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Contents:

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Legal, Educational, Municipal and Other Appointments.

NOVEMBER.

1. Last day for transmission by local clerks to County Treasurer of taxes on lands of non-residents.—Assessment Act, section 132.
   Last day for transmission of Tree Inspector's Report to Provincial Treasurer.—Tree Planting Act, section 5.
5. Make return of contagious diseases to Registrar-General.—R.S. O., c. 44, s. 11.
9. King's Birthday.
10. Last day for collector to demand taxes on lands omitted from the roll.—Assessment Act, section 166.
15. Report of Medical Health Officer due to Local Board of Health.—Public Health Act, schedule B, Section 1.
    Day for closing Court of Revision in cities, towns and incorporated villages when assessment taken betweet 1st July and 30th September.—Assessment Act, Section 58.
    On and after this date councils of townships, cities, towns or villages may enter on lands and erect snow fences.—Snow Fences Act, Section 3.
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    Chairman of Board of Health to report to the council on or before this date.—Public Health Act, Schedule B, Section 3.

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14. Last day for payment of taxes by voters in local municipalities passing by-laws for that purpose.—Municipal Act, Section 535.
    Last day for Collectors to return their rolls and pay over proceeds, unless later time appointed by Council.—Assessment Act, Section 144.
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15. Municipal Council to pay Secretary Treasurer Public School Boards all sums levied and collected in township.—Public Schools Act, Section 71.
    County Councils to pay Treasurer High School.—High Schools Act, s 35.
    Councils of towns, villages and townships hold meeting.—Municipal Act, Section 304, (6.)

The Municipal World

PUBLISHED MONTHLY

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

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THE MUNICIPAL WORLD,

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ST. THOMAS NOVEMBER 1, 1902.

The City of Liverpool, boasts of having one of the best street railroad systems, not only in Great Britain but in Europe. The city owns the system.

* * *

Voting on by-laws to bonus the Weston Shoe Co. and the Dickson Foundry Co. took place in the village of Campbellford on the 7th October last and resulted in both by-laws being carried.

* * *

Municipal ownership received a big lift at a special election held recently, when the voters of the city declared themselves ten to one in favor of purchasing the West Duluth water plant and the gas franchise of the company. The vote for the by law resulted favorably by 1,337 to 146 votes.

* * *

The street railway system of Berlin, Germany will shortly pass into the hands of the municipality by purchase from the present owners. The city council after an investigation of the public ownership of the tramway sytem at Glasgow, Scotland, and elsewhere, concluded in favor of that plan.

* * *

The Court of King's Bench of Manitoba recently quashed a by-law of the municipality of Whitewater for the reason that the document purporting to be a by-law forbidding the receiving of any money for a license to sell intoxicating liquors, did not bear the seal of the corporation, and the document purporting to be a by-law to submit the first mentioned by-law to the vote of the ratepayers had neither the seal of the corporation nor the signature of the reeve or person presiding at the meeting at which it was passed.

A Two Year Term for Municipal Councillors.

The length of time for which Municipal Councillors are chosen should be determined mainly by two considerations—the desire to maintain an active popular control and the desire to have an experienced and capable council

We have compared the county council election returns of 1899 with those of 1901 and find that 42% of the county councillors were re-elected and in each of thirty councils this percentage was increased to one-half or more. The election returns for all of the local municipalities were also examined and in January 1902, 79% of the members of the (505) township councils of the Province were re-elected and in 120 of these townships all the members were continued in office. In the (135) villages 62% of the members of the councils were re-elected and in 93 villages this was increased to 78%. In the (105) towns, 55% of the members of the councils were re-elected and in 77 towns this was increased to 64%. In cities 63% of the members were re-elected and, taking the Province as a whole, two-thirds of all municipal councillors in office during 1901 were continued in office for 1902. These figures indicate that the habit of re-election has been acquired and that legislation providing for a term of at least two years for municipal councillors will meet with general approval in the townships and a large majority of the towns, villages and cities through out the Province.

In the province of Quebec, the councils of parishes, townships, towns and villages are composed of seven members, who remain in office for three years, subject to the condition that two councillors must be elected or appointed two years consecutively and three every three years. The mayor or head of the council is elected by a majority of the council and holds office for a year.

In Nova Scotia, county councillors are elected annually. In the towns the mayor is elected annually and a councillor every two years.

In Halifax, the aldermen are elected every three years, one-third being elected every year.

In New Brunswick, the county councillors are elected annually.

In Manitoba, councillors are elected annually except in cities where one alderman for each city ward is elected every two years.

In British Columbia, the members are elected annually.

In England, the term of office for a councillor is three years, members retiring in rotation every year.

The great need of municipal government is continuity. This can only be obtained by partial renewal. The County Council Act introduced a two year term in a way that makes it possible to elect an entirely new council.

If the Municipal Act was amended to provide for the election of members of councils for two years, one half to retire the first year and the mayor or reeve, with the remaining councillors the second, the electors would still remain an active popular control and continuity of procedure would be provided for. Municipal office would then be accepted by many capable men, who are adverse to undergoing the turmoil and excitement of annual elections. Experienced members would always be found at the council board and a business-like management of every department of the municipal service would result.

Before a member elected for the first time has learned all that a member of the council must know about the working of the affairs of his municipality, in order to be really useful, it becomes necessary to devote all his spare time to the preparation for a new election and at the end of the year he thus becomes theoretically responsible for much that, if he had been better informed in time, he would have done all in his power to prevent. The necessity for a long annual canvas in order to ensure re-election has driven many men from the council whose services would have been extremely valuable.

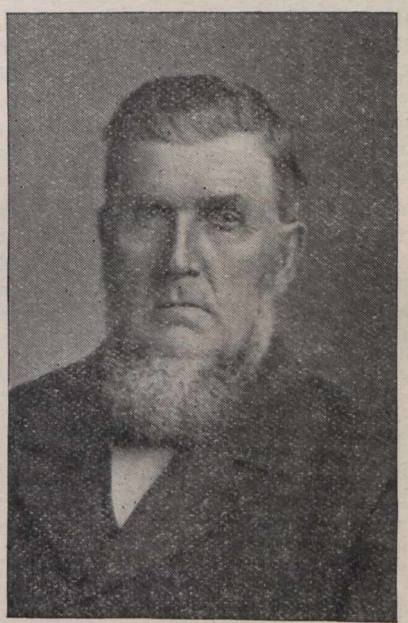
Councillors who agree with us should bring the matter to the attention of their representatives in the Legislature so that it may be considered during the next Session.

Two instances have recently fallen under our observation of non-compliance with the existing law as to the granting of bonuses to manufacturing institutions by township councils. In one case a by-law was finally passed providing for the exemption from taxation of an institution of this kind for ten years and in the other, the assessment of a company's property and plant was fixed at a definite figure annually for twenty years. In neither case, apparently, had the by-law prior to its final passing received the assent of the electors of the municipality, qualified to vote on money by laws. These by-laws are illegal and an application for the purpose will result in their being quashed. Township councils are simply inviting expensive and vexatious litigation by thus neglecting the observance of the plain provisions of the statutes. Section 9 of the Municipal Amendment Act, 1900, makes provision for the granting of aid by way of bonus to manufacturing establishment and clause (a) provides that "no such by-law shall be passed until the assent of the elector has been obtained in conformity with the provisions of this Act, (the Municipal Act), in respect of by-laws for granting bonuses to manufacturing industries." By clause (g) of section 10 of this Act it is enacted that the word "bonus" where it occurs in section 366 a or sub section 12 of section 591 of the Municipal Act as amended by this Act shall mean and include "a total or partial exemption from municipal taxation, or the fixing of the assessment of any property for a term of years."

Municipal Officers of Ontario.

Clerk Township of Colchester South.

Mr. Drummond was born in Crieff, Perthshire, Scotland, in 1827. In his infancy he moved with his family to Dunkeld, in the schools of which he received his education. On leaving school he spent six years in the office of an attorney or land agent, where he obtained a sound knowledge of business. He was goods clerk on the Scottish Central Railway for one year, and then emigrated to New York. After remaining nine months in the United States he came to Windsor and thence to the vicinity of Amherstburg, where he engaged in farming. Through the kindly influence of a gentleman, whose attention Mr. Drummond had attracted, and who appreciated his abilities, the subject of this sketch was enabled to qualify as a school teacher. This profession he followed for 38 years with marked success. He was appointed Clerk of Colchester in 1866 and remained in office until the division of the township in 1880. He was reappointed in 1888 and has held the office ever since. Mr. Drummond is also a Justice of the Peace, and enjoys in an eminent degree the confidence and respect of the community. We are indebted to the Amherstburg "Echo" for the facts enabling us to compile the above brief biographical sketch and for the privilege of publishing therewith Mr. Drummond's portrait.



MR. JOSEPH DRUMMOND.

Oxford Clerks' and Treasurers' Annual Meeting.

The eleventh annual meeting of the municipal clerks and treasurers in the County of Oxford, was held in the court house at Woodstock on Tuesday, Oct. 21. There were nineteen clerks and treasurers present, only three being absent. The meeting was one of the most interesting and useful that has been held by the association. The president in his opening address remarked that there had not been any changes in the membership of the association during the past year, and he was under the impression that generally the appointment to the office of clerk or treasurer was coming to be regarded as something of a permanent character and municipalities were getting better service from these officers because of that being the case.

Mr. F. G. Jackson read a paper on the subject of communications received by clerks, in which he referred to the work and time clerks are asked to give to getting information and answering letters for every sort of loan company, commercial agency and others, in most cases without fee or reward. He suggested that such communications be consigned to the waste basket.

In the discussion which followed the reading of this paper some amusing incidents in the experience of the various clerks were related on the lines suggested by the paper.

The question of whether it is necessary that municipal officers who are reappointed to office should again take the declaration of office was brought up, and the conclusion reached was that in every such case the reappointed officer should again take the declaration.

In view of the frequent outbreaks of small-pox throughout the province those clerks who had experience in such matters were asked to explain their methods of dealing with such cases in their capacity of secretary of the board of health. And such other information as might be of use to local boards of health in dealing with epidemics of contagious disease. In this connection the carelessness of medical men in failing to report cases of contagious disease was a general complaint, and also their omission to report births.

Mr. W. G. Francis of West Oxford read a very interesting paper upon the duties of a municipal clerk to the council and the ratepayers of his municipality. It was ordered that a copy of this paper be sent to the provincial secretary and also to the MUNICIPAL WORLD for publication.

Mr. Jas. Anderson of East Zorra, who has had a large experience in the operation of the Ditches and Watercourses Act and has made a close study of its provisions, gave a very helpful and interesting address upon that subject.

The election of officers resulted in Mr. E. Cody of Embro being chosen president and Wm. Fairley of Norwich was re-elected secretary.

A Board of County Judges composed of Judges Bell, of Chatham, McWatt, of Sarnia, and Horne, of Windsor, met in the latter's chamber on a recent date and handed down their decision in the appeals of the United Gas & Oil Co., against their assessment in various townships in the County of Essex. In each case there was a considerable reduction the three judges being unanimous that the new law should be applied in this situation. It is the first time in Canadian legal history that such an issue has arisen. The judges took into consideration the fact that there had been a great falling off in the revenue of the company, and the evidence of the appellants showed that there was practically no profit in the business. The gas pipes were therefore not worth more than their actual cash value. It was upon this basis that the judges made the reductions in the assessments,

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The question of good roads is evidently a live one in Nicaragua, Central America. The President of that Republic has created a fund for the construction and repair of public roads. A direct personal tax on all male citizens over the age of eighteen and on foreigners living in the country, with the exception of those of the military service, students and men over sixty years of age, will supply the funds. The tax is graduated, however, into five classes. Day laborers are not to pay in money, but will give two day's labor each year. Clerks and artisans working in establishments not their own will be taxed forty cents. If they own their establishments the tax will be double the other amount. Travelling agents and persons owning property in the city must pay $2.01 annually, and farmers and planters owning their land, $4.03. This proposed fund and the purpose for which it has been instituted, have given great satisfaction, for the public highways have always been in bad condition.

A great many live to themselves, and take no part in municipal reform movements, because it is too much trouble. Until every man who has a vote takes an interest in civic government and recognizes his responsibility, there will not be much chance of advancement. The desire for a pure government must be general, and until this is the case, and every man and woman is enough in earnest in his or her desire for a proper administration of affairs to come out and work and vote, the problem of good city or state government will remain unsolved.

Engineering Department

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

Windmills.

Information with respect to windmills will be of interest to municipalities which have considered this power in connection with public waterworks in a manner similar to the systems of Orangeville and Shelburne. A recent report giving the results of tests of windmills made by the U. S. Geological Survey says with respect to economic considerations :

The power of windmills has commonly been computed from tests on model windmills, in artificial air of low velocity, assuming, first, that the power increases as the cube of the wind velocity, and second, that the power increases as the square of the diameter. Our tests of windmills show that the power does not increase much faster than as the square of the wind velocity, and about as 1.25 times the power of the diameter of the wind wheel. We believe that to these two false assumptions is due the exaggerated power of windmills claimed by windmill makers and others interested. A good 12 foot steel mill should furnish 1 horsepower in a 20 mile wind (indicated) and 1.4 horsepower in a 25 mile wind. This is the smallest amount of power that will do any considerable amount of useful work. A 16 foot mill will furnish 1.5 horsepower in a 20 mile wind (indicated) and 2.3 horsepower in a 25 mile wind.

A 12 foot steel mill and a 50 foot steel tower as commonly made weigh about 2,000 pounds. A 16 foot steel mill and a 50 foot steel tower weigh about 4,250 pounds. The 16 foot outfit weighs more than twice that of the 12 foot, and its power is only 1.5 that of the latter. In addition, the 12 foot mill will govern more easily and is less likely to be injured in a storm than the 16 foot mill. In most cases, therefore, it is better to use two 12 foot mills than one 16 foot mill.

The economic value of a windmill depends on its first cost, on the cost of repairs, and on its power. Most of the effort put forth at the present time to improve windmills is directed toward reducing the first cost. Competition is so strong that the cost must be kept low, and this is often accomplished at the sacrifice of the other two factors—cost of repairs and power. The pumping mills and their towers are, as a rule, too light and lacking in stiffness. It is said that in some parts of the West, wooden mills are coming into use again, on account of the lightness and poor quality of the steel mills. This, however, is a fault of the making, not of the material. The wooden tower is stiffer and more rigid than the steel tower.

Power is the most important factor, and next to that should come strength, stiffness, and durability.

It has been shown that the steel mills with their few large sails, have much more power than the wooden mills with their many small sails. A mill should have as few moving parts as possible, in order that the loss of power by friction shall be small, also the liability to get out of working order be reduced to a minimum. The power of a mill is at best so small that if there is much friction there is little power left to do useful work. The grinder should be on the foot gear and not worked by a belt, and the shafting and cogwheels should not be too heavy. In the large wooden mills the shafting is much too heavy ; apparently it is designed on the assumption that the mill will furnish several times more power than it really can. The mill should be carefully erected, the vertical shafting exactly vertical, and and the horizontal shafting truly horizontal, so that there will be no binding of the parts. Poor workmanship is an important cause of the small power of some mills. Only a skilled workman who understands the business should be employed to erect a windmill.

The mills should be placed at a proper height above surrounding obstructions, at least 30 feet above the highest trees and buildings. This calls for a tower from 50 to 75 feet high. It is better to use a small wheel on a high tower than a large wheel on a low tower. An 8 foot wheel on a 70 foot tower will probably do more work in a given time than a 12 foot wheel on a 30 foot tower with trees and buildings around it. The tower should be firm and rigid, no shaking under a heavy wheel load. Steel towers are in constant vibration under heavy loads.

A mill should govern readily at the proper wind velocity, but this velocity need not be less than 30 miles an hour. A weight appears to be better than a spring for holding the wind wheel in the wind. The tension of a spring cannot readily be changed when desired but may gradually lose its tension. There is very great need of an automatic device for changing the load on a pumping mill as the wind velocity changes. The mill should start in a light wind, say 4 to 5 miles an hour, or it will be idle many hours when it should be at work ; but in order to do this it must be lightly loaded. In the higher wind velocities, with a light load the mill will do only a small fraction of the work it would do with a much heavier load. The increase in the load should be nearly proportional to the increase in the wind velocity. Until such a device is invented the load should depend on the wind velocity of the place where the mill is to be used and on the amount of storage.

The pumping mill is ordinarily constructed so that all of the useful work is done on the upstroke of the pump, producing a jerky motion and excessive strain on the working parts. This defect is partly remedied by the use of a large plunger rod, which will force up some of the water on the downstroke. A second remedy is the use of a lever with a heavy weight at one end, the other end being attached to the plunger rod. As the plunger rod moves down the weight on the end of the lever is raised on the stroke. The descent of the weight assists the mill in lifting the water. Neither device is satisfactory. A pumping mill working direct stroke makes too many strokes per minute at wind velocities above about 15 miles an hour. The valves ordinarily used for small pumps will not work well if the number of strokes is greater than 30 per minute. The mill should be geared back about 2 to 1 for large mills and about 3 or 4 to 1 for small mills.

Steel and Concrete Bridges.

Municipalities looking for the most modern practice in highway bridges can find some excellent examples in the County of Elgin, where the fourth steel bridge with a concrete floor, is now in course of construction under the county engineer, Mr. James A. Bell. Two of these bridges are near St. Thomas and have each a clear span of 120 feet. Another near Port Stanley has a span of 145 feet, and the fourth, about two miles from Port Stanley has a span of 125 feet. A bridge of similiar construction now being built across the Thames River, near Glencoe, by the Counties of Elgin and Middlesex, has a span of 240 feet clear, and will cost $18,000. These bridges have concrete abutments, as well as concrete floors, and timber is wholly excluded, so that the life of each of them is limited only by the durability of steel which, with proper care, should be half a century.

The concrete floors make a heavy weight for the steel construction to carry. It is, however, a dead weight, and distributes the weight of the live load, preventing that jarring and distortion which a timber floor permits, and which is so destructive to steel. With a wooden floor, the weight of a heavily loaded vehicle drawn by horses, is transmitted directly to individual members of a bridge, instead of being distributed over a greater area of the bridge structure, as is the case with the wide sheet of stone flooring.

A concrete floor does not form an impediment to traffic. A steel bridge with a concrete floor need not be ornamented with a warning to travellers that if horses are driven over it at a faster pace than a walk, a prosecution will result. Concrete is entering into every department of construction with good results, and one of the most noticeable benefits will arise when, by means of concrete floors, horses need not be checked to a walk but may be permitted to travel ascross bridges at any pace desired.

Basis of Valuation.

There are a number of considerations on which the valuation of a watetworks, electric light, gas, street railway or other plant may be based. They are frequently specified more or less distinctly in the franchise provisions or arbitration agreement, or may depend on other conditions of the arbitration proceedings.

The features to be considered may include one or more of the following :

1. Original cost of works.
2. Cost of reproduction of the works
3. Depreciation·
4. Operating or "going" value.
5. Valuation of franchise, rights, privileges or concessions, and of business acquired or prospective.
6. Valuation for salvage.

The first consideration above listed assumes a valuation based on the original investment or a return of the money actually invested in the works. This basis may be just and equitable under conditions where the plant is to be assumed on or soon after completion. It may also, under certain conditions, have a direct but partial influence on valuation considered together with other conditions.

The second consideration is similar, except that such a valuation is based on present prices, that is, prices prevailing at the time of appraisal, or on the cost that would be involved in the reproduction of the works at the date of the proceedings for appraisal.

The question of depreciation is also usually considered, and the physical value of the plant, either based on first cost, or cost of reproduction as modified by use, and the effects of time are considered.

Under the fourth head is considered the fact that, whereas a plant constructed and completed and ready for operation would have a certain value due to prospective consumers, but with no consumers using the output of the plant, yet a plant of equal physical value, but with consumers actually utilizing its product has a value due to that fact, and to the fact that it is in actual and successful operation and that it has a business worked up, and which constitutes an asset in the consideration of the plant value. This feature is often termed the "going value" or "operating value". of the plant, and has no reference necessarily to the franchise rights, or to the dividend paying condition of the plant. The question as to whether or not this consideration should receive attention in plants of which the franchise has expired is perhaps open to some discussion, and may depend on the wording of the franchise agreement for appraisal and sale.

Fifth. The franchise of the company is ts right or privilege to do business in the public ways of a city, and may be more or less restricted, and curtailed, or extended and perpetuated by the terms of the instrument, and when considered on an appraisal, the value must depend on the wording of the agreement. As a franchise determines the rights or privileges of the company to do business in the streets of a community, its value must of nece sity depend on the nature and amount of the business both acquired and prospective, and when considered, it must be valued in relation to the growth and nature of the population to be served, and the limits set by the franchise and the local conditions.

All rights, privileges or concessions have a value relative to the community concerned, and a value derived from the nature and extent of such community, and of its possible future development.

The consideration of a plant as a financial investment is most largely and clearly a franchise value.

The right to perform the service of sup plying gas, water or o her service to a community is the right on which is based the financial value of the works, or their value as a profitable investment, and if the franchise rights are expired, or are not to be considered, this basis of valuation is often eliminated, although under certain wordings this is more or less uncertain, and is usually a disputed point, unless definitely and distinctly eliminated by the appraisal agreement.

The sixth head mentioned is an extreme condition and considers all rights forfeited or expired, and the works valued only on the salvage basis, or the value which could be obtained by their sale for other purposes. It is seldom that such a basis is seriously considered.

The true value of a plant, even when determined under the limiting conditions of the appraisal clause of a franchise or other appraisal agreement, usually partakes to a degree at least of all these considerations. Justice and equity under the contract terms should be the spitit with which all such proceedings are re-approached.

Electric Railways.

The Maryland State Highways Commissioners, in their annual report make the following comments upon electric railways.

Much fault has been found with county commissioners for granting passenger railway companies the privilege of laying tracks on county roads, it being contended that they should buy rights of-way across country ; but they are public conveniences and serve the public best by following the most settled routes, that is, the public roads.

The advantages offered by the railways are : Rapid and frequent trips at small cost ; and the cost could not be kept down if they had to buy expensive rights-of-way to lay their tracks. They develop the region they traverse, increase the value of the land and thus add to the taxable basis of the county. The suburban trolley system is still in its infancy and it is not unreasonable to expect a great extension of it ; also an increase in its functions to take in, (as it already does in some regions), an express and freight business. This would greatly increase its usefulness and would save the farmers many a long and expensive haul with horses. But it will not do away with the use of the roads for short hauls and for driving.

The passenger railway companies are organized for private gain and should therefore meet their just share of taxation, and should meet the necessary expenses of construction ; on the other hand they are semi public servants and their power of serving the public is dependent on the privileges granted them by the Legislature and county commissioners. The proper balancing of the benefits received by the companies, and the services rendered by them so that they shall be treated justly and the public receive the best service at the smallest cost and with the least inconvenience, and so as to develop the system to still greater usefulness, is a very delicate matter, and one that should receive the closest attention of legislators. A discussion of this broad question does not belong here, but some of the minor details do.

Many of the electric roads have taken complete possession of the public highways and have greatly injured the surface of the whole road, and they often leave the road much too narrow. Sometimes they cross and re cross the road, increasing the danger of accidents by collision.

They should be required to keep their tracks on one side of the road if the road is not a wide one, and always to leave a level strip at least twenty feet wide on the side, for this is not more than enough to provide for a road bed of twelve or fifteen feet wide and leave space for a sidewalk when this becomes necessary.

In wide and important roads the tracks should be in the middle with at least twenty feet on each side to the gutters, and from five to ten feet beyond that for sidewalks, say a distance of thirty feet on each side between the outer rail and the fence. In the opening of new roads the roadway, (between fences), should be made broad enough to provide room for a railway if it should be needed.

Railway companies should not be required to keep the road in order ; it is apart from their line of business and they have not the skilled assistance necessary for the proper care of roads; it is not advisable as a method of taxation, not nearly as good a method, for instance, as the park-tax levied on the street railways of Baltimore. If, however, they directly or indirectly damage the roadways, the damage should be repaired by the proper persons in charge of the road, at the expense of the companies.

County Roads in Carleton.

An important convention was held at Ottawa on the 7th and 8th of October, for the purpose of considering the good roads by-law proposed by the council of Carleton County, in accordance with the Act of the Ontario Legislature, appropriating one million dollars in aid of road improvement.

Indications are that the county of Carleton will have a system of leading stone and gravel roads in the very near future. This statement is made because of the fact that at this meeting attended by the members of the county and township councils of the county, practically every person present expressed himself as being in favor of good roads and desirous of seeing the leading roads of the county improved. There were differences of opinion as to how the work should be carried out, such for instance, as whether or not the toll roads should be bought up, but the overwhelming feeling of the meeting was evidently in favor of better roads.

Another significant fact was that all the township officers present said that in the event of the construction of a system of leading roads being undertaken they would like to see the county council have charge of the work, rather than the township councils.

The only township which appeared to be strongly opposed to the suggested system of leading roads, was Fitzroy, and in its case some strong reasons were given for such a stand. The representatives from Huntley township appeared to be divided in their opinions.

The final result of the meeting was that a committee was appointed, consisting of the reeves of the different municipalities and the senior county councillors from the different county divisions, the whole to be under the chairmanship of Reeve Mann, of Goulbourne, which will meet some time in the near future to see if a system of leading roads for the whole county can be drawn up that will be satisfactory to a majority of the townships. This committee will report at the next meeting of the county council in December.

The meeting was unanimously of the opinion that the by-law recently submitted to the township councils would not do and that it should be greatly amended or an entirely new one brought in.

Another significant evidence of the great change that is taking place in public opinion was the apparently united view expressed that the statute labor system is now greatly behind the times and that more up-to-date methods of road work are now needed. This opinion was expressed again and again at the meeting and apparently no one cared to oppose it. The representatives from Goulbourne and Gloucester townships in which statute labor has been commuted, reported that there has been an immense improvement in their roads since the change in the old methods of doing road work.

The principal speaker on the first day of the convention was Mr. A. F. Wood, who explained in detail the county system of Hastings. On the following day, Mr. A. W. Campbell, Provincial Commissioner of Highways, entered fully into a discussion of the Act, as it applied to Carleton County. Other addresses were delivered by Warden Cummings, of Carleton County; Mayor Cook, of Ottawa; W. C. Edwards, M. P. P.; Ed. Kidd, M. P.; G. N. Kidd, M. P. P.; and H. B. Cowan, secretary of the Eastern Ontario Good Roads Association. The last afternoon of the convention was devoted to hearing the views of the township representatives present, the opinions expressed being exceedingly favorable to a county system of roads, the county council receiving much praise for taking the initiative in the matter.

Wentworth County Roads.

The county of Wentworth, by a large popular majority, on the October 22nd, voted in favor of the county road by-law, whereby the council will raise $98,000 for the construction of a system of county roads, and the purchase of toll roads within the county. This will enable the county to take advantage of the recent Highway Improvement Act, and receive its proportion of the provincial grant of one million dollars. The result shows that about one-third of the total vote was cast, or about 1,500 votes, giving 700 majority in favor of the by-law.

The toll roads to be purchased and their prices are:

Ancaster Toll Road	$10,000
Barton and Glanford Road, Mt. Albion Branch	4,800
Mt. Hope Branch	17,200
Barton and Stoney Creek Consolidated Road	24,000
Hamilton and Nelson Road	14,000
Waterdown and Pt. Flamboro Road	1,000
Total for Toll Roads	$71,000

The city of Hamilton has to pay $1,800 for the portion of the Mt. Albion branch in the city; and $2,200 for the city part of the Mt. Hope branch. The county of Halton will pay $3,895.66 towards the Hamilton and Nelson Road.

The by-law also provides that there shall be paid to certain townships the following sums: Beverley, $2,100; West Flamboro', $2,700; Dundas, $1,750; these amounts to be as a partial equivalent for the amounts they will pay towards the purchase of toll roads, without receiving corresponding benefit. The total amount raised will be met by payment of $5,496.60 yearly, for 30 years, interest on the debentures being 3 3-4 per cent.

The matter of supervision is the next question of importance, but it is expected that consideration of this will be left very largely to the new council that will be elected next January.

Toronto.

The annual report of the City Engineer of Toronto for 1901, recently issued gives the following statistics regarding the capital of the Province of Ontario:

The area of the city, within the city limits, not including the portions of the city land covered by water is 17.17 square miles, and the population, 259,420.

Within the city limits there are 259 miles of streets, and 84¼ miles of lanes, of which 182 miles are paved, and 77 miles unpaved.

The pavements and roadways are:

Asphalt	35.26	miles.
Cedar Block	77.33	"
Brick	11.53	"
Macadam	51.22	"
Wood on Concrete	.67	"
Stone and Scoria Block	.82	"
Gravel	5.54	"

The sidewalks are:

Stone Flag	1.821	miles.
Concrete	52.594	"
Brick	3.056	"
Wood	372.384	"

The city is drained by what is known as the combined system of sewers, and there are 233 50 miles of sewers.

The waterworks system is owned and operated by the city, the supply being obtained from Lake Ontario by direct pumping through a six foot steel conduit laid under Toronto Bay to the main pumping station on the water front, the surplus water being pumped through the city mains to the reservoir, situated north of the city limits. Cost of system to date, about $4,000,000.

At the main pumping station are five engines ranging from 4,000,000 to 10,000,000 gallons capacity per 24 hours. At the high level pumping stations are two engines with a total capacity of 6,000,000 gallons in 24 hours. Toronto Island has one engine of 5,000,000 gallons capacity.

There are 38,000 water takers and the average quantity of water pumped daily is 22,093,150 gallons. The average rate by meter is 10 cents per 1,000 gallons.

There are four lighting companies doing business in the city. The Consumers' Gas Company have 251 miles of mains and 26,982 consumers. The Carbon Light and Power Company have 901 street lights. Toronto Electric Light Company have 1,204 street electric arc lights, and 500 private business arc lights; they have 960 miles of overhead and underground wire and 50 miles of underground conduit. Toronto Incandescent Electric Light Company have 100,000 private business incandescent lights.

The Toronto Railway Company has an exclusive franchise for operating a street railway service within the city limits. They have 88.911 miles of tracks, about 300 cars in operation, and carried 39,448,087 passengers in 1901.

The public parks of the city are under the control of the city council. There are 21 parks having a total area of 1,152 acres.

A modern and complete system of street cleaning, watering and scavenging is owned and operated by the city. The supervision of the sanitary arrangements of the city is under the control of a local board of health.

Water in Concrete.

The precise amount of water which should be used in making concrete, has been a matter of considerable difference of opinion among engineers, some preferring a moderately dry mixture, others a mixture that is wet. A paper describing the results of tests in this respect, read recently before the Western Society of Engineers, summed up the conclusions drawn from experiments as follows :

First, a medium concrete, or one that has not enough surplus water to produce quaking, while having enough to permit easy and thorough ramming, is most desirable. The specification that the concrete shall not quake in the barrow nor while handling, but that it may be wet enough to quake when heavily rammed, would seem about right for regulating the amount of water to be used. Second, it is probably safer to have an excess than to permit a deficiency of water. Above all, however, it is of the utmost importance that the concrete shall be consolidated thoroughly by ramming.

In the discussion following the paper, it was agreed that for contracted spaces, as between timbers, a wetter concrete may be used to advantage, as it can be pushed and compressed into spaces more solidly, resulting in a more compact concrete for the work as a whole.

$50 and $5,000.

The money expended upon roads in Ontario, and the work performed, is in most cases scattered over the entire township, irrespective of the greater need of certain roads, or parts of roads, and the amount of travel over them. Pathmasters do not feel the necessity of concentrating money and labor on finished work, while councillors are subject to the urgent appeals of nearly as many people as there are votes. The thin veneering of disconnected improvements upon the roads is soon lost, and the roads return to their former condition.

With the application of money upon definite and substantial improvements, the results are far different, and in a few years there is a marked improvement in the average condition of the highways. It is not necessary that the amount expended shall be large, in order that it may be economically expended. The one principle underlies the expenditure of $50 and of $5,000, that whatever is done, must be well done.

Working the Municipalities.

We sometimes wonder if the various municipalities realize the extent to which they are being worked, (there is no other word to express it) by some of the various industrial corporations doing business within their borders. And the "boards of trade" which have been recently organized in so many cities, instead of doing what should be their obvious duty in protecting local capital against such schemes, in many cases appear to be only too easy prey for financial adventurers. It may be added that these schemes usually receive material aid from the local press.

The form of procedure is often very much as follows: On the formation of an industrial company letters are sent to a number of cities, preferably to the local Board of Trade, but if not so to municipal officers. The formation, objects and prospects of the new concern are outlined, and then comes the question. "What can you offer us in the way of free land sites, rebatement of taxes or subscription to our stock should we decide to locate in your city?" It is generally understood that the municipality making the best offer will get the plant Then follow statements from the Board of Trade and articles in the local papers, in which an appeal is made for local support. It is pointed out that here is a company desiring to locate in the city. That it will give employment to so many hands, will benefit the local tradesmen and industries and will aid in the upbuilding of the city. All of this is true provided the company is on a strong basis, but the local authorities seldom seem to realize that in these days of idle capital a sound proposition would not need to ask for such supports.

Another form which the request sometimes takes amounts almost to municipal blackmail. A company conducting business on an insecure basis sometimes demands concessions in the way of municipal favor or stock subscription, threatening, in the event of their demand being refused, to move to another city, throwing so many persons out of employment and withdrawing from the city so much of its prosperity. And this course is often facilitated by the willingness of the sister city to extend to them the aid which has been refused by the place where they were originally located.

We cannot blame the company for wishing to secure for itself the greatest advantages possible, but when as is so often the case, their demands become exorbitant, it would seem that there should be some citizens clear-headed enough to point out the folly of acceding to the demands.

We have in mind one company, located in Massachusetts, which had made unsuccessful attempts to secure stock subscriptions in different states. Failing in this, it demanded that a certain amount of capital be subscribed within the city where it was located, threatening that the plant would otherwise be removed to a nearby city, where the favor could be obtained. At the present writing no capital has been subscribed and the plant will probably be removed. From what we learn of the company, the city will be at but small loss from its removal.

Of course there is another side to this question. A new company, with sound prospects, but cramped for capital, in return for the benefits which will accrue to a city from its operations, may ask for a rebatement in its taxes, etc., for a limited time, very much in the manner in which free rent for a month or more may be offered to a tenant to reimburse him for the expense of his removal from some other location. Or, when the benefits to a city are obvious, it may only be just to hope that local capital may share in the profits of the enterprise; but when these limits are exceeded, and, as has been the case, the city is asked to assume a large part of the financial risk of the new venture, it is carrying the matter far beyond the bounds of equity.—*United States Investor.*—

One of the large water mains in an American city recently developed a serious leak through which many millon gallons of water escaped. The cause of the trouble was at first thought to be that the hot salt water from the Railway and Light Co.'s waste pipes had eaten a hole in the bottom of the water pipe. Two theories were assigned for the trouble, one of which was electrolysis, and the other chemical action of the hot salt water. A New York electrolysis expert made a thorough examination of the water system and found that the pipes were in danger of destruction by electrolysis caused by the escaping current of the railway company. The city engineer after examination of the broken pipe said that the damage was caused by electrolysis and proved this by whittling off a piece of the iron pipe with his pocket knife. The current was found to pass from the water to the waste pipe and this set up an electrolytic action that caused the water pipe to disintegrate.

The town council of Glasgow, Scotland, during the past summer (so says one of its members, Bailie John Ferguson, in the Glasgow Evening News of August 29), has carried by an overwhelming majority a resolution to invite the municipalities of Great Britain and Ireland to meet in conference to consider how best to formulate a public bill, on the lines of the Glasgow bill now pending in Parliament, for levying taxes on land values. Over 100 public corporations had responded on August 29, and arrangements are being made for a convention. The Glasgow bill is what would be known in this country as a "single tax" bill.

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

Notice to Owners of Filing Engineer's Report Not Necessary in This Case.—Powers of Council Under Section Seventy-Five.

449—G. I.—1. A and B present a petition to the council requesting that a drain be cleaned out under the Ontario Drainage Act. The engineer reports on said work, on the filing of said report is it necessary to notify the several parties interested of the consideration of said report?

2. C, one of the parties interested urges the council not to adopt said report as the otner ten owers benefited by said drain do not know of the consideration of said report on i s being filed, would it not be proper to let the several parties interested know the date of the meeting when said report will come up for consideration?

3. C gets up a petition to the council signed by all the owners interested in said work including B, requesting the council to change the course of part of said work and to alter the depth of said drain from the engineer's plan of said work. Can the council legally instruct said engineer to amend said report to comply with their wishes?

4. Has not the council power under section seventy-five of Ontario Drainage Act on the report of an engineer to deepen or widen or otherwise improve a drain, as well as to clean out the original depth of said drain?

1 and 2. We are of opinion that it is not necessary for the clerk to give to all parties interested in these drainage works, notice of the meeting at which the engineer's report is to be considered. Section 75 of the Act, (the Municipal Drainage Act), does not require it, and the language of section 16 is inapplicable to cases under section 75. By section 16 the notice is to be served on all parties assessed within the area described in the petition, and no petition is filed or required where proceedings are instituted under section 75. The By-law should, however, be published or printed and copies thereof served upon all parties interested as required by sections 21 and 22 of the Act, and the parties interested have the same rights of appeal as are provided with regard to any drainage work constructed under the provisions of the Act.

3. The council, if it is desirous of meeting the wishes of the owners interested to change the course and alter the depth of the drain, should not adopt and act on the first report, but should instruct their engineer to examine the drain, and make a new report with a view to changing its course and deepening it. The latter report may then be adopted by the council and a by-law passed accordingly.

4. Yes.

Voting Qualification of Postmaster in a Town.

450—ENQUIRING CLERK.—A ratepayer is assessed h gh enough to vote at both municipal elections and e'ections for Legislative Assembly. He is a merchant and is designated as such on the assessment roll, and is also postmaster of the town. On which part of the voters list should his name be placed?

Your municipality being a TOWN the postmaster thereof is by sub-section 1 of section 4 of the O tario Election Act, (R. S. O., 1897, chapter 9), disqualified from voting at any Parliamentary or Legislative election. By sub-section 2 of section 2 of the Act the word "election" when used in the Act means an election of a member to serve in the Legislative Assembly. A postmaster in a town is not disqualified from voting at municipal elections. His name should therefore be placed in part II of your list, which contains the names of all persons entitled to vote at "municipal" elections only.

Responsibility of Treasurer and His Sureties.

451 J. W.—Our municipality engaged a treasurer who has furnished the necessary sureties. For some time the Township moneys were placed in the bank. Neither the treasu er nor municipality received any interest. Our council decided to get interest for the money and so made arrangements with the banker in the presence of the treasurer, whereby we now receive interest for our money. Does this in any way relieve the treasurer or his sureties? The money is deposited to the credit of the treasurer.

The depositing of the money as stated, will in no way affect the responsibility of the treasurer or his sociеties, to make good any default of the former.

The Ditches and Watercourses Act Provides a Remedy.

452—A. C.—If A digs a ditch across his farm, there is no o her way of getting the water away without crossing B's farm. Can A force B to take the water off?

If, in order to obtain a proper outlet for water on A's farm, it is necessary to construct a ditch through B's land, A should file a requisition pursuant to section 13 of the Ditches and Watercourses Act (R. S. O., chap. 285), and otherwise take proceedings to have a drain constructed under the provisions of this Act, so that the rights and liabilities of all parties interested can be properly adjusted. If the parties interested agree, as mentioned in section 8 of the Act, of course no further proceedings will be necessary.

Township Nominations in Incorporated Village.

453—J. J.—There is a dispute amongst the ratepayers of this township about the Town Hall, whether it is legal to have nominations in it as two years ago the village it was in was incorporated. A great many say that as it is incorporated it is not legal. I hold it is, as it is in the municipality. Please let us know.

Section 119 of the Municipal Act provides that a meeting of the electors shall take place for the nomination of candidates for the office of reeve and councillors in townships at the hall of the municipality, or at such place therein, as may from time to time be fixed by by-law, subject in the case of townships to the provisions of section 123. The latter section provides that "where a township is so situate that the territory of such township adjoins the limits of any city town or village, such city, town or village may be designated BY BY-LAW as the place of meeting for the nomination of candidates for the office of reeve and councillors as the case may be," therefore unless the council of the township passes a by-law pursuant to the provisions of section 123 of the Act, the nomination meeting must be held in the hall of the municipality or at such place *therein* (and outside of the village), as may from time to time be fixed by by-law of the townsh[i]p counc l. The incorporated village cannot for municipal purposes, be considered as being *within* the township, since it is a separate and independent municipality.

Rights of Private Owner in Dedicated Highway.

454—T. R. K. S.—On the townline of O and N a deviation road has been in use for about forty years; improvements have been made upon it by both townships ever since and no objections have been made to the title of such land used for road until about one year ago when the owner of the lot through which the road runs claims pay for the use of the land and threatens to close up the road if a settlement is not made with him. The present owner has only been in possession for five or six years. Can he close up said road if payment is not made for use of the land?

2. Can he enforce payment now?

1. If the land through and over which this road runs belongs to private individuals as appear to be the case, and was so owned during the whole period of forty years, a right of way can be acquired by a person claiming right thereto by uninterrupted user for the full period of twenty years, (see section 35 of chapter 133, R. S. O., 1897), and although uninterrupted user by the public for that period, of the right of way, does not, of itself, confer on the public the absolute right to use it as a public highway, it amounts to strong evidence of its dedication to the public as such. In the case of Mytton v. Duck et al, (26, A. R., 61), it was held that the use of a road over certain private lands for thirty years after the patent issued, was conclusive evidence of its dedication to the public as a highway and in Frank vs. Township of Harwich, (18 O. R. 344), it was similarly held where the use was for seventy (70) years. In Johnson v. Boyle, (8 Q. B., 142), it was held that the placing of a gate across a travelled road after the public have enjoyed it for upwards of twenty years, cannot destroy

its character as a highway. We are therefore of opinion that the owner of the adjoining lands has no legal right to close this highway.

2. No.

Obstruction of Sidewalks—Punishment of Vagrants.

455—SUBSCSIBER 1. A wholesale house backs its drays across the public sidewalk to the door of its premises and discharges all the freight. In doing this the sidewalk is blocked and people have to go around the horse and through the mud to use the street. What is the Dominion, Provincial and municipal law or penalty and duty of council in this matter? Can a street be blocked at all for any period of time? Is it the duty of the ratepayers or the council or the constable to look after this grievance? Give full particulars.

2. Re Vagrants or Tramps. What is amended criminal code or municipal law? Is it one or two J. P's required in this matter? What is the full extent of sentence and is it county jail or Central Prison?

1. The Municipal council should pass a by-law under the authority of section 560 of the Municipal Act and this by-law should fix the ponalty to be incurred for its contravention within the limits prescribed by section 702 of the Act.

It has been laid down as a legal principle that "every unauthorized obstruction of the King's highway to the annoyance of his subjects is a nuisance" and that "the primary object of the street is for the free passage of the public, and anything which impedes that free passage *without necessity* is a nuisance." (Rex v. Russell, 6 East, 427.) A person may use a public highway for his private purposes for a reasonable time, and when it is necessary to do so, although for the time such use may amount to an obstruction. The right of any one person lawfully to use the street is subject to the right of every other person to make a corresponding use thereof, thus the carrying and delivery of goods, etc., is a legitimate use of the street, although it may result in the temporary obstruction of public transit. Because building is necessary, stones, bricks, lime, sand and other materials may be placed on the street, provided it is done in the most convenient manner. A cart or wagon may be unloaded at a gateway, but this must be done with promptness. On the other hand, a man has no right to occupy one side of a street before his warehouses in loading and unloading his wagons, for several hours at a time both day and night, so that no carriage can pass on that side of the street, although there be room for two carriages to pass on the opposite side of the street. As to whether an obstruction of a highway amounts to a nuisance depends to a very great extent upon the circumstances of each particular case. It is the duty of the peace officers and other municipal authorities to see that the highways therein are kept clear and safe for travel, and any person aggrieved has the right to make a complaint and have the guilty parties punished.

2. The council of the municipality should pass a by-law pursuant to subsection 6 of section 549 of the Municipal Act for restraining and punishing vagrants. The by-law should fix a penalty for offences committed against it pursuant to section 702 of the act. Payment of this fine may be enforced pursuant to subsection 3 of the latter section. If imprisonment is found to be necessary, it should be in the "common goal, house of correction, or lock-up house of the county or municipality with or without hard labor for any period not exceeding six months." The offender can be prosecuted before one justice of the peace for the county or of the municipality in which the offence was committed, or where the offender resides. (See section 705) Section 208 of the Criminal Code provides: "Every loose, idle or disorderly person or vagrant is liable on summary conviction to a fine not exceeding $50 or to be imprisoned with or without hard labor for any term not exceeding six months or both."

Right to Withdraw From Support of Nearest School.

456 F. L. T. I wish to withdraw my support from the school nearest to me about two miles, and join a section farther from me about three miles. Have I the power to do it, by giving the necessary notice to the council?

2. Is it compulsory on me that I should belong to the nearest school?

1. If the school referred to is a public school within the meaning of the Public Schools Act, 1901, you cannot withdraw your support from the nearest school, assuming of course, that it is the school for and belonging to the section in which your land is located. So long as your land remains part of that school section, it must bear its proportionate share of the rates necessary to maintain its school. Sections number 21 and 95 of the Public Schools Act apply to the circumstances of your case. If, on the other hand the school is a Separate school, you are in a similar position, as section 44 of the Separate Schools Act, (R. S. O., 1897, chapter 294), provides that "any supporter of a Separate school whose residence is within three miles of two or more Separate schools, shall, after the first day of January, 1897, be *ipso facto*, ("by that fact itself") a supporter of the Separate school nearest to his place of residence."

2. Yes for the reasons above assigned.

Collection of Arrears of Taxes on Cheese Factory.

457—I. A.—Our council wished me to write you regarding arrears of taxes they hold against a party who is a non-resident of this county. This party used to live in this municipality and had a cheese factory and paid taxes on same while here, but he moved away and let the taxes go in arrears until they amounted to $15.00 and finally he sold the factory and the party who purchased the same pulled it down and removed it to the adjoining municipality and rebuilt it there. Can our council follow the lumber for payment of arrears of taxes or can they follow the party who formerly owned it and is now a resident in another county. It appears the party who owned the factory had no claim on the ground it was built on so that this cannot be sold to cover the arrears. Please give full particulars as to how to proceed if it can be collected.

It is not made clear how these premises were assessed. We infer, however, that the factory and the land upon which it was erected, were assessed separately. If so, the assessment was an improper one, as the factory should have been regarded as a fixture and part of the land, and the land and the factory should have been assessed together as LAND. The taxes should have been realized in the manner provided by the Assessment Act, by the collector, out of the chattels of the person assessed, on the premises, or any where within the county, at the time they became due and if they could not have been made in this way, by reason of there having been no chattels liable to seizure, they should have been returned by the collector to the treasurer in the regular way. If after all the special methods prescribed by the Act for enforcing payment of these taxes, had been exhausted and they still remained unpaid, an action at law could have been brought against the person assessed, for their recovery. If the above provisions of the Act were not observed the taxes cannot now be collected from the person originally assessed, and in no event can they be recovered from the purchaser.

Jurisdiction of J. P. in Cases of Thieft—Obstruction of Railway Crossing and Public Highway.

458—Subscriber.—1. Can one J. P. try a case of stealing vegetables out of a garden?

2. Does it come under Municipal law?

3. If the party who owns the garden will not lay an information, and prosecute, then can any other party do so?

4. How many minutes can a railway stop up a crossing, and how many minutes can a merchant stop up a sidewalk with a dray employing goods.

1. If the offence is the first offence one justice of the peace has jurisdiction to try the case and finally dispose of it. See sections 341 and 842 of the Criminal Code.

2. No.

3. Yes.

4. Five minutes. See sub section 1 of section 261 of the Dominion Railway Act. As to the latter part of the question see our answer to question No. 455 in this issue.

Vacancy in Council Through Absence—New Election.

459—W. D.—A councillor was absent from three consecutive meetings held June 27th, August 16th and October 4th. An election will be called to fill the vacancy. Please inform me:

1. Is the business transacted at last meeting void and illegal, a majority of the council being present

2. After six days notice to R. O. can election be held any day or should it be on a Monday?

3. At what date can next meeting of council be held, after election of councillor to fill the vacancy?

1. Your municipality being a township the council is composed of five members, and the concurrent votes of at least three of these is necessary to carry any resolu-

tion or other measure (See section 269 of the Municipal Act.) By section 268 it is provided that "a majority of the whole number of members required by law to constitute the council shall be necessary to form a quorum." A majority of the members of the council having been present at its last meeting, if the business transacted was concurred in by at least three of the members present, it was perfectly legal.

2. Section 214 of the Act provides that "the returning officers and deputy-returning officers shall hold the new election at furthest within fifteen days after receiving the warrant and the clerk shall appoint a day and place for the nomination of candidates, and the election shall in respect to notices and other matters be conducted in the same manner as the annual election" See also section 212 of this Act. Section 127 requires the clerk or other returning officer to give at least six days' notice of the nomination meeting. This notice should be given by poster or by publication in some newspaper in the locality. The election can be held on a Monday or any other day which is not a statutory holiday.

3. At the time fixed by by-law of the council for holding council meetings, if the council has passed a by-law fixing such dates, or at the time to which the council adjourned or fixed at its last meeting.

Transferring Farm Lands from Village to Township—Special Agreement as to Rate of Taxation of.

460—A. E. S.—B. for all purposes has this year a rate of 20 mills of which nearly half is for school purposes. We have a very considerable quantity of farm land in the municipality. Our farmers have petitioned the county council under section 18 of the Municipal Act, as amended by chapter 26 of 1901, to be put into the adjoining township. The county council declined to act until its November sittings, the farmers in the meantime to see what reduction the village council would make in their rate of taxation. The adjoining township rate for all purposes is about 10 mills. Under section No. 1 of chapter 29 of the Statutes of 1902, this village being incorporated, has power to fix a rate for five years.

1. Has this rate to be uniform or can it be graded according to location and advantages of each farm?

2. Can the School rate be dealt with in the same way as regards the farmers themselves?

3. Can a lower school rate be levied on the farm lands than on the other lands in the village?

4. Were it not for our heavy school rate the taxes here would not be heavy. If the County Council put the farm lands into the adjoining township, would they not still remain liable for our High and Public School rate?

1. The rate of taxation agreed to be levied upon farming lands located in an incorporated village, should be a uniform rate, as each parcel of such lands should bear and pay its just proportion of the rate levied according to the value placed upon it by the assessor in accordance with the provisions of the Assessment Act.

2. No. The council has nothing to do with the fixing of the rate of taxation in the village for school purposes. This is the Province of the Board of Public School Trustees. The council is required by section 71 of the Public Schools Act, 1901, to levy and collect upon the taxable property of the municipality such a sum as the trustees require for public school purposes.

3 and 4. No. All the taxable property in the municipality should bear and pay its proportionate share of the school rate. The amendment of 1902 to which you refer, authorizes no discrimination in this regard. Unless these farming lands when they are detached become part of a union school with the village municipality by proceedings instituted under the provisions of the Public Schools Act, they will form part of, and be liable for school taxes in the school section in which they are located in the municipality to which they have become attached. We do not know whether the municipality to which it is proposed to attach these farm lands, is in the high school district of which the village forms a part. If it is not, these lands when attached to it, will not be liable for their share of the sums required for high school maintenance applied for by the trustees of your High School Board pursuant to sub-section 5 of section 16 of the High Schools Act, 1901.

Insurance Company By-laws.

461—M.—About twenty years ago the townships of S and B organized a Farmers Mutual Fire Insurance Company. A new president elected last winter was instructed to prepare a by-law fixing the rate to be levied this year, in order to meet expenses. In looking to get number of new by-law find the old by-laws are numbered, but are *not* dated, sealed or signed by either president or secretary This caused a committee to be appointed to revise and amend by-laws.

1. What course should committee take to amend such by-laws?

2. Should new by-law be No. 1 or numbered after the last old one?

1. If the old documents purporting to be by-laws of the company were not dated sealed, or signed by the proper official or officials of the company, they are not by-laws of the company at all, and have not nor ever had any operation as such. There are, therefore, no by-laws for the committee to amend.

2. Since the company has as yet passed no by-laws, the first by-law it passes hereafter will be numbered one.

Removal of Obstructions from Drains.

462—N. Y. Z.—A complains to municipal council that B, who is up stream has allowed a tree to obstruct a large creek gathering a lot of debris causing a jam and thus diverting the water in another direction, and likely to cut another channel. When spoken to, B claims that the tree is a bridge or crossing from one side of the stream to the other. Enclosed find by-law purporting to remove driftwood, etc., from streams in the municipality.

1. Is the by-law effective?

2. If not, what steps shall A take to remove the grievance!

3. If council should have new by-law please outline its contents.

BY-LAW NO....

To prevent the obstruction of streams, creeks and watercourses by trees, brushwood, timber and other material.

Be it enacted, etc., etc.

1. No person shall obstruct any stream creek or watercourse in by trees, brushwood, etc.

2. All such obstructions may be removed by this corporation at the expense of the offenders.

3. The expense of such removal may be levied against such offenders in the same manner as taxes are levied.

4. Any person guilty of an infraction of this by-law shall be liable on conviction to be fined in any sum not less than five dollars, exclusive of costs, and in case of non-payment of the fine and costs, the same may be levied by distress and sale of the goods and chattels of the offender, and, in case of non-payment of the fine and costs, and there being no distress found out of which the same may be levied, such offender shall be liable to be imprisoned in the common gaol, etc., etc., not exceeding twenty-one days.

Read three times and passed in open council the 17th day of July, 1886.

(Seal.) (Signed)

1, 2 and 3. It is not stated whether B personally or by his agent, placed this tree or caused it to be placed in or across the stream, or whether it accidentally fell into or across the stream upon B's land. If the former, it can be removed by the council under the provisions of such a by-law as that outlined above, passed pursuant to sub-section 12 of section 562 of the Municipal Act. Mr. Chief Justice Hagarty remarked in Danard v. Township of Chatham, (24 C. P. 590), that "this provision seems to point at obstructions actually caused by parties, (the "offenders") rather than at the ordinary accumulation of driftwood." If the latter is the case and the stream forms a boundary line between two or more municipalities within a county, the county council should keep the stream open under the provisions of sub-section 1 of section 619 of the Act. If the stream forms a boundary between two or more counties, or a county, city or separated town, sub-section 2 of this section lays down the line of proceedings to be followed. Proceedings may also be instituted, and a by-law passed providing for the removal of the obstructions from the stream pursuant to section 3 and following sections of the Municipal Drainage Act, R. S. O., 1897, chapter 226, provided the necessary petition can be obtained. Even if this log or tree was placed across the stream to be used as a bridge in passing from one side to the other, it should have been so placed and should be kept in such position as not to in any way impede the flow of the water. In this connection, see also section 5 of chapter 142, R. S. O., 1867. This by-law appears to have been passed in accordance with sub-section 12 of section 562 of the Municipal Act, and could be made available for the purpose of compelling the removal from streams of obstructions actually placed there by any person whether the stream flows through public

or private property, but not if the obstruction accidentally fell into the stream for then a by-law of the kind in question can have no application.

Restraint of Gypsies—Duties of Medical Health Officer.

463—R. B. C.—1. Has a municipal council power to pass a by-law prohibiting gypsies or any persons camping on or near the public highway and what sections of the statutes refer to the matter?

2. Is the Medical Health Officer of a municipality compelled to visit houses, at the close of the year, where there had been cases of small-pox about nine or ten months' previous, in order to report to the Provincial Board of Health about these cases? The municipality applied to the Provincial Board of Health to send a physician to treat any cases of small-pox in the municipality, which was done at a considerable expense during the months of February and March. Will the Provincial Doctor's report with reference to these cases be sufficient to send to the Provincial Board of Health without incurring more expense by the Medical Health Officer visiting the houses at the end of the year in order to make another report?

1. There is no provision in the statutes directed especially against gipsies, but no person has any right to obstruct the public highway, and may be indicted and punished for so doing. By sub-section 6 of section 549 of the Municipal Act, councils of townships are empowered to pass by-laws for restraining and punishing *vagrants* and mendicants, etc.

2. By section 31 of the Public Health Act, (R. S. O., 1897, chapter 248), municipal councils are authorized to appoint medical health officers and to fix their salaries. Part of the duty of the medical health officer is to report annually to the local board as to health and sanitary conditions in the municipality, which report is to be embodied in the report which the secretary of the local board of health is required to send to the Provincial Board of Health annually See section 60 of the Act. A medical health officer must be presumed to know his duties when he accepts the office. He should report on small-pox as well as other health conditions in his municipality and if in order to enable him to do so, it should be necessary that he visit the houses in which the infected persons had been, it is his duty to visit and inspect these houses.

Fees of Constable—Repeal of Local Option By-Law.

464—Councillor — Last February we appointed a constable for our village. There is a by-law in force giving the constable 50c. on each conviction made. In July he made an arrest and the party was fined and let go. The constable got some of his clothes torn, now he wants pay for them. Can he collect it? He is not under pay only what he gets from an arrest.

2. We have a Local Option by-law in our village. The last vote was taken on the first Monday of January, 1900. Can we take a vote on it on or before the same date in 1903 or can we take a vote say on 1st January, 1903, or have we to wait until the three years are expired before we can take the vote or can the council of the present year grant the vote and appoint day for taking same?

1. There is no provision made for the payment of a constable for a loss of this kind.

2. We assume that a local option by-law was submitted to the electors on the first Monday in January, 1900, and carried by them, that it has been in force in the municipality ever since, and that you desire to know whether a by-law repealing the above can be submitted to the electors prior to the expiration of three years from the above date. Sub-section 2 of section 141 of the Liquor License Act (R.S.O. 1897, chapter 245) provides that "no by-law passed under the provisions of this section shall be repealed by the council passing the same, until AFTER the expiration of THREE *years from its coming into force etc.* It is not stated at what date this by-law came into force, but it would be some day after the first Monday in January 1900. No by-law, having for its object the repeal of this local option by-law, can be legally introduced, submitted to the electors, or finally passed by council at any time PRIOR to the expiration of three years from the day the by-law came into force. This years' council cannot legally deal with the matter.

Effect of By-law Changing Date for Making Assessment.

465—J. H. B.—We have been assessing and did this year (1902) make our assessment from February 15th to April 30th, and from assessment so made, the taxes have been collected and the voters list made. We decided to change the time of making the assessment from July 1st. to September 30th. as provided by section 58 of the Assessment Act and passed a by-law appointing assessors and made another assessment which we propose to adopt for 1903. Does the Assessment Act, section 58, sub-section 4, give the Council the option of making a new assessment or are they compelled to adopt the assessment made in February and have it revised?

We are of the opinion that it is optional with the council either to have a new assessment made or to adopt the assessment already made. The council is not bound to adopt the assessment already made.

Duties of Clerk and Collector as to Collector's Roll.

466—Y 1902.—Is the Collector's roll completed without the different rates being extended into the "total column"? As tax collector I said the clerk ought to extend the different amounts into total column but he says it is my duty. I want your opinion, quoting authority.

It is no part of the duty of a collector to add up the several rates charged against the parties on his roll and enter the totals in the proper column. This is essentially the duty of the clerk before he delivers his roll to the collector, and the clerk has not completed his roll until he has done this. The only entries a collector is authorized to make on his roll are the date of making the demand or serving the notice mentioned in section 134 of the Assessment Act, and the date of the payment of the taxes.

These Places Own Their Own Electric Lighting Plants.

467—G. L. G.—Will you kindly give me a small list of places that have adopted municipal lighting and as far as you know with what success, also please say what you would think of our village adopting it. We have an assessment of about $200,000, we pay now $400 to have our town lighted. The company who have been doing the lighting is giving it up as they must purchase a new dyamo and do not feel disposed to do it.

The following is a list of places you require with their respective populations:

	POPULATION.
Markham	1000
Teeswater	925
Thessalon	869
Beeton	707
Bothwell	924
Weston	893
Dundalk	642

Your village is similarly circumstanced to those above enumerated and they all seem to be well satisfied with their experiment in municipal lighting. We see no reason why it would not be a desirable and profitable institution in your village.

Assessor Should not be Appointed Treasurer.

468—G. C.—The question has been asked me if it is legal for a person to hold the office of assessor and treasurer as well? I refer to Revised Statutes 1897 where it plainly states that the treasurer shall not be appointed assessor. Have not noticed any amendments to that section. If there are any please mention. Our treasurer has resigned and the assessor was appointed in his place. The question was asked the clerk if he, the assessor could legally hold both offices.

The latter part of sub-section 1 of section 295 of the Municipal Act provides that a council shall not appoint as assessor the treasurer of the municipality, and therefore the assessor should have resigned his office of assessor before his appointment as treasurer for he cannot hold both offices.

Damages for Injury to Land by Drainage Works Under Legislation of 1902.

469.—Inquirer.—An engineer, in his report on a drainage scheme, allowed A a certain sum as damages for injury to his lands by reason of the construction of the drainage works, instead of carrying the drain to a point where the discharge of water would do no injury to his lands under section 8a of the Drainage Act, (enacted by section 1 of chapter 32 Ontario Statutes, 1902.) A is of opinion that the sum allowed him by the engineer is not enough. He did not appeal to the Court of Revision held on the drainage by-law, nor did the matter come before that court.

1. Can A now appeal to the drainage referee against the engineer's report?

2. Had A appealed to the court of revision could that court have increased or reduced the amount allowed him for damages by the engineer and altered the amounts assessed against the lands charged with the cost of construction of the drainage works, to the extent that such increase or reduction would have rendered necessary?

1. We call attention to the fact that sec-8a is added by section 1 of the Municipal Drainage Amendment Act, 1902, to the Drainage Act, as a separate and distinct

section. Sub-section 6 of section 9 of the Drainage Act, as amended by section 2 of the Municipal Drainage Amendment Act, 1902, provides that "any owner of lands affected by the drainage work, if dissatisfied with the report of the engineer in respect of any of the provisions of THIS SECTION, that is section 9 of the Act, may appeal therefrom, to the referee, etc." It will be observed that this right of appeal is given only in respect of matters mentioned in section 9 of the Act and since the Act adding section 8a, makes no provision for an appeal to the referee in respect of matters mentioned in section 8a, and no such provision is made elsewhere, we are of opinion that no appeal lies to the referee from the report of the engineer in respect of matters mentioned in section 8a.

2. Section 32 of the Municipal Drainage Act provides that "any owner of land, or, where roads in the municipali y are assessed, any ratepayer, complaining of overcharges in the assessment of his own land, or of any roads of the municipality, or of the undercharge of any other lands, or of any road in the municipality, or that lands or roads within the area described in the petition which should have been assessed for benefit, have been wrongly omitted from the assessment or that lands or roads which should have been assessed for outlet, liability or injuring liability have been wrongly omitted, may personally or by his agent, give notice in writing to the clerk of the municipality, that he considers himself aggrieved for any or all of the causes aforesaid." The matters referred to in section 8a are not by the above section, or by the Act adding it to the drainage Act or elsewhere, made the subject of appeal to the Court of Revision. We are therefore of opinion that such an appeal will not lie. Further legislation is necessary to confer either of the above rights of appeal.

Clearing of River of Obstructions—A Teacher's Agreement.

470—P. S. T. P.—1. A river or a branch of the river has its head waters in our township. It has scarcely any banks and for miles runs through bear meadow flats, and in many places the river bed is filled with timber in stretches of 80 rods long or more, so as to dam back the water in springtime, until the lands and roads are covered for miles, making it impossible to keep clear or cultivate lands. The ratepayers along said river and also the township council are anxious to know what steps or under what clause of the Act would it be necessary to pursue to clean out river.

2. A teacher having been engaged by the trustees and the agreement signed engaging said teacher until 31st. December, 1903. In the agreement the notice required to be giveu is one month. Can the trustees terminate engagement on the 31st December, 1902 by giving one month's notice, or will the trustees have to keep on teacher who is not giving satisfaction, until end of 1903. Ours is a rural school.

3. If the Board of Trustees fill up the agreement by stating that $30 shall be paid at Easter and $30 the 1st July, if teacher after signing this agreement, tenders his resignation on the 28th. May, are the trustees obliged to accept, and put up salary in full, or can they deduct the interest when they have to borrow the money, or would it be legal to tender teacher notes of trustees falling due the 31st December as per agreement?

1. The parties interested should obtain the signature of the petition required by subsection 1 of section 3 of the Municipal Drainage Act (R S. O., 1897, chap. 226) by the proper number of parties, and present it to the council, with a view to inducing them to pass a by-law under the provisions of the above Act for the clearing of this stream of obstructions.

2. It is difficult to answer this question satisfactorily without seeing the agreement. If it provides that the trustees may terminate the agreement at any time by giving one month's previous notice, they may so terminate it, paying the teacher his salary up to the time of the expiration of the notice, and they are not bound to retain him until the 31st December, 1903.

3. We cannot express any opinion upon this question without a copy of the agreement.

Assessment of Goods in Store.

471—T. C. N.—Are there different legal methods of assessing store goods and stocks? The present method of assessing only the paid up part is unsatisfactory. Please answer fully.

Section 28 of the Assessment Act provides that real and PERSONAL property shall be estimated, (for purposes of assessment), at their actual cash value, as they would be appraised in payment of a just debt from a solvent debtor. Sub-section 24 of section 7 of the Act exempts from assessment and taxation "so much of the personal property of any person as is equal to the just debts owed by him on account of such property, etc." This is the only legal method at present, provided for the assessment of goods or stocks in a store.

Gift of Wood on Road Allowance—Collection of Non-Resident Defaulter's Statute Labor.

472—X.—1. Can a municipal council legally grant to any one without receiving any compensation therefor, the wood on an unopened concession road?

2. (a) In case council cannot give the wood gratis to any one, is there anything in the statutes compelling council to give the party whose land is contiguous to said unopened and unfenced road the first chance as to purchase of said wood? (b) Has the one whose lot is contiguous the sole right of possession?

3. A pathmaster returns his road list too late to have defaulter's entered on roll for 1902 Is there any provision made for charging non-resident defaulter's? I mean non-residents entered on the Resident roll (section 109 (1) chapter 224.) I cannot see that the clerk has any right to change such in 1903.

1. No. Sub section 6 of section 640 of the Municipal Act empowers councils of townships to pass by-laws "for preserving or SELLING timber, trees, etc., on any allowance or appropriation for a public road, etc.," but no authority is given to a council to make a voluntary GIFT of such timber or trees to any one.

2. *(a)*. No.

(b). The party is legally in possession of this road allowance "as against any PRIVATE person" until a by law for opening such allowance for road has been passed by the council having jurisdiction over the same, but not as against the MUNICIPALITY, provided it has not been opened for public use by reason of another road being used in lieu thereof or if parallel and near to it, a road has been established by law in lieu thereof. See section 642 of the Municipal Act.

3. The sub-section you refer to requires overseers of highways to return these non-resident's defaulters to the clerk of the municipality, before the 15th August and further provides that "in that case" that is in the event of the return having been duly made as required by this sub-section, the clerk shall enter the commutation for statute labor against the names of such defaulters on the collector's roll. If the return is not made as required by the sub-section, the clerk has no authority to enter the commutation on the collector's roll either for the year then current or the following year, as this sub-section does not contain a provision in the latter regard, similar to that to be found in sub-section 1 of section 110.

Statute Labor on Unopened Road.

473—F. G. J—1. I am shut in and have to pass through a neighbor's field to get out. There is a road allowance along my farm to the town line, but not open. How can I get more statute labor put on it than my own?

2. The council consult the wishes of the ratepayers and as no one but myself is interested in opening it out, I canot get extra work. What power has the council to arrange the work if they consider it advisable to open a road, cannot they draw the labor near it even if the owners of the lots near have no interest?

3. If they cannot do this, would it be well to ask the council to annually expend a sum of money till it is opened?

4. In the event of the council refusing to do either of the above, what remedy have I to get the road opened?

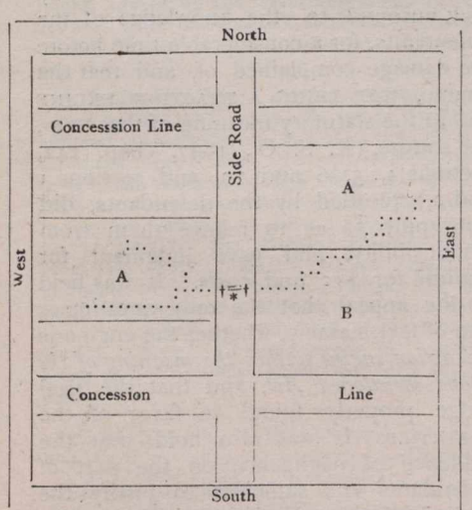
1. Statute labor of residents must be performed in the division in which they reside unless the council of the municipality sees fit to direct or order otherwise. See the latter part of subsection 2 of section 109 of the Assessment Act. The council could not be reasonably expected to, nor should it so order unless the road has been duly opened for public travel, because the public interests require it. The council is not BOUND to open any road, nor should it do so, unless the PUBLIC convenience requires it.

2. The council has no reasonable excuse for ordering persons whose lands are outside your division, if any such has been established, to perform statute labor upon a road which you state has not been opened, and should not do so.

3. If the council is of opinion that the convenience of the public requires the opening of this road, it may pass a by-law pursuant to the provisions of the Municipal Act applicable to the circumstances, making provisions for so doing, but it should not do this for the benefit of one individual only.

Proceedings to Enforce Completion of D. & W. Drain.

474—W. S —A owns two farms 100 acres on the east side of the road and 50 on the west side which is rather low. A put in two six inch tile drain, as you will see he ran them right into the road ditch which was about two and one-half feet deep which gave him an outlet. He came fully ten feet on the road, the water then ran under the culvert over on B. B then sued A for damages, he got $5.00 but A was still allowed to run his water on B. B then took the Ditches and Watercourses' Act, he brought on the township engineer and ran the ditch to the east as you will see. The award given by the engineer was that the township had to do thirty-four rods over in B's field and then run across the road to the west as far as A's fence. We had also to put in two silt basins one on each side of the road. The award said to go one foot lower than the bottom of the culvert right under the culvert. As the tile were eight inch and as they are one inch thick, we knew that by putting two inches of dirt on the tile they would never stand the frost, so we left out the culvert. Can A make us put in another culvert? Just before the ditch was dug, B came to the council and told us if we did not close it he would come on the township for damages. The silt basins are four feet lower than the tile, the tile taps each of these silt basins so when the water on the west side of the road where A put in his two six inch tile the water can run in the basin on that side and what water comes down on the east side of the road to B it will run in the basin, but A is determined to have both the silt basins and the culvert opened so if there is an overflow on the west it will run over on B. There is no water running over the land except when there is a freshet, the land heavy clay and nearly flat.



* Culvert Crossing the Road.
† Silt Basins.

As we understand this matter an award was made by the township engineer at the instance of B under the provisions of the Ditches and Watercourses Act. (R. S O. 1897, chapter 285). By that award the township was required to construct a culvert across the road in the course of the drain and catch basins at either end of the culvert of certain specified dimensions. If the time for appealing against this award, as provided by sub-section 1 of section 22 of the Act, has expired and the township did not appeal, or if it appealed, the award, was not, in this particular altered, the council can be required by A or any other party to the award to put in the culvert and catch basins in the manner directed by the award. (See section 28 of the Act.) We must assume that the engineer understood his business, and laid out a drain of sufficient dimensions to meet the requirements of the locality. After the expiration of two years from the completion of the construction of the drain, any party to the award is empowered by section 36 of the Act to take proceedings thereunder to have the award re-considered.

Duties of Collector—Tenant's Voting Qualification.

475—F. F.—1. Is it necessary for a collector in a township municipality in a district, when giving notice for taxes, to specify each parcel of real property with assessed value? For instance some of our ratepayers have over eighty parcels of property, and on the tax forms we get from the WORLD have only space for perhaps six parcels.

2 Is it the duty of the collector, when handling over moneys to the treasurer, to specify how much of it is collected for the township rate, school rate and debenture rate?

3. Can a ratepayer who is assessed as tenant for less than $200 personal property and no real property, be entitled to vote at municipal elections?

1. Section 52 of chap. 225, R. S. O., 1897, provides that "the collector (in municipalities in districts) shall have the same powers as are conferred on collectors by the Assessment Act." Your municipality being a township, sub-section 3 of section 134 of the Assessment Act provides that the collector "shall call at least once on the person taxed, or at his usual residence or domicile or place of business, if within the municipality in and for which the collector has been appointed, and *demand* payment of the taxes payable by such person." If he is empowered to do so by by-law of the municipality, he shall leave with the person taxed a written or printed notice, etc., *this* notice shall specify the AMOUNT of the taxes payable. It is not necessary that a description of each parcel of property and its assessed value should be entered on the tax notice served on each ratepayer.

2. No. The recapitulation of the amounts on the roll prepared by the clerk and inserted in the back of the collector's roll should, when the roll is returned by the collector to the treasurer, give the latter this information.

3. No. A tenant to be entitled to vote at municipal elections must be rated on the revised assessment roll of the municipality for REAL property held in his own right (or, in the case of a married man, held by his wife) of the value of $100. See subsection 1 of section 86 and section 87 of the Municipal Act.

Notice Terminating Teacher's Agreement.

476—X.—A teacher engages for one year with a board of school trustees. The agreement contains the usual one month's notice on the part of either party to terminate agreement. Can the trustee board at the end of six months, on the ground that it can procure a cheaper teacher, legally give the month's notice and terminate agreement?

If the condition of the agreement is simply that either party may terminate the agreement on giving the other one month's notice, the trustees can terminate their agreement on giving the teacher one month's notice of their intention without assigning any cause for their so doing.

Tenants Voting Qualification.—Transferring Names of Parties From Part 3 to Part 1 of Voter's List.

477.—J. M.—I have a copy of the Municipal Law by W. H. Anger, B. A., which says the amounts of rating necessary to entitle a person to vote, whether freehold or leasehold, must not be less than, in townships and villages $100. Is this law still in force?

2. Has the presiding judge at the court for revising the voter's list power to transfer the names of non-ratepayers entered on part 3 of the list from part 3 to part 1?

1. Yes. See section 87 of the Municipal Act. Also sub-section 1 of section 86.

2. Yes. Section 16 of the Ontario Voter's Lists Act, (R. S. O., 1897, chapter 7), provides that "if on a complaint or appeal to strike out of the list of voters the name of a person entered thereon as a voter, the judge, from the evidence produced, and given before him, is of opinion that the person is entitled to be entered on the list in any character or because of property or qualification other than that in which he is so already entered on the list, the judge shall not strike the name of the person from the list, but shall make such corrections on the list, as the evidence in his opinion warrants, with respect to the right, and qualification of the person to be a voter, and the character in which he is entitled." See also section 40 of the Act, which makes provision for the assessment and taxation of parties transferred by the judge from part 3 to part 1 of the list.

Proceedings on Re-Consideration of Drainage Award.

478—X. Y. Z.—C is at upper end of awarded ditch No. 2 which was constructed first, No. 2 in 1884 and No. 1 in 1885. Ditch No 1 by award was to be constructed 2 feet to 3½ feet deep, 1½ feet on bottom and 5 feet to 7 feet across top, but lower persons put in 6 inch tile contrary to appeal of C to engineer who would not interfere owing to interference of reeve. C connected 8 inch tile to the 6 inch of lower person. C now wants re-consideration of award and get relief by drainage in another part of farm. Had preliminary meeting; failed to agree. Ex-reeve mentioned above attended, who is a party to award No. 2 and complained that he had not been notified of meeting as he claimed he would be affected and stated that proceedings were illegal. Drain No. 2 does not run through ex-reeve's property but along road side. All waters of drain No. 1 and 2 originally went through ex-reeve's property but was diverted by statute labor etc. and above mentioned drains. Would you suggest to C to notify all interested parties on ditch No. 2 as well as ditch 1, to appear at the site of said ditches when the engineer holds his examination, or leave it for engineer to order new hearing and then notify parties on ditch No. 2 if engineer finds ditch No. 2 not sufficient outlet? Interested parties on ditch No. 2 were not notified to appear at preliminary meeting.

Since there is a possibility of the enlargement of drain number two being necessary as a consequence of the remodelling of drain number 1 under the re considered award we are of opinion that all parties interested in either drain should be

notified of all proceedings to be taken under the Act. If there are any parties interested in either drain who were not notified of the preliminary meeting under section 8 of the Ditches and Watercourse Act, R. S. O., 1897, chapter 285, a new preliminary meeting should be held after all parties concerned have been duly notified. We do not see why C. could not accomplish his purpose by proceeding either under section 28 or section 35 of the Act as the placing of tile in drain number one does not appear to have been authorized by the original award.

This Land Should be Sold for Taxes in The Usual Way

479—W.—In November 1899 A purchased a lot from the council for which he was to pay $54 16. He paid $38.00 on account and made a little improvement on the lot and left for parts unknown. Can the council re-sell the lot? No time was mentioned for the payment of the lot at time of sale.

Assuming that the municipality executed and delivered to A a deed of this lot, when he purchased it, the mere fact that A failed to pay to the municipality the balance of the purchase money does not re-vest the title in the latter so as to enable it to re-sell. If the lot has been assessed to A since he purchased it in 1899, and every effort has been made to collect the taxes on the assessed value, and all the provisions of the Assessment Act as to the collection of taxes have been observed by the municipality and its officers, this lot can be sold in the fall of 1903 to realize the amount of the taxes in arrear. If the municipality took a mortgage to secure the payment of the balance of this purchase money, or if there is, or was some special agreement as to re-vesting of the lot in the municipality in in case of non-payment of the purchase money, the case would be different. As to this, however, not having any information, we cannot say.

Improvement of Drain Outlet—Agreement on Re-Consideration of Award.—Defence of Appeal Against Award.

480.—Essex.—If a drain bringing water from an adjoining township and also from our own township emptying water in a river (which is in its natural state at this point where this drain enters), deposits a large amount of earth damming the wator back in another drain. Which drain should pay for the removal of the earth?

2. Can the lands in the adjoining township be assessed for cleaning of obstructions?

3. Should the drain that receives injury pay for the removal of the obstruction, or the drain that caused the obstruction?

4. If a drain constructed under Ditches and Watercourses' Act (and under an award of an engineer,) after three years one owner finds the drain not sufficient to carry the water and he notifies the other owners of the same and they enter into and agree to deepen and widen, and filed the agreement with the clerk, can the agreement be enforced the same as the award?

5. The engineer made an award of a drain under Ditches and Watercourses Act. One owner appeals against the award Is it lawful for the council to appoint a lawyer to defend the award? The township is not assessed for the drain, nor did it order on the engineer.

1. The council may, on the report of an engineer appointed for the purpose, pass a by-law for making a new outlet for or extending and improving the drain through which the earth causing the obstruction in the stream is brought down, pursuant to the provisions of section 75 of the Municipal Drainage Act, without the petition required by section 3 of the Act. The lands and roads chargeable with the cost of this work are all those, wherever located, which the engineer, who makes the examination and report, considers are in any way liable to assessment under the Act for the expense thereof. It appears to us that the lands along the drain down which the accumulation of earth has been brought are liable.

2 and 3. These are matters that must be left to the judgment of the engineer, appointed to make an examination of the locality and to report on the drainage works and he should assess all lands and roads, wherever located, which he considers in any way liable, for their respective portions of the cost of carrying out the drainage work.

4. We assume that the owner has taken the proceedings authorized by section 36 of the Ditches and Watercourses Act, (R. S. O., 1897, chapter 285), and that the proceedings mentioned in sections 8 and 9 have been duly taken. If this is the case, the agreement filed with the clerk is enforceable in the same manner, and to the same extent as an engineer's award, making similar provisions. The latter part of sub-section 1 of section 9 of the Act provides that "the agreement may be enforced in the like manner as an award of the engineer as herein after provided."

5. Since the municipality is not in any way interested in the award, the council has no reason or authority to interfere or employ a solicitor to represent it, in the matter, the parties to the award should be left to fight it out among themselves. If the applicant in his grounds of appeal, alleges that the municipality should in some way, be a party to the award, it would be different.

Law as to Traction Engines

481—Old Subscriber. In the case of an owner of a traction engine having his engine break through a bridge in crossing and the engine and bridge damaged in consequence, has the owner of the engine a right of action against the municipality in which the bridge is situated, or the municipality a right of action against the owner of the engine?

Sub-section 1, of section 10, of chap. 242, R. S. O., 1897, provides that, "Before it shall be lawful to run such engines over any highway whereon no tolls are levied, it shall be the duty of the person or persons proposing to run the same to strength, at his or their own expense, all bridges and culverts to be crossed by such engines, and to keep the same in repair so so long as the highway is so used." Therefore, if the engine is a traction engine within the meaning of the Act; and the owner fails to comply with the provisions of the above sub-section, he can recover no damage from a municipality for injuries to his engine by reason of its having gone through a culvert or bridge, and he is liable to the municipality for the injury done to the culvert or bridge. The question, however, as to whether a particular engine is a traction engine within the meaning of the Statute or not is an important one. The traction engines to which this Statute applies appear to be those employed for the conveyance of freight and passengers. (See section 1 of the Act.) From the decision in the recent case of Pattison v. Township of Wainfleet, it would seem that the engine ordinarily used to draw a threshing machine and water-tank or either of them is not a traction engine within the meaning of the Statute. This case was an appeal by the defendant township from a judgment of the county court of the county of Welland, in an action for damages for injury to the plaintiff, and to engine attached to a grain threshing machine which plaintiff was driving over a bridge belonging to defendants, and which bridge, plaintiff alleged, was so defective and unsound that the engine on which he was riding was thrown down into the bed of a creek below. The judge, at the trial, found that the bridge had been out of repair, and unsound, to the knowledge of the defendants, for a considerable time before the damage complained of, and that the engine, NOT BEING A TRACTION ENGINE within the statutory meaning of that term, the statute, (R. S. O., 1897, chap. 242, sections 4, 5, 6 and 10, and sections 1 and 2,) pleaded by the defendants, did not apply so as to relieve them from responsibility, and gave judgment for plaintiff for $75 and costs. It was held on the appeal that the only question is one of fact, namely, whether the engine is a *traction engine within the meaning of the above mentioned Act*, and that the trial judge properly found in favor of the PLAINTIFF. It was also held that the evidence of negligence on the part of defendants was sufficient to justify the finding of the trial judge, and that the damages found by him were reasonable.

Dual Voting on Bonus By-Law and for School Trustees in Towns Divided Into Wards Legal.—Illegal for Councillors Elected by General Vote.

482.—G. W. O.—1. Please let me know whether ratepayers can vote on a by-law exempting a manufacturing institution from taxes in each ward in which they have the proper property qualification, or is it in such a case, one man, one vote.

2. Our councillors are elected by a general vote but our town is divided into wards. For school trustees the people still vote by wards Is that right?

1. Section 355 of the Municipal Act provides that "Where a municipality is divided into wards, each ratepayer shall be so entitled to vote, (that is on by-laws of this kind), in each ward in which he has the qualification necessary to entitle him to vote on the by-law." This is still the law on the subject.

2. Since your council is elected by the general vote of the ratepayers of the municipality, notwithstanding the fact that its division into wards still continues, each elector is entitled to only ONE vote for EACH COUNCILLOR to be elected for the town. (See section 9 of the Municipal Amendment Act,, 1901, chapter 26, 1 Ed. VII., (o.). (As to the penalty imposed for transgressing the provisions of the above section, see section 9 of the Municipal Amendment Act, 1902, (chapter 29, 2 Ed. VII., (o).)

3. Unless the Board of Public School Trustees of the town has passed a resolution pursuant to the provisions of subsection 6 of section 61 of the Public Schools Act, 1901, each elector qualified under that Act is entitled to vote for school trustees in each ward in the municipality in which he possesses the necessary qualification. In this connection see also section 3 of chapter 40 of the Ontario Statutes, 1902.(2 Ed. VII.)

Payment of Rent of Polling-Booths at Provincial Elections.—Salary of Medical Health Officer.

483—CLERK.—1· Our township is divided into two polling sub-divisions. In sub-division No. 1 the poll is always held in the town hall. In sub-division No. 2 the poll, at election for the Local Legislature, is held in a certain school house, named by the returning officer for the county. The trustees ask four dollars for use of school house on those occasions. Who shall pay this rent?

2. In January last a ratepayer gives verbal notice to the reeve that his family had been afflicted with small-pox, but were then all well for about three weeks. He requested the reeve to send the Medical Health Officer to see that his house was properly disinfected, as he wanted to send his children to school. Reeve ordered me to send for the Medical Health Officer. Now the Medical Health Officer wants the township to pay his bill for visiting the said ratepayer's house and advising as to cleaning up etc. Who shall pay this bill of the Medical Health Officer? The ratepayer in question being in good circumstances and well able to pay.

1. Section 263 of the Ontario Election Act (R. S. O., 1897, chapter 9) provides that "the fees in schedule B to this Act, mentioned, in respect of the matters therein contained, and no others shall be allowed to the several officers therein mentioned respectively, for the services and *disbursements* in the said schedule specified." Item 18 of this schedule is as follows:—"For each *polling booth*, actual cost not exceeding four dollars, to be paid by the *township treasurer on the order of the Depnty Returning Officer*, unless the township council provides suitable polling places at their own expense."

2. Section 31 of the Public Health Act, (R. S. O., 1897, chapter 248), empowers councils of townships to appoint medical health officers and to fix their salaries. We presume that this has been done in this case. When a medical health officer accepts the office at a fixed salary, he is entitled to no extra pay for services performed either from the local board of health or the council, and in this instance we are of opinion, that he is entitled to no pay over and above his fixed salary. Whatever *disbursements* were incurred in disinfecting these premises, for disinfectants, hired help, (if any), etc., should be paid for by the ratepayer himself, since he is financially able to do so. (See section 81, 82 and 83 of the Act.)

Permission Cannet be Granted to Private Person to Lay Water Pipes Along Streets of Towns.

484—W. H C.—A party in town wishes permission to lay down water pipes to supply different persons with water. If the council grant this permission, can they at any time hereafter compel this person to shut off the water or remove the pipes?

2. An agreement will be entered into to this effect. In case the party laying the water pipes is not interfered with for a period of seven years, can he then claim that the conditions of the agreement do not bind him to remove them?

1 and 2. Sub section 2 of section 565 of the Municipal Act empowers the councils of cities, TOWNS, etc., to pass by-laws "for authorizing any gas or water COMPANY to lay down pipes or conduits for the conveyance of water or gas under streets or public squares, subject to such regulations as the council sees fit." It is to be observed that this sub-section does not authorize the council to grant this privilege to any PRIVATE INDIVIDUAL, nor is such authority conferred elsewhere in the statutes. Therefore, since municipal corporations are the creatures of the statutes, and can do nothing that they do not authorize, the council has no power to grant this person the privilege he asks.

Ownership of Timber on Road Allowance.—Disposition of Fines.

485—J. M.—1 Between lots twenty-five and twenty-six South West Range Frontenac road, C township is a road allowance of sixty-six feet laid out by Government at time township was surveyed. This allowance runs from Frontenac road to the river about the length of one lot and about same length on the other side of the river. This part has never been opened. There is some good timber on same, pine, cedar etc. Does the municipality own the timber or can a man buying the timber standing on twenty-five and twenty-six, cut the timber on said road allowance? There is a bridge across Mississippi near said road allowance. Could the municipality cut the timber on said road allowance to repair said bridge of municipality? What steps should they take to forbid any person from cutting same?

2. About one year ago a justice of the peace fined a man $20 and costs and gave him thirty days to pay same, he furnishing bonds to pay same. The time has long expired and money has not been paid, and the bondsman says he will not pay same as it is over time. Should any of that money come to the municipality or where does it go to?

1. It is not stated whether the lands in the vicinity of this road allowance are still vested in the Government, and a license to cut the timber thereon granted by the Government to the purchaser with his license to cut the timber on lots 25 and 26 or whether lots 25 and 26 have been granted to and belong now to private parties. If the former is the case, the timber belongs to the licensee from the Government, and he has the right to cut and remove it. (See sections 2 and 7 of chapter 32, R. S. O., 1897.) If the latter the timber belongs to the municipality in which the road on whi h it s ands is vested and the purchaser of the timber on and from the owners of lots 25 and 26 cannot cut or r move it, unless he has purchased it from the municipality pursuant to a by-law passed by the council under the authority of sub-section 7 of section 640 of the Municipal Act. There is no legal objection to the use by the council of the timber on this road allowance for the purpose of repairing the bridge mentioned, unless it has been included in a timber license from the Crown as stated above. The council should post up notices in the vicinity of the road allowance, forbidding the cutting or removal of trees therefrom, without the consent of the council (although this is not a necessary proceeding preliminary to a prosecution) and any person who can be proved guilty of cutting and removing any of this timber without the authority of the council may be prosecuted for trespass and theft of the timber.

2. We cannot answer this question unless you name the offence for the commission of which this party was fined.

Ratepayer Has no Power to Raise Sidewalk in Village.—Liability to Build Road Crossing.

486 J. P.—There is a village in our township and a ratepayer has raised the sidewalk about fifteen or eighteen inches making it dangerous to walk on when it is wet or icy. The ground is a little higher just in front of his premises than any other part of the sidewalk so that you can see by raising it, it becomes more dangerous still. The pathmaster told him not to raise it but he paid no attention to him and defied him to lower it again.

1. Has ratepayer any right to raise sidewalk?

2. If not, what proceedings will we take and by whom should such proceedings be taken?

3. A certain ratepayer refuses to put into culvert at his gate where it was necessary to run a water table, but persists in driving over said ditch causing the clay to fall in and obstruct water, thereby running out on road. Can pathmaster compel him to put in proper culvert, there being none there previous to fixing road?

4. If he refuses, what is the prper proceedure?

1. No.

2. The man can be indicted, either at the instance of the council or any ratepayer. The corporation may bring an action against him to restrain him from interfering with the highway.

3. It has been held that a municipality is not bound to provide a crossing to enable an owner of land to reach the highway, but this case, according to a recent decision appears to come within the principle laid down in Youmans v. County of Wellington (4 A. R., 301) where the

(Concluded on Page 188.)

Legal Department.

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

Another Scrap-iron Judgment

A board of judges composed of judges McDougall of Toronto, McGibbon of Brampton, and McCrimmon of Whitby, re ently handed out their judgment in the appeals of the T oronto Railway Company, Consumers' Gas Company, Bell Telephone Company, Toronto Elect ic Light Company, and Incandescent Light Company regarding the interpretation of the Assessment Act of 1902.

The contention of the companies concerned was that under the clause in the Assesment Act of 1902 exempting rolling stock, the machinery and appliances in their b ildings were not assessable. They claimed that the exemptions applied to the rolling stock and all their plant and appliances save those existing on or situate upon the streets, roads, highways, lanes, and other public places of the municipality.

The judgment is a most exhaustive document, but it all hinges on the interpretation of sub-section four, which reads :—

> 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 assesssable.

Sub-section 2 deals with heat, light and power companies, telegraph and telephone companies, and companies operating street railways and electric railways. The land of such companies is directed to be assessed in cities in the ward in which the company has its head office, or if they have no head office in the municipality, then all the land possessed by these compani s wherever situate within the municipal boundaries may be assess d in any ward of the city.

The judges point out that the construction which the companies desire to have placed on sub-section 4 would be unjust and inequitable, and contrary to the principles underlying the Assessment Act

The Legislature has expressed its mind clearly in sub-section 9 of section 2 of the Assessment Act, that land, real property, and real estate respectively, shall include all buildings or other things erected upon or affixed to the land, and all machinery or other things so fixed to any building as to form in law part of the realty. Further, by section 7 of the Assessment Act it is said that all property in this province shall be liable to assessment.

The Act also defines the word property as including both real and personal property, as defined in sub-sections 9 and 10 of section 2 of the Act. The language of every subsequent enactment affecting assessment must, therefore, be construed asfar as possible, giving due effect to the language of the foregoing sections, unless the language of such later enactments in express terms modifies or repeals them. The law will not allow the revocation or alteration of a statute by construction when the words may have their proper operation without it.

The judgment points out that the object of the legislation in question here was to put an end to what was known as the scrap-iron method of valuing plant and appliances of certain companies occupying the public streets of the municipality. One of the grounds assigned by the Court of Appeal for de iding that the so called scrap-iron basis of valuation was corrected in principle was that the assessment of the outside plant of certain companies was directed by the Assessment Act to be made separately in each ward, and that therefore the plant c uld not be valued as a whole.

The Legislature in 1901 abolished separate assessment in wards, and made the whole plant on the streets assessable as if the entire system was in one ward only. This amendment, it was held, did not have the effect of abolishing the scrap-iron basis of valuation. In the Act of 1902 all difficulties of asse ssingthe plant of the named companies situate on the streets was done away with. This portion of the plant was taken out of the operation of section 28 of the Assessment Act as to the method of its valuation ; a new basis was established in which it was directed that certain enumerated portions of this plant should be assessed at their actual cash value, as the same would be appraised upon a sale to another company possessing similiar powers, rights, and franchises in and from the municipality. Now, the whole scope and object of the Act of 1902 was to clear away the separate assessment in wards, and also to end the scrap iron theory. No one was complaining or had ever complained of the assessment against the companies of the portion of their machinery, plant, and appliances fixed or situated in the companies' buildings on land not forming a part of the public street or highway. No exemption, no special scrap-iron theory had ever been sought to be applied to such portions of the plant and appliances. The contest had been over the street portion of their property. Can it be assumed that the Legislature ever contemplated for a moment putting the named companies upon a better footing than other companies in reference to their assessment liability? On the contrary, the effect was to get legislation that would subject their street plant and appliances to assessment upon the same basis as their other plant, and the Act of 1902 was intended to accomplish this.

With reference to the rolling stock part of their plant and appliances, different considerations prevailed. Street cars were first assessed in 1901 ; the rolling stock of no other railway company, save electric railways, had ever been assessed or sought to be made liable ; their cars were always considered personal property, and, like the personal property of all such companies, was not liable to assessment or taxation. The rolling stock of steam railways was not liable to assessment, and it was felt that electric railways should fairly be put upon the same basis ; hence the exempt on in sub section 4.

Therefore, looking to the whole history of the Legislation, it is reasonably plain that with the exception as to rolling stock it was intended to make the outside plant of the companies named liable to assessment at its cash valne, and to remove the alleged injustice of the scrap-iron method of valuation.

The conclusion of the matter then is, that the words "plant and appliances" used in sub section 4 must be confined to any plant and appliances located upon the streets, roads and highways and other public places in the municipality, such words taking this limited meaning because they must be referred to the words "rolling stock," which immediately precede them in the same sub-section, and because it is manifestly the intention of the Legislature in enacting a new section 18 of the Assessment Act to deal only with the method of assessing so much of the property of the companies named in sub-section 2 as was situated upon the public streets of the municipality.

This is the unanimous finding of the Board of Judges upon the construction of the statute of 1902.

QUESTION DRAWER.

(Continued from Page 187)

law is thus propounded ; the owners of property abutting upon a public highway are entitled to compensation from the municipality under the Municipal Act, for injury sustained by reason of the municipality, having for the public convenience, raised the highway in such a manner as to cut off the ingress and egress to and from their property abutting on the highway which they had formerly enjoyed, and to make a new approach necessary. According to this decision it appears, that where a man's approach to a highway is destroyed by work done on the highway for its improvement so as to require a new approach, he is entitled to compensation and as that compensation would be measured by the cost of making a new approach, it would amount in dollars and cents to the same thing as if the council restored the crossing.

4. In view of our answer to the preceding question it is unnecessary to answer this.

The Merrickville council has decided to buy a fire engine and is endeavoring to purchase one from the Canadian Fire Engine Co. for $2,400.