and our councillors have been approached on the subject of bonusing towards the construction of such a road. Now what I want to ask you is this, viz.: Is our council allowed to appropriate our municipal loan fund money towards bonusing such a road? Certainly we would have to amend our present by-law.

We assume that reference is made to surplus moneys belonging to the municipality derived from the "Ontario Municipalities Fund" mentioned in sub-section 1 of section 423 of the Municipal Act. This sub-section prescribes the securities in which these surplus moneys may be invested. There is no provision for investing these surplus moneys in bonuses to railways.

Expenditure of Commuted Statute Labor Money in Police Village.

483—W. C.—We have a police village, and we elect three police trustees. We are in two townships and the police trustees asked the councils of both townships to appoint the pathmasters for the village from among the trustees and they did so. The pathmasters are the trustees. The council of H gave the trustee the statute labor money. Can he hold the money and spend it himself? Or should he hand it over to the treasurer of the village?

We assume that the councils of the respective township municipalities out of which this police village was formed passed by-laws commuting statute labor therein pursuant to section 103 of the Assessment Act. This commutation money should be collected by the collectors of the respective municipalities at the same time and in the same manner as other municipal taxes, and paid by them to the treasurers of the municipalities. These moneys should be expended by the police trustees who have been appointed pathmasters, and paid out to the persons entitled thereto by the treasurers of the respective township municipalities on the order of the police trustees. The latter in issuing their orders should be guided by the report of the trustees who, as pathmasters, have directed and supervised the expenditure of the commutation money.

Time for Effecting Change in Composition of County Councils.

484—J. S. B.—The Municipal Act is amended by adding thereto the following section as section 68a:

"The council of any local municipality within a county, at a special meeting called for that purpose, may by resolution declare that it is expedient that the council of such county should be composed of the reeves of townships and villages, and the mayors of towns not separated from the county, instead of representatives of the county council divisions constituted under this Act, and may cause a copy of such resolution duly certified by the clerk and head of the council, under the corporate seal, to be deposited with the clerk of the county, on or before the first day of October in any year immediately preceding a year in which county councillors are to be elected under this Act."

Now as the nomination for county councillors takes place in December, 1904, and, as many of them, possibly all, will be elected on the day of nomination, would it not be necessary to have a copy of the resolution mentioned deposited with the county clerk before the first day of October of the present year?

No. See our answer to question number 465 in this issue.

Recovery of Wages, When no Contract to Pay.

485—P. M.—A is married to B., C. is the father of B. B. is the female. A and B stay with C, both working as if everything belonged to them, that is B does the interior work and A the exterior work of the house and the farm. C gave B a farm. C has still a farm on which they live, and both are worked together. C has only two children, that is B and John. A and B live with C, for a few years then C dies, and the property is divided between B and John.

(a) Can A claim wages for the time he has worked with his father-in-law?

(b) Can B claim wages for her work of taking care of the house?

(c) What wages can they each get?

(d) Should B die instead of C, could A claim wages for his own work or for his wife's work?

(*a*) No, unless he can prove some binding agreement on the part of his father-in-law to pay him wages.

(*b*) No, unless her father agreed to pay her such wages.

(*c*) Our answers to the two previous questions renders it unnecessary to reply to this.

(*d*) No, in the absence of such an agreement as is above mentioned.

Refund of Taxes Wrongly Collected.—Collection of Drainage Assessments.

486—Y. R. H.—1. In township A, one drainage assessment more than the by-law authorized was levied and paid two years ago. Can council now be compelled to pay it back?

2. Owing to an error in calculation of rate $10 more was charged in collector's roll and paid. Can it now be paid back?

3. Work on drain to be cleaned out is ordered to be paid by one assessment which is levied before cost is known. Drain sells for less than amount on roll. Can surplus collected be paid back?

1. Yes, since the assessment was paid by the ratepayers paying it, under a mistake of fact.

2. Yes, and the ratepayer who paid it can recover it for the reason given in our answer to question No. 1.

3. No. The only provision made by the Drainage Act (R. S. O., 1897, chapter 226,) for the return of the money to the ratepayers is that contained in sub-section 3 of section 66 of the Act.

Council's Jurisdiction Over Closed Road.

487—G. A. J.—Can the township council control and hold a road granted by them by by-law some eleven years ago and the deed not taken out or given in any way?

If a by-law is passed in accordance with the Municipal Act closing a highway, it then ceases to be a highway and the obligation to keep it in repair is at an end, and section 606 of the Act which makes it the duty of the municipality to keep every public road in repair and renders the municipality liable for default in not keeping it in repair does not apply. We would, however, advise the council to put up a notice showing that the road has been closed, and that it is no thoroughfare.

Power of Town Council to Construct Electric Light Works on Expiry of Contract With Existing Company.

488—J. A. S.—Under an agreement between the town corporation and a firm of private individuals, owners of an electric lighting plant in the town, which agreement is dated 1st April, 1898, the firm agreed to supply and furnish the corporation with electric light for street lighting in the town for a term of five years in consideration of certain monthly payments, and the agreement expired on 1st April, 1903. The firm continued to supply electric light subsequent to 1st April, 1903 and the town paid for same in monthly payments, (as if the expired agreement was still in force), pending the settlement of a proposed new contract which is not yet executed as the terms thereof are not accepted by the firm. The corporation gave the firm a month's notice to discontinue the street lighting which month expired on the 31st ult. and the firm discontinued the lighting on 11th inst. The agreement of 1st April, 1898, contains the following clause No. 10: "That on the termination of this agreement the parties of the first part, (the firm mentioned), will immediately unless otherwise agreed between the parties hereto at the sole cost and expense of the said parties of the first part remove such poles, wires and lamps owned and placed by them in the said town as may be in the way of or in places required by other persons placing poles, wires and lamps for electric lighting in the said town."

The agreement makes no provision for the purchase by the town of the firm's electric plant nor does it contain any reference to the construction of an electric light plant by the town on the expiration thereof. The only by-law passed respecting electric lighting is the law authorizing and directing the mayor to execute the agreement on behalf of the corporation; it does not provide for raising funds for street lighting, but the council has annually passed by-laws for the annual general rates which by-laws provide funds for electric lighting. It will be observed that the agreement of 1st April was entered into prior to the date (1st April 1899), mentioned in clause (g) of sub-section 4 of section 566 of the Consolidated Municipal Act, 1893, (formerly sub-section 5 of section 35 of the Municipal Amendment Act, 1899 known as the Conmee Act.)

1. What is now the town corporation's position under section 566, sub-section 4? Can the town corporation proceed as if the Act had not been passed and establish an electric lighting plant of its own, without communicating with the firm, or must the council by by-law fix a price to offer for the works of the firm?

2. What is the effect of clause 10 of the agreement above quoted? Could it be interpreted as excusing the council from fixing a price to offer for the works of the firm?

3. Would the temporary supplying of electric light for street lighting since 1st April, 1903, that is to say, since the expiration of the agreement of 1st April, 1898, bring the corporation under the Act and render it necessary for the council to fix a price to offer for the works and property of the firm, supposing the council otherwise excused from so doing by reason of the agreement being entered into prior to the passing of the Act?

4. Referring again to clause or article (*g*), sub-section 4, section 566, does this mean that where such a lawful by-law had come into effect or a contract had been lawfully made or

entered into prior to 1st April, 1899, that the municipal corporation may proceed to construct its own plant or works for street lighting as if sub-section 4 of section 566 had never been passed ?

5. Can the town now construct its own gas plant for street lighting without consulting the firm ?

When we are asked to give an opinion upon a contract, which is in writing, we ought to have the whole writing. You did not send us the agreement between the parties, and in giving our opinion we shall assume that clause 10 of the agreement sent us is the only one bearing upon the point in respect of which we are asked to give an opinion. Sub-section 5 of section 35 of the Act of 1899, now article (g) of sub-section 4 of section 566 of the Consolidated Municipal Act of the Municipal Amendment Act, 1903, does not, in our opinion, contain anything which disentitles the firm which has been supplying electric light to your town to the compensation provided by sub-section A of section 4 of section 35, 1899, because the agreement does not expressly provide that no compensation should be made to the firm on the termination of the agreement. If it had expressly provided that the firm should not be entitled to any compensation, then sub-section 5 would have exempted the town from any liability to make any compensation. The fact that the firm continued to supply light to the town after the expiry of the agreement, and that the town paid for such light for some time is not of any consequence because it was not a binding contract between the firm and the town by reason of the absence of a by law, and even if there had been a by-law there is nothing in the arrangement to exempt the town from making compensation for the plant belonging to the firm, and if there had been a provision of that kind in it, sub-section 5 would not apply, because that section only applies to by-laws or contracts in force at the time of the passing of section 35. Having thus expressed our opinion generally, we answer your question as follows :

1. The council must proceed in the manner provided by section 35 of the Municipal Amendment Act, 1899.

2. Clause 10 does not excuse the council from proceeding as provided by section 35.

3. The supplying of electric light after the expiry of the agreement does not affect the question one way or the other.

4. No.

5. No.

Release of Surety of Treasurer—His Qualification as Councillor.

489—RATEPAYER—1. The treasurer of our township has been re-appointed for several years. The bond for security is a continuous one so long as said treasurer shall continue to act as treasurer. The bondsmen have been notified each year of treasurer's re-appointment. In July one of the bondsmen sends in his resignation. Is the council compelled to accept same until a substitute is appointed ?

2. Will the fact of said bondsman acting during 1903, disqualify him from being a member of municipal council for 1904 ?

3. Is the council compelled to accept resignation before end of year ?

1. No.

2. If the council accepts the withdrawal of the surety, and by resolution absolves him from further liability for the acts of the treasurer, and all accounts and matters in dispute, if any, have been finally settled between the treasurer and the municipality prior to the next nomination day, this surety will, in this particular, be qualified for election as a member of the municipal council for the year 1904.

3. No.

Township's Liability For Accident.

490—C. B.—Your opinion is desired with reference to the following : An accident occurred on one of the travelled roads in the municipality in which the horse, buggy and driver were injured. The injured party was driving down a hill, and meeting a person driving in an opposite direction at a point where the road crosses a gully, between two small hills, when both vehicles collided, forcing the person injured against the railing, smashing same, and over the embankment. The party injured claims the cause of the accident was narrowness of the travelled part of the highway, and the defective and imperfect condition and character of railing or guard. The council is informed that the party injured did not keep on the right side of the road (taking the left hand side) otherwise the accident would not have occurred. Is the municipality liable ?

As to whether this road, at the point where the accident happened, was in a reasonable condition of safety, is a question of fact, to be decided by the judge who tries the action, on the evidence adduced before him, at the trial. It is not stated whether the accident happened in daylight or whether darkness was a contributing cause to its occurrence, nor have we any information as to the width of the roadway at the point between the railings. If, however, the roadway at this point was in a proper state of repair, and is of reasonable width, considering the nature and circumstances of the locality, and the railing was high and strong enough to prevent horses and vehicles going over the embankment under ordinary circumstances, we are of opinion that the council, did all that the law required it to do, in the way of keeping the highway in repair, and cannot be held responsible in damages to the party who sustained injury by the happening of this accident, especially if it occurred in daylight, and the party injured was driving on the wrong side of the road at the time. Notice of the intended bringing of the action must be given to the municipality within the time mentioned in sub-section 3 of section 606 of the Municipal Act, and must be brought within three months after the damages have been sustained. (See sub-section 1 of section 606.)

What Property Immediately Benefited by Construction of Silex Walks.

491—S. L M.—Although your reply to question No. 477 in this issue is clear enough to me, I am requested to ask you "Is not the south side of the street immediately benefited by the walk on the north side of the street, and are they not compelled to pay an equal share of the 60%" ?

No.

Proceedings For Borrowing Money Not Payable Within Year in Which Borrowed.

492—S. P. W.—I see by your answer to question No. 429 that steel bridge contracts are not legal.

1. If by-law is carried by majority of ratepayers, will the by-law be legal ?

2. If not legal, in what time would proceedings require to be taken to quash the by-law ?

3. What would be the cost ? The contracts were let and part of the work done before the by-law was voted on.

1, 2 and 3. It is not stated in our answer to question No. 429, 1903, that these bridge contracts are illegal, nor can the language used convey any such impression. Our answer is confined chiefly to the proper method of raising the money required by the municipality to pay the cost of a bridge of this kind. Since it is not part of the ordinary expenditure of the municipality, unless the amount is to be paid within the municipal year in which the debt is incurred, a by-law providing for the raising of the money will have to be submitted to and receive the assent of the duly qualified electors before it can be finally passed. (See sub-section 1 of section 389 of the Municipal Act.) We do not know what by-law is referred to, and therefore we can say nothing as to its validity without seeing a copy and having complete information as to the circumstances under which it was passed.

Town Can Pass By-Law For Compelling Use of Public Weigh Scales.

493—W. C. M.—Will you please let me know if a town with a population of seven or eight thousand can pass a by-law compelling every person selling and delivering within the town limits, coal, hay, straw and other produce (that is when it has got to be paid) to be weighed on the town scales ?

Section 582 of the Municipal Act provides that the councils of towns, etc., may pass by-lawa "for erecting and maintaining machines in villages or other convenient places, and charging fees for the use thereof, not being contrary to the limitations provided by sub-section 8 of section 579 of this Act." The council of the town can compel the use of these public scales by persons selling and delivering the articles mentioned within the limits of the town, subject to the conditions and limitatious prescribed by the Act. See sub-sections 5, 10 and 17 of section 579 and sub-sections 2, 5 and 9 of section 580.

Removal of Fence From Road Allowance - Building of Bridge Thereon—Locating Proper Line of Road —Payment of Expenses of.

494—T. P. N.—1. A has his road fence built on the road allowance ; this fence has been built thirty-five years. Does this fact of the fence being built such a number of years give A any claim on the road allowance ?

2. The government has this year given a grant of money to erect a bridge on this same road (this road is also a town line.) The road inspector gives orders for the bridge to be built

in the proper place, which means the centre of the road. Now A refuses to move his fence which hinders the bridge being built in the proper place. The line was rnn one year ago by a local surveyor, and the parties on the other side of the town line are satisfied that his line is correct, as said parties know exactly where the original posts were. Will the municipalities, (as there is a municipality on each side of this town line) be obliged to bring on a Provincial Surveyor to run this line, and will they be obliged to pay him, or who will? Will A be obliged to pay any part of the expense of running this line?

3. Will A have to receive six months' notice o move his fence, as the bridge is really necesary for the public and should be built at once?

4. Is the municipal council of the municipality in which A's land is situate, the proper party to deal with A, or has the other municipality on the other side of the town line any responsibility in the matter, or will they have to bear part of the expenses?

5. Who are the proper parties to notify A to remove his fence, the municipal council of either municipality or some ratepayer?

1. No. Assuming that this is an original Government road allowance, the soil and freehold thereof is vested in the Crown and a possessory title thereto cannot be acquired by any private owner.

2. This road being a town line is under the joint jurisdiction of the two municipalities between which it lies and these municipalities are jointly liable for putting it in a condition of safety and keeping it in repair, (see section 622 of the Municipal Act), unless an agreement has been entered into between them by by-laws passed pursuant to section 625. We gather, however, that no such by-laws have been passed by these municipalities. If the councils of these municipalities are satisfied that they have properly located the road allowance, and the bridge is deemed necessary, they should proceed with its erection, regardless of A's fence. If, however, they are in doubt as to the proper location of the road allowance, they should employ a duly qualified land surveyor to locate it for them. This should be done at the joint expense of the municipalities and A cannot be held liable for any part of it.

3. No. This is not a case that comes within the purview of either section 641 or 642 of the Municipal Act.

4. The councils of the two municipalities interested should act jointly in this matter and the expenses must be borne equally.

5. The two municipalities must act jointly.

Requisites of Legal Pound—No Fee Allowable to Person Taking Animal to Pound.

495—H. W. E.—1. In April last our council passed a by-law appointing pound-keepers. They each took the required oath of office. The ratepayers object to the pound. They claim it is not a proper pound; that cattle would injure one another while in it; that it is not large enough. Is there any law to make a certain size for a pound and any height of fence or enclosure, and who would be liable for damages should they be injured while in the pound?

2. Our council passed a motion in May that all milch cows be shut up from 9 p. m. till 5 a. m., and that a fee of 25 cents per head be levied upon all animals impounded, besides poundage fees, such fee to be given to the party or parties impounding the said animals. Can the council legally make such a motion to give the above fee to any person impounding the said animals, the poundkeeper to collect the fee from the party or parties whose animals are impounded, besides his poundage fees?

1. The Legislature has made no provision fixing the size or extent of an enclosure used as a pound, or the height of the fences enclosing it. Section 5 of chapter 272, R. S. O., 1897, provides that when the common pound of the municipality, (if any), is not secure, the pound-keeper may confine the animal in any enclosed space within the limit of his division, and section 15 requires him to furnish animals with good and sufficient food, water and shelter during the whole time they are impounded or confined. The pound-keeper should take reasonable precautions to prevent animals injuring each other while impounded, and would be liable only for gross negligence in this regard. In any event there would be no responsibility on the part of the municipality.

2. We gather that it was the council's intention to vary the provisions of chapter 272, R. S. O. 1897, in the particular mentioned in this question pursuant to section 1 of the Act. This intention should have been carried out by a by-law passed pursuant to section 546 of the Municipal Act. A RESOLUTION is not sufficient for the purpose. In any event, the council has no authority to require the payment by the owner of the animal impounded of a charge of 25c over and above the amount of the pound-keeper's fees, to be paid to the person who brings the animal to the pound.

Council in Village Not Bound to Construct Drainage For Cellars.

496—W. J. C.—1. In our village the council put in a drain as per annexed diagram from point one to two. Then A builds a residence, underneath which he places a cellar, and puts drain from point three to four, which is considerably lower than municipal drain. Now A wants the council to lower drain sufficient to give him an outlet. Can he compel them to do so when the drain is already low enough for other drainage purposes. If so, should he not pay the expense of lowering?

2. Again B is farther up the street and builds a similar cellar or basement. Can he compel the council to extend drain to his place to give him an outlet at a lower depth than is necessary for other drainage purposes? If so, should he not pay extra expense?

1 and 2. The council is not compelled to construct new drainage work or to improve existing drains simply for the benefit of A. or B., nor should it do so. If these parties require drainage for their cellars they should do the work at their own expense.

Markham village council has let a contract for the construction of three thousand square feet of new granolithic sidewalk, at 12c a foot for the walks and 15c for street crossings.

Municipal Ownership in England.

The town of Huddersfield has a population of about one hundred thousand. For years it has carried on the gas works as a municipal enterprise, and has made a good profit at a price of 68 cents per thousand feet. The waterworks is also one of the older franchises, and one that has hitherto paid a good profit on the investment, but last summer during a period of drougnt, a leak was discovered under the rock border of the reservoir, which came near causing a water famine. To stop this leak and put the works beyond the peradventure of another famine, Huddersfield is now asking powers to spend £500,000. The rates are about $10 per year for a house of ten rooms and garden.

Leaks of another kind, but none the less incompatible with profit, were discovered last year in the tramway department. The result was a thorough house-cleaning, and a remodeling of the system. Cars used formerly to run once in half an hour, and now they run once in ten minutes, with the result that the traffic has greatly increased. So far the tramways have not paid, but at the end of this year it is hoped there will be a balance on the right side.

The latest addition to the list of municipal undertakings is electricity for both public and private lighting. This is sold very cheaply, and it will undoubtedly pay when it is thoroughly introduced, as the citizens are taking to it very kindly.

Some years ago Huddersfield was prohibited by the Government from turning its sewage into the River Colne, which in consequence of sewage had become polluted and offensive. The ratepayers of Huddersfield had therefore to install a modern sewage disposal plant, which, in addition to improving the health of the town, turns back a clear stream of water into the river.

Summing up the whole situation, while these municipal enterprises are now bearing somewhat heavily on the ratepayers, the expectation is that they will shortly lighten the rates by their profits. Huddersfield is one of the most progressive towns in England in this respect, and having been a pioneer, it has had to buy its experience at first hand, and rather expensively. The most expensive fault was the employment of too cheap men, who have proved dear enough to the municipality. Huddersfield has been the Mecca of late years for municipal experts from other parts of England, and from the Continent, who are profiting by the experience for which Huddersfield has paid.

The Standard Life Insurance Company has brought an action against the corporation of the village of Tweed to recover the sum of $5000 and interest claimed upon debentures of the corporation.

Legal Department

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

Bissonnette vs. Municipality of Stirling, et al.

In the Fifth Division Court of the County of Hastings, the judgment of the County Judge is as follows: This action is brought by the plaintiff, who is a practising physician in the village of Stirling, to recover for professional services rendered the Acker family, who were afflicted with typhoid fever during the months of June and July, 1901. The plaintiff seeks to recover first from the corporation of Stirling, and failing that, then against the defendants, Jesse Barlow and Joseph Doak, two of the members of the Board of Health for the village, on their personal promises "to see him paid."

The plaintiff states in his evidence that he notified the clerk of the municipality of the sickness in the Acker family; that a meeting of the Board of Health was called at which he attended. He told them at the meeting that he was their family physician, but could not attend them without pay. That it was intimated to him that he was to go and attend the family and he would be paid.

Now, the law in these cases is very plain. In all municipalities a Board of Health is constituted and a medical health officer is appointed to look after just such cases as we have in hand. In fact, during the year in which these services were rendered, Dr. Sprague was appointed health officer for the village.

It appears that after the clerk was made aware of the state of affairs in the Acker family by the plaintiff, a meeting of the Board of Health was called and was attended by the plaintiff, the reeve, the clerk, the medical health officer and Mr. Barlow, Mr. Doak, I believe, not attending. The family being poor, it was decided to appoint the husband and father (who was a laboring man) to nurse the family at the sum of one dollar per day, which sum, I believe, was paid. But, as it appears from the evidence, no action was taken to appoint a physician.

Now, the plaintiff not being medical health officer, a clear contract of hiring or engagement must be shown in order to maintain an action for services such as these. Has such a hiring or engagement been shown either expressly or by implication? The plaintiff has failed to prove that he was engaged by Board of Health.

But he sues Jesse Barlow and Joseph Doak upon their personal promises to see him paid.

Mr. Barlow states in his evidence as follows, viz.: "He (the plaintiff) stated that he would attend the family, as he was their doctor. I never gave him authority to do so. We had several conversations. I never told him he would be paid." In cross-examination Mr. Barlow states: "The plaintiff never told me he expected pay from the Board of Health. The doctor never said anything about pay."

Mr. Doak states in his evidence: "I did not attend the meeting of the Board of Health I heard that the Acker family were sick. I never promised to pay the doctor." In cross-examination he states: "The doctor came to me to see if he could take some action on his account. I think it was after the people recovered, after he had done the work. I saw him once on the street and twice at my house."

On the evidence I cannot find th defendants liable for the account sued on. The family is very poor; they were all down, one after another, with typhoid fever, an infectious disease. The poor we have with us always, and when in distress, those of us who are able must assist them; if not, then we are inhuman. The law makes it obligatory for the municipality to take care of the poor within the bounds of the municipality. It seems to me that the medical health officer was well and satisfactorily rid of attending these people. The plaintiff did so, and so successfully that the disease did not spread to any other part of the village. Morally, and in all fairness, he should be paid something. He, however, did not take the proper steps in the beginning, and this court is therefore unable to assist him.

The action will, therefore, be dismissed, but without costs.

Attorney-General v. City of Toronto.

Judgment in action and information with respect to the Island Park, tried at Toronto without a jury. The Chancellor is not able to see his way clearly to order an injunction as sought by plaintiffs. A by-law was passed in November, 1880, No. 1,028, purporting to establish a park on the Island, and certain lots were designated therein, including those now in question, and it was enacted that these, "together with such other lands as may hereafter be obtained from lessees or otherwise, shall be set aside, devoted to and form a park." Other lands were afterwards by by-law in May, 1887, and November, 1887, directed to be taken and expropriated in order to enlarge the Island Park. Yet the action of the city authorities was contemporaneously and for years at variance with the conclusion that these lots now in question were regarded or treated as actually forming parts of an existing park. A special committee was appointed in 1901, called the Island Committee, who are elaborating a plan of park improvement, which will for the first time supply a definite policy to work upon from year to year. The city has treated the leases existing at the date of the first by-law in November, 1880, though then liable to forfeiture, as existing and valid leases, under which rent has been paid on the whole lots down to 1883 or 1884, or perhaps later, and after that on parts of the lots on which buildings or improvements have been made, down to 1895, if not to the present time. Taxes have also been levied upon these lots during the terms of the leases, and have been paid to the city as an annual charge. Some fifty houses or structures, including a church building, have been erected upon the lots in question since 1880 till the present time. Plans have also been made, with the sanction of the city, and registered, of certain of the lots, on which streets are laid out, with reference to which trees have been planted and houses built. The term used in intituling the by-law to "establish" a park, does not denote the idea of permanency or unchangeableness. It indicates that much would be required in the particular locality to be done before the park could take a fixed form and definite area. As said by the court in Osborne v. S. D. Co., 178 U. S. 38, it is manifest that to construe the word "establish" to mean to fix unalterably, would throw the powers of the board into confusion and contradiction. See also Dundee v. Morris, 3 Macq. 166. The defendants acted in the belief that there was power to deal with the land designated as park land by leasing it, imposing and collecting rents and taxes, approving of the laying out of new streets on registered plans, and otherwise exercising the control of owners, though some regard for the enjoyment and benefit of the public has been always kept in view. The park scheme has not been abandoned, but the details and the area of its occupation on the Island have been modified from time to time by successive councils. If the city has the power to exercise such control, it is not for the court to interfere, nor can the wishes of the residents on the Island control the situation as against the legislative and dedicating powers of the corporation. In the absence of any distinct authority the conclusion is that the city has not exceeded its corporate or legislative powers in dealing as has been done with this Island Park. The doctrine of irrevocable dedication is not applicable to the case of a park which is established by by-law out of land belonging to the corporation as owners in fee simple. Having enacted a by-law to establish a park, the same body, or its successors, may repeal, alter or amend as it deems proper, so long as no vested right is disturbed: R. S. O. ch. 1, sec. 8 (37); ch. 223, sec. 326. Attorney-General v. Toronto, 10 Gr. 339, referred to. The joint information and action fail, and should be dismissed, but as the motives of the relators and plaintiff are commendable, no costs if this ends the litigation. Should an appeal be lodged, costs should be paid by the Attorney General as proof of good faith in prolonging controversy.

Re Toronto R. W. Co. and City of Toronto, Etc.

Re Toronto Electric Light Co. and City of Toronto; re Incandescent Light Co. of Toronto and City of Toronto; re Ottawa Electric Co. and City of Ottawa. Judgment on appeals by companies and on cross-appeal by corporation of city of Ottawa from judgments of boards of county court judges constituted under the Assessment Act, confirming or varying assessments of the companies. The main question upon all the appeals was as to the proper construction to be placed upon sub-sections 3 and 4 of section 18 of the Assessment Act, as substituted by 2 Edw. VII., chapter 31. The principal difficulty was caused by sub-section 4: "Save as aforesaid, rolling stock, plant and appliances of companies mentioned in sub-section 2 hereof shall not be 'land' within the meaning of the Assessment Act, and shall not be assessable." The contention of the companies was that the effect of this sub-section was to exempt from assessment all their plant and appliances of every description, though otherwise 'land' within the meaning of sub-section 9 of section 2, and hitherto undoubtedly assessable as such, which was not upon the streets or roads of the municipality. The question for the court was whether the Legislature, in applying the remedy for the state of things pointed out in Kirkpatrick v. Cornwall Electric Street R. W. Co., 2 O. L. R., 113, had used language which must be read as creating a new and general exemption of property, the liability of which to taxation had never been disputed. The court, while regarding the language of the statute as inapt, and the argument of the companies as at least plausible, held that the well-known rule of construction should be applied, and 'plant and appliances" read as ejusdem generis with "rolling stock." It was also objected by the Ottawa Electric Company that their lamps, hangers and transparencies were not "superstructures upon the street" within the meaning of sub-section 3. Held however, that although easily removed and transferable from one place to another they formed parts of the permanent and essential street plant. Held, as regards the crass-appeal of the city of Ottawa in respect of the Gas Company assessment, that there was no reason on the evidence to interfere with the amount to which the Board of Judges reduced it. All appeals dismissed with costs.

Ottawa Electric Co. vs. City of Ottawa.

Judgment on appeal by defendants from judgment of Boyd, C. (I. O. W. R., 508), allowing appeal of plaintiffs, and dismissing appeal of defendants from report of local master at Ottawa. The action was brought by plaintiffs to recover $18,669.50, alleged to be due by defendants for electric lighting of the city of Ottawa under a contract. The controversy was as to the legal relationship of the parties in consequence of the destruction of the works of plaintiffs, in common with a large part of the city of Ottawa, by the great fire in April, 1900. The chancellor read the contract as meaning that if no light was furnished from unforseen accident there was to be no pay, and no penalty during such time, when light began to be furnished pay began pro tanto, the company all the while being in no default. The court agreed with the construction of the chancellor. Appeal dismissed with costs. Cross-appeal fails.

Ontario Municipal Association—Annual Meeting at Guelph.

(Continued from Page 163.)

their gross receipts and losses in such municipality for the preceding year, to enable the municipality to determine whether the rates are equitable or otherwise."

Doubt was expressed as to the authority of the Province over such companies, but as there were no objections to the principle of the resolution it was adopted.

POLICE MAGISTRATES' SALARIES.

The feeling of the delegates in relation to police affairs was not exhausted by the former resolution, as is evidenced by this clause of the report :

"That the councils of municipalities be given power to regulate the salaries of the police magistrates, unless the body that appoints the magistrate pays the salary."

This was adopted without discussion.

TO EXPROPRIATE TELEPHONE COS.

"That this association affirm the desirability of municipal ownership of local telephone systems and seek power to expropriate any existing local plant and to operate such plant."

This clause in the report met with objection from the secretary, Mr. S H. Kent, of Hamilton. He did not think the association should be placed on record so definitely upon the question of public ownership. In his judgment the telephone was not a municipal monopoly, and while he agreed that the right to expropriate should be given, he did not want to see the association committed to the principle of civic ownership and operation. He moved an amendment eliminating the affirmation of the desirability of public ownership and confining the recommendation to power to expropriate, and in that shape the clause was adopted.

OTHER RECOMMENDATIONS.

The other clauses in the committee's report were adopted as presented. They were :'

That the proviso to sub-section 1 of section 569 respecting the operations of street railways by municipalities should be repealed and the following powers conferred therefor :

"Provided that the powers conferred by this sub-section shall only be exercised by a municipality when the exercise of such powers would not be a violation of the provision of any agreement or contract between the municipality and any existing street railway company.

"That no sale of lands for taxes should be invalid because the municipality had not levied on other goods in the county belonging to the person assessed, nor because of any act or omission of any officer or person employed by the municipality to collect the taxes, but such taxes shall remain due until paid.

"That all expenses of registrations and Provincial elections be borne by the Province.

"That the provision requiring candidates nominated for municipal councils in large cities to file their property qualification at nomination should be extended to all cities and towns.

"That municipal councils should be given power to construct underground conduits, and to erect poles and compel all electrical companies to use such conduits or poles and pay a reasonable rental therefor.

"That sub-section 3 of section "71 a" of the Municipal Act should be amended to provide that the council of any town having a population of more than 5,000, and the council of any city having a population of 15,000 or less may by by-law provide that the council of such town or city shall be composed of a mayor and two aldermen for each 2,000 of population to be elected by general vote, or of a mayor by general vote, or of a mayor and six aldermen when the population is less than 6,000.

"Opposing the sections of the bill dealing with the tax sales being conducted by the sheriff instead of by the treasurer as at present.

"That the cites and towns of Ontario be urged to send representatives to accompany the Executive of this association when they attend before the Special Committee of the Legislature in October next, when this important matter will be considered.

DOMINION GOOD ROADS ASSOCIATION.

The association expressed itself in sympathy with the creation of a Dominion good roads department.

Barrie ran Toronto close for the next place of meeting, but was defeated by six votes. The meeting will be held the first week of the Toronto Exhibition next year. The officers elected are: President, John Kennedy, ex-Mayor, Guelph; first vice-president, W. A. Boys, mayor, Barrie; second vice president, W. A. Grier, mayor Owen Sound; secretary, S. H. Kent, Hamilton; Executive, the mayors of St. Catharines, Brantford, Lindsay, Windsor, London, Peterboro' and Galt; Ald. Ellis, Ottawa; Thos. Caswell, city solicitor, Toronto; F. MacKelcan, city solicitor, Hamilton; R. P. Slater, Niagara Falls; Ald. Hubbard, Toronto, D. M. McIntyre, city solicitor, Kingston.