

# THE MUNICIPAL WORLD

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

Vol. 8. No. 11.

ST. THOMAS, ONTARIO, NOVEMBER, 1898.

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## Calendar for November and Dec'ber, 1898.

### 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.
10. Last day for Collector to demand taxes on lands omitted from the Roll.—Assessment Act, section 166.
- Canadian Conference of Charities opens at Normal School, Toronto.
- Report of Medical Health Officer due to Local Board of Health.—Public Health Act, schedule B, section 1.
15. Day for closing Court of Revision in cities, towns and incorporated villages when assessment taken between 1st July and 30th September.—Assessment Act, sec. 58.
- Last day for Overseer of Highways to return as defaulter, to clerk of municipality, residents, non-residents, owners, etc., who have not performed statute labor.—Assessment Act, section 110.
- 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.
30. Last day for municipality to pass by-laws withdrawing from Union Health District.—Public Health Act, section 50.

#### DECEMBER.

1. Chairman of Board of Health to report to the Council on or before this date.—Public Health Act, schedule B, section 3.
- Last day for appointment of School Auditors by Public and Separate School Trustees.—Public Schools Act, section 21 (1); Separate Schools Act, section 28 (5).
- Municipal Clerk to transmit to County Inspector statement showing whether or not any county rate for public school purposes has been placed upon Collector's Roll against any separate school supporter.—Public School Act, section 68; Separate School Act, section 52.
- Last day for councils to hear and determine appeals where persons added to Collector's Roll by Clerk of Municipality.—Assessment Act, section 166.
13. Last day for Public and Separate School Trustees to fix places for nomination of Trustees.—Public School Act, section 57 (2); Separate School Act, section 31 (5).
- Returning Officers to be named by resolution of the Public School Board (before second Wednesday in December).—Public School Act, section 57 (2).
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.
- Local Assessment to be paid Separate School Trustees.—Separate School Act, sec. 58.
15. Municipal Council to pay Secretary-Treasurer Public School Boards all sums levied and collected in township.—Public School Act, section 67.
- County Councils to pay Treasurer High School.—High School Act, section 31.
- Councils of towns, villages and townships hold meeting.—Municipal Act, section 304 (6)

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# The Municipal World

PUBLISHED MONTHLY

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

K. W. McKAY, EDITOR,

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

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ST. THOMAS, NOVEMBER 1, 1898.

We direct the attention of subscribers to the numbers opposite their names on address labels, which refer to the issue of the paper with which each subscription ends.

\* \* \*

The Renfrew County Council is in favor of holding not more than two regular sessions during the year, and has passed a resolution to that effect for the benefit of the council of 1899.

\* \* \*

Reform in municipal matters does not refer to new legislation but to the proper carrying out of the present laws. This can only be accomplished by the election of councillors having the support of the best elements of every community. Local municipal leagues will do much to disseminate information and arouse the people from the apathy that exists in most places until after undesirable candidates are nominated and elected.

\* \* \*

The monthly reports issued by the Provincial Board of Health show a marked increase in the number of returns received from division registrars with reference to deaths from contagious diseases. For August, 1897, reports were received from 405 of the municipalities, and for August, 1898, the number was 694, or 93%. The total deaths reported were 230, divided as follows: Scarletina, 10; diphtheria, 16; measles, 6; whooping cough, 12; typhoid, 34; tuberculosis (consumption), 152. In August, 1897, 189 deaths were reported, 120 of which were attributed to tuberculosis. In view of the above, we must not be surprised if the Provincial Board of Health adopts compulsory measures for the isolation and treatment of all who may be afflicted.

## The Municipal Manual.

We are informed by Mr. C. R. W. Beggar, Q. C., that the "copy" for the first volume of his Manual is about complete, and that it will be ready for distribution to subscribers early next year. It will contain:

1. The Municipal Act (Revised Statutes of Ontario, 1897, cap. 223), and The Act Respecting the Establishment of Municipal Institutions in Territorial Districts (R. S. O., 1897, cap. 225), with the amendments made by 61 Vict., caps. 23 and 36 (Jan., 1898), and 62 Vict., cap. 6 (Aug., 1898), and full notes of all municipal cases reported to November 1st, 1898, in Canada, England and the United States.

2. Forms of By-Laws, Debentures, Rules of Order and Procedure, etc.

3. An historical sketch of the development of municipal institutions in the province from 1788 to 1899.

4. A Synoptical Table showing, in parallel columns, such sections of the Municipal Acts of Manitoba and British Columbia, and of the Municipal Ordinances of the North-West Territories as correspond with or refer to the same subjects as the section of the Ontario Act.

5. A Municipal Calendar for the use of clerks, treasurers and school trustees (showing the dates fixed by law for the performance of their various statutory duties).

6. A Tabulated Guide to the counting of ballots at municipal and provincial elections.

7. A list of the municipalities of Ontario, with names of officers, etc., and of the County Council Divisions established under The County Councils Act, 1896.

8. An Alphabetical Index of the cases cited over (5,000 in number), and a complete Subject Index (200 pp.) prepared by Allam M. Dymond, Esq., Law Clerk of the Legislative Assembly of Ontario.

The second part, which will be out some time next summer, will be nearly as large as Part I. (1,250 pages).

It will contain The Assessment Act (R. S. O., cap. 224); Drainage Acts (R. S. O., caps. 40, 41 and 226); Municipal Arbitrations Act (cap. 227); Municipal Accounts Act (cap. 228); Public Libraries (cap. 232); Public Parks (cap. 233); Municipal Light and Heat (cap. 234); Waterworks (cap. 235); Double Tracks in Snow Roads (cap. 237); Toll Roads (cap. 239); Snow Fences (cap. 240); Tree Planting (cap. 243); Early Closing (cap. 257, part); Fire Guardians (cap. 268); Forest Fires (cap. 269); Sheep and Dogs (cap. 271); Pounds (cap. 272); Noxious Weeds, etc. (cap. 279); Yellows and Black Knot in Fruit Trees (cap. 280), and portions (other than those in Part 1) of the Schools Act (caps. 292, 294, 301, 303 and 304).

Mike—"The top av the mornin' to yez, Pat." Pat (muddled)—"Shure, O'iv' got it, me bhoy; me head's goin' round somethin' awful!"

## Canadian Conference of Charities and Correction.

For some years it has been thought desirable by those interested in the management of houses of industry and other charitable institutions throughout the province, as well as the managers of asylums, prisons and houses of correction, that a general conference would be extremely helpful. At a recent meeting the Prisoners' Aid Association decided to take the initiative in bringing about a general gathering, and it has been decided to hold the first annual meeting of the Canadian Conference of Charities in the Normal School, Toronto, on November the 10th and 11th. In the programme, as far as arranged, time has been allotted for the consideration of the following subjects, after the conference is organized: "The Scientific Treatment of Inebriates," "Illustrated Address on Child-Saving," "Child-Saving Work," "Caring for the Destitute Poor," "Organized Charity," "Custodial Care of Feeble-Minded Women," and "Prison Reform." The editor of this paper has consented to act as chairman of the portion of the conference to be devoted to "Caring for the Destitute Poor."

For the last twenty five years the House of Industry question has been before nearly every county council of Ontario. A large number of county institutes have already been established, some are being constructed, and in other counties an active agitation is being carried on with a view to their establishment in the near future. The management and supervision of a House of Industry is entirely different from the work an ordinary municipal councillor or officer is called upon to perform.

A meeting of those interested will result in the greatest benefit to all concerned. Such subjects as "House of Industry plans," "furnishings," "rules and regulations for the governing of inmates," "employment of inmates," "dietary," etc., are questions that could be discussed with profit to all. The Prisoners' Aid Association has taken an active interest in the distribution of statistics and information relating to the House of Industry question. We hope that the authorities of every county in which a House of Industry has been or is about to be established, will send representatives to the Toronto conference.

*Municipal Affairs* for September contains a very valuable article upon "Municipal Corporations in the Colonies," by Dr. John A. Fairlie. Little has been known concerning this subject and still less has been written outside of the musty volumes of records and city histories. All this material has been worked over and the important facts unearthed, analyzed and presented in an interesting manner. The student and the general reader will find much of interest and profit.

# MUNICIPAL OFFICERS OF ONTARIO.



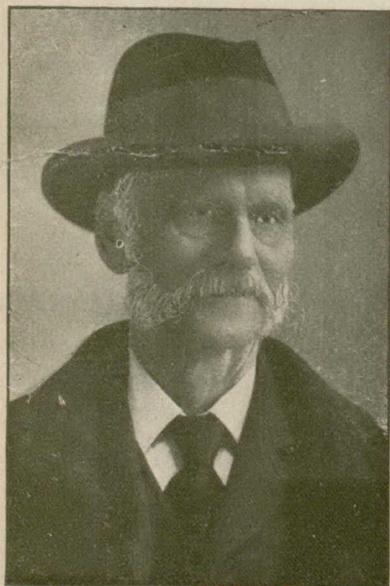
MR. J. D. CAMERON.  
Clerk, Township of Kenyon.



MR. J. C. REID.  
Clerk, County of Dufferin.



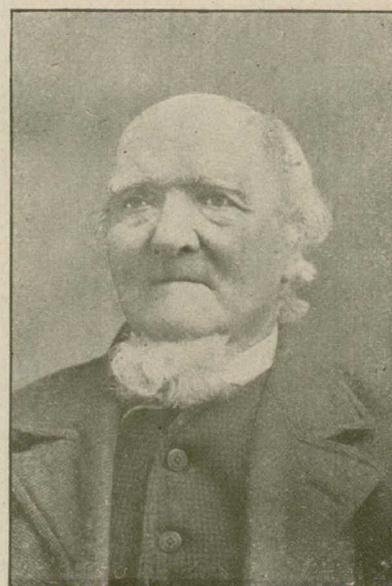
CAPT. W. WATTS.  
Clerk, Village of Vienna.



MR. C. PALLING.  
Clerk, Township of Innisfil.



MISS M. LOWERY.  
Clerk, Township of Sarnia.



MR. P. REID.  
Clerk, Township of Kinloss.

# Municipal Officers of Ontario.

## Clerk, County of Dufferin.

Mr. Reid was born in the County of York in 1840, and when 8 years of age removed with his family to the township of East Garafraxa. He attended a public school as soon as one was established in the township, and completed his education at the Weston high school. He then engaged in teaching, first in school section No. 6 in his own township, and afterwards in the high and public schools of Orangeville. He was appointed Clerk of the County of Dufferin in 1880, and fills the position very acceptably.

## Clerk, Township of Innisfil.

Mr. Palling was born in Gloucestershire, Eng., in 1833, and came to Canada when 18 years of age. He taught school two years in Medonte, but removed back to Innisfil, was appointed township clerk in 1875, and in 1883 was appointed township treasurer, and at present holds both of these positions in one of the best governed townships in the Dominion.

## Clerk, Township of Sarnia.

Miss Lowery was born in Sarnia township, where she received her education at the public and high schools, and in 1882 engaged in teaching. For many years she assisted her father, who was township clerk, and when her brother was appointed to succeed him, in 1890, she did all of the office work, and in 1896 was appointed by the council to the office of clerk. Miss Lowery is one of three ladies who are at present occupying the position of municipal clerk in Ontario.

## Clerk, Village of Vienna.

Capt. Watts was born in North Walsham, Norfolk, England, in 1838, and came to Canada in 1851 with his parents and settled near Vienna, where he has resided ever since. During the "Mason & Slidel" excitement in 1860 he joined the volunteers, and was at the front as a lieutenant during the Fenian raid in 1866. He was afterwards gazetted captain of his Company No. 2 of the 25th Elgin Battalion, which position he held until his retirement in 1883. He was appointed clerk and treasurer of the Village of Vienna in 1888, which position he still holds.

## Clerk, Township of Kinloss.

Mr. Reid was born in Glasgow, Scotland, in 1819, and for a short time attended a parish school. He served his apprenticeship as a tailor there and came

to Canada in 1841. He worked at his trade for some time and finally located on a wild bush lot in 1854, where he still resides. He was appointed township clerk in 1856, is still in office, and has never missed a meeting during his whole term of office. He and his partner in life celebrated their diamond wedding in January last, surrounded by representatives of the family for four generations.

## Clerk, Township of Kenyon.

Mr. Cameron was born in the township of Kenyon in the year 1869. He was educated at the public school and Ontario Business College at Belleville, and was appointed township clerk in 1895.

## Clark and Scully's Drainage Cases.

This work contains reports of decisions of the referees appointed for the purpose of the drainage laws and the Court of Appeal for Ontario in cases where the referee's decisions have been appealed from, as well as of some other important decisions of the courts relative to the Drainage laws, the Municipal Drainage Act and Ditches and Water Courses Acts annotated with the names of the cases bearing upon them. It is a useful book for lawyers and drainage engineers, and a copy should be in the office of the clerk of every council interested in drainage by-laws and assessments. The price is five dollars. Orders may be sent to this office.

In a recent issue of *The Canadian Statesman*, a correspondent discusses the worrying of sheep by dogs, and suggests the following remedy:

"Let our council pass a by-law that dog owners shall tie up or confine their dogs, say from 6.30 p. m. to 5 o'clock a. m., during sheep-killing season, which lasts about three months, commencing about 1st September. To facilitate the carrying out of this plan let the pathmasters, or other persons agreed upon, be empowered to report any man on his beat who does not comply with the law, and let a suitable penalty be imposed. In return for this trouble given to dog owners let there be no tax on dogs, or else let the tax be in proportion to that on other live stock. As a dog-tax is levied to pay sheep damages, and as such a law would prevent most, if not all, of these damages, such a heavy tax would not be required. The tax as now levied is very unjust. It is probable that most of the sheep killed are killed by a very few dogs in proportion to the number kept, so that as a consequence a majority of owners pay out each year a large amount of money for sheep damages for which they are not really responsible.

In referring to the Municipal Manual on opposite page, the name of the author should be Mr. C. R. W. Biggar, who is not a "Beggan" as the misplaced type would indicate.

## County Constabulary.

The murder of Policeman Toohy, at London, emphasizes what has often been urged on the Government—the reorganization of the county constabulary. The men of that force, as at present constituted, are paid by fees. There is no provision for the following up of the criminal. That is now being done by the city police, and it must be said to their credit, that the county police are joining heartily in the hue and cry. But there is no money for them to be paid their expenses out of.—*London News*.

If some scheme were proposed for the reorganization of the county constabulary that would prevent the squandering of the people's money it would meet with public favor. It does seem a hardship that county constables should be expected to go to the expense of hiring conveyances, pay board bills, etc., when on duty in search of a desperado, and unless they make an arrest, get nothing to reimburse them for their outlay. Constabulary Associations have made some recommendations, but they have not been considered feasible. In the case of this desperate character we think there is not the first chance of any reasonable bill for expenses and services being refused by the Government, if the counties refuse to pay. It is reasonable that all legitimate expenses in such cases should be paid without question. It certainly is in the interests of society in general that such characters should be hunted down at once.

"Local option" is usually used in reference to the excise question, but Leonard Tuttle, in the September issue of *Municipal Affairs*, maintains that we should have "Local Option in Taxation." He shows that the present system is severely unjust, that personal property escapes taxation except in rare instances where it cannot escape, or when the owner is too scrupulously honest to evade the law, and that inequalities are rampant. A scheme is proposed whereby cities and counties should determine, within certain bounds, what kind of property should be taxed, which would remove the evils of the present system. The plan is rather novel, but Mr. Tuttle supports it thoroughly with fact and argument.

Before our next issue we expect to mail our complete Souvenir Catalogue for 1898-9. We would direct special attention to some of our stationary specialties. The county council election supplies are now being sent out, and our stock of municipal election forms is complete in every respect.

We find that a great difference of opinion exists in reference to the effect of the act of the Legislature of January, 1898, changing the system of electing councils in towns under 5,000 and townships divided into wards. The opinion advanced by some, that candidates may be nominated for each ward to be elected by a general vote would seem to be right if all townships were so divided. The intention of the act was, we believe, to nominate and elect these councillors and reeves by general vote as representatives of the whole municipality, the same as reeves.

## Collection of Taxes.

It is the duty of collectors of taxes upon receiving their collection rolls to collect the taxes therein mentioned. Section 133 of the Assessment Act.

## PROCEEDINGS BEFORE SEIZURE CAN BE MADE—DEMAND.

Before a seizure can be made by a collector upon a man's chattels, for taxes, a demand must be made for them or notice served in the manner provided by section 134. In cities and towns he may adopt either of two courses. (a) He shall call at least once on the person taxed, or at the place of his usual residence or domicile, or place of business, if within the local municipality, and for which such collector has been appointed, and shall demand payment of the taxes payable by such person; or (b) he shall leave or cause to be left with the person taxed, or at his residence or domicile or place of business, or upon the premises in respect of which the taxes are payable, a written or printed notice, specifying the amount of such taxes. Sub-sec. (1) of sec. 134.

The written or printed notice above mentioned shall have written or printed thereon, for the information of the ratepayer, a schedule specifying the different rates and amount on the dollar to be levied for each rate, making up the aggregate of the taxes referred to in such notice. Sub-section 2 of section 134.

In other municipalities he shall call at least once on the person taxed, or at the place of his usual residence or domicile, or place of business, if within the local municipality in and for which such collector has been appointed, and shall demand payment of the taxes payable by such person. Sub-section 3 of section 134. In these municipalities the collector cannot make use of and leave a printed notice as in the case of cities and towns, unless there is a by-law authorizing him to do so, but the municipality may empower the collector by by-law to leave with the person taxed, or at his residence, or domicile, or place of business, a written or printed notice specifying the amount of taxes.

## ENTRY UPON ROLL.

It is the duty of the collector immediately after having made a demand or given the notice above mentioned, to enter the date thereof on his roll, opposite the name of the person taxed. This is important because the statute makes such entry prima facie evidence of such demand or notice.

## WHEN DISTRESS CAN BE MADE.

A distress cannot, except in the case provided for by section 4 of section 135, be made legally until the expiry of fourteen days after the demand or notice, or, where the council has, under section 60, passed a by-law appointing a day for payment of the taxes at any time after the expiration of fourteen days from the giving of such notice or making of such demand, or after the day appointed for

the payment by such by-law, whichever last happens. If a demand is made, say on the first day of October, a distress cannot be made until the sixteenth day of October, because the day upon which the demand is made is excluded and the taxpayer has the whole of the 15th within which to pay his taxes. Section 60 and sub-section 1 of section 135.

Under sub-section 4 of section 135, if after demand made or notice served and before the expiry of fourteen days, the collector has good reason to believe that any person in whose hands goods and chattels are subject to distress, is about to remove such goods and chattels out of the municipality before such time has expired, and make an affidavit to that effect before the mayor or reeve or a justice of the peace, such mayor, reeve or justice shall issue a warrant to the collector authorizing him to levy for the taxes and costs.

## A COLLECTOR MAY LEVY BY DISTRESS.

1. Upon the goods and chattels, wherever found, within the county in which the local municipality lies, belonging to or in the possession of the person who is actually assessed for the premises, and whose name appears upon the collector's roll for the year as liable therefor (and who is hereinafter called the "person assessed") under this sub-section the collector may seize the goods belonging to the person actually assessed for the premises and whose name appears upon the roll for the year as liable therefore or he may seize any goods and chattels in his possession in any part of the county. In such a case the collector need not concern himself about the ownership of the goods. If they are in the possession of the person assessed he may seize and sell them. Sub-section 2, section 135.

2. Upon the interest of the person assessed in any goods on the premises including his interest in any goods to the possession of which he is entitled under a contract for purchase or a contract by which he may or is to become the owner thereof upon performance of any condition. This sub-section applies to cases where the person assessed has only an interest in the goods. Farmers often buy farming implements under special contracts by which the seller retains title in himself and giving the farmer the right to retain possession of and use the goods until he pays the price according to the terms of the contract. It will be observed that in a case within sub-section 1, a seizure may be made anywhere in the county, but the right to seize under sub-section 2 is confined to the premises. If however such goods as these are found in the possession of the person assessed within the meaning of sub-section 1, why cannot the collector seize and sell the goods without regard to who is the owner of them?

We think he can, because sub-section 1 authorizes the collector to seize the goods and chattels in the possession of the person assessed anywhere within the

county. If the collector finds such goods off the assessed premises and not in the possession of the person assessed, he cannot touch them at all. If he finds them on the assessed premises in the possession of the person assessed he may seize and sell them without regard to who owns them. If they are on the assessed premises, but they are not in the possession of the person assessed he can only seize and sell the interest of the person assessed in them. Sub-section 2, s. 135.

3. Upon the goods and chattels of the owner of the premises found thereon, whether such owner is assessed in respect of premises or not.

Under this section the goods of the owner though not assessed may be distrained on the premises, but such goods cannot be distrained off the premises.

4. Upon any goods and chattels on the premises where title of the same is claimed in any of the ways following;

(a) By virtue of an execution against the owner or person assessed; or

(b) By purchase, gift, transfer or assignment from the owner or person assessed, whether absolute or in trust, or by way of mortgages or otherwise; or

(c) By the wife, husband, daughter, son, daughter-in-law or son-in-law of the owner or person assessed, or by any relative of his, in case such relative lives on the premises as a member of the family; or

(d) Where the goods liable for the taxes have been exchanged between two persons by the one borrowing or hiring from the other for the purpose of defeating the claim of, or the right of distress for the non-payment of taxes; and subject to the provisions of the preceding clause numbered 4, where the owner or person assessed is not in possession, the goods and chattels on the premises, not belonging to the owner or person assessed, shall not be subject to seizure; and the possession by the tenant of said goods and chattels on the premises shall be sufficient prima facie evidence that they belong to him. 55, V. c. 48, s. 124 (1); c. 49, 19, (1); 59, V. c. 58, s. 6, s. 7, (1); 60, V. c. 3, s. 3; c. 15, sched. C (133).

In cases under this sub-section the distress can only be made on the premises, and, except in the cases referred to in clauses a, b, c and d, the goods and chattels on the premises not belonging to the owner or person assessed cannot be distrained where the owner or person assessed is not in possession.

## PROVISIONS AS TO GOODS IN HANDS OF ASSIGNEE OR LIQUIDATOR.

Provided, nevertheless, that no goods which are in the possession of the person liable to pay such taxes for the purpose only of storing or warehousing the same, or of selling the same upon commission or as agent, shall be levied upon or sold for such taxes; and provided further that goods in the hands of an assignee for the benefit of creditors, or in the hands of a liquidator under a winding up order

Continued on Page 180.

## ENGINEERING DEPARTMENT.

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

## Power for Stone-Crushers.

There is frequently more than one way of doing a thing; but there is usually only one way which is the best way. To discover that one best way, even in doing so simple a thing as breaking stones for roads, generally requires some thought, knowledge and experience.

For example, some municipalities still cling to the old-time method of breaking stone for roads, by the use of hammers and worn-out men who are pensioners on the municipality. There may be cases in which such a method is satisfactory, but they are very rare. Good labor is cheapest at any price.

In stone-breaking, there is no better laborer than a well-built, well-designed stone-crusher. To operate the stone-crusher power is required however. Some municipalities, for this work, use an expensive steam roller attached to the crusher. The roller is made for one purpose,—for compacting the metal in a road. To operate the motive machinery of a roller at so high a speed as is required for a stone crusher, to subject it to the jolting strains of a crusher, cannot but be very injurious to the roller. Of greater moment, perhaps is the fact that the roller is unprotected from the dust created in crushing the stone, thereby causing great wear. This ill-treatment of an expensive roller will tend to destroy it very rapidly, the resulting depreciation being very great, varying of course according to the extent of which it is so used.

The cost of operating a steam roller for power (in addition to the deterioration of the roller), will cost about \$2.50 per day for fuel, and \$1.50 per day for an engineer.

Better than this is to purchase a separate engine which can be operated for about the same daily cost, \$4. But costing much less than a steam roller, the resulting loss from depreciation is not so great. Some municipalities have purchased second-hand engines which have been used on threshers for \$250 and \$300, and which rendered very efficient service.

The town of Berlin, however, has one of the most economical sources of power in the province. An electric motor, receiving power from the local electric plant, does the work for \$1.75 per day. The motor, which cost \$250, is a small piece of machinery, requiring little care other than oiling and "pushing the button," when power is to be turned on or off. The motor is of very simple design, is protected from dust and weather by a small wooden covering, so that loss from depreciation is very slight.

Brantford has awarded a \$31,126 contract to Wm. Gibson, M. P. P., for the completion of a flood protection works.

## The Smoke Nuisance.

Tall chimneys are very desirable, but the smoke they emit is very undesirable. The smoke nuisance is a very insidious one. It is not until it has assumed very vigorous and disagreeable proportions that the attention of the citizens is drawn to it. When public feeling is thus aroused, it is found that the very proportions which the nuisance has assumed is indicative of the difficulty of overcoming the cause. To replace the ordinary furnace with one so designed as to properly consume the smoke, entails expense—an expense which the owners of factories are generally found unwilling to undertake. The owners of the tall chimneys are generally among the most influential citizens, and as such, their wishes in such a matter carry great weight.

The chief source of smoke in objectionable quantities, it need scarcely be affirmed is the tall chimneys of factories, gas, electric and similar plants. Railway engines, too, are largely responsible. The smoke is an annoyance in its blackening effect on houses, its destructive action on furniture, clothing and interior house drapings. It is, in addition, stated on reliable authority to be unhealthy, an aid, if not more, to consumption. Carbon, of which smoke largely consists, is exceedingly absorbant, and in passing through the air gathers up the bacteria of disease. This pollution attaching itself to the lining of the lungs, forms a menace to health.

There can be little question as to the rights of the people to demand an abatement of this nuisance. It is now universally recognized that no individual or corporation should be permitted to destroy the property of others, nor create an unhealthy and annoying pollution of the air, when such can be reasonably avoided.

The cause of smoke is incomplete combustion. Experience with smoke consuming furnaces shows that the saving in fuel is sufficient to pay a handsome interest on the additional investment required. Since the nuisance can be abated without financial loss to the owner of the tall chimney, there remains little excuse for the continuance of the smoke nuisance even in the larger cities where to remedy the evil will necessitate a considerable outlay.

The smaller towns and cities should take warning. It will be a simple matter to insert in the building by-law a clause governing furnace construction, and the evil in this way forestalled. The larger cities should adopt similar means, but are also justified in proceeding in such a manner as will bring more immediate results.

The prevention of smoke from railway locomotives presents difficulties which do not arise in the stationary furnace, but while the remedy would be less complete, the lessening of smoke in any degree would add to the comfort, not only of those who reside near a railway, but to the travelling public as well.

## Forestry in New York State.

New York is the first state to recognize the value of expert knowledge of forestry to the extent of establishing a school where the subject can be properly studied. Such a department has just been opened at the Cornell University and the state has turned over its 30,000 acres of forest land as a field for the practical application of the theories worked out in the class room.

There are two classes of lands upon which forests will be cultivated when this country wakes up to the necessity of replacing the virgin forests now disappearing so rapidly under the axe of the lumberman. One is the waste lands, mountainous or otherwise, such as the Adirondack wilderness in New York, the pine barrens of Michigan and Wisconsin, the mountainous regions of the west. This class of lands was formerly covered with a dense growth of timber. New York is trying to preserve the remnant of the timber not yet taken off, and has purchased the vast tracts mentioned, located in the Adirondacks and the Catskills. The denuded portions it will be difficult and in some cases impossible to again cover with timber.

The other class of lands will be the fields which are more or less valuable for the purpose of tillage, in more level states including the great prairie states. Here there is now a tendency to reserve or cultivate a wood lot on every farm of appreciable size. This lot is frequently on the less valuable, the least workable part of the farm, and is fairly permanent even under present conditions. In fact in the prairie states there is an increase in the wooded area with the increase in settlement. None of the farmers and very few of the large land owners have any knowledge on the subject of forestry, and fail to make the most of their work. None of them have as yet discovered the fact that the wood lot may be made the most valuable portion of the farm if it is rightly managed and the necessary time is allowed it. Our American hurry to get results is against a scientific cultivation of forests, either on a large scale or on individual farms, and it will probably be necessary for the stable government to take in hand the work which men of comparatively short lives are not disposed to enter upon.

Other agricultural schools having similar facilities will doubtless follow the lead of Cornell and establish schools for the study of the problems which will arise in their own states. The next twenty years will see a large advance in public opinion and a good start made towards a comprehensive and practical system of forestry in this country.—*Municipal Engineering.*

Mrs. Boomer, school trustee of London, is endeavoring to have domestic science placed on the school curriculum, and will probably succeed in so doing.

### The Road Grader.

During the past season in over 300 townships of Ontario, grading machines were used in improving the roads. That so many different methods of operating these machines should be employed, points strongly to the necessity of laying down some uniform system for regulating this important part of the work of road-making in order that the best results may be produced. A road grader is the most necessary implement for a township to possess, and in fact, some townships are so convinced of this as to have invested in four machines, placing one in each quarter of the township. The crowning of the roadway can be done very rapidly, cheaply, and perfectly, by their use. To depend upon manual work for the first grading of roads, and the repair of others that require re-shaping, is a useless waste of labor and money. But these machines in the hands of inexperienced men, are often made to injure rather than improve the road.

The operator must know how a road should be made, and how the grader should be worked in order to make each road with the least expenditure. A study of the different methods employed, and a talk with the different operators, shows that the ideas are as varied as can be imagined; many of them are so ridiculous as to make one wonder why they should be tolerated by any municipal management.

In one township the machine is purchased by the council, placed at the disposal of any pathmaster who sees fit to take it from the railway people, and to any other pathmaster who cares to take it from one beat to another. These men may have then seen the machine for the first time and know nothing whatever about its mechanism or how it should be operated.

The directions specify the number of teams required in ordinary soil. These are attached and if they do not provide sufficient power, others are added. The blade is plunged into solid clay, full, till as if the whole object was to determine its strength or test the merits of the different teams engaged.

Each pathmaster is permitted to stake out his own work to suit his peculiar ideas, and these usually differ from the next beat. The grade differs from 15 to 45 feet in the townships, and sometimes in the same beat. The amount of crown which should be given, is, of course, arbitrary and extends from the flat, and useless to the ridiculous and dangerous. Roads are often graded where the crown is already sufficient, and occasionally the machine is used for ungrading a piece which is already properly made.

It is a common occurrence to see old gravel roads with an excellent foundation requiring only trimming and re-surfacing, ruined by cutting off the sides and piling the dirt on top of the gravel. This practice has injured many miles of roads

in Ontario which cost large sums to construct.

Another plan employed is for the Council to hire the operator, the beats requiring his services to furnish the necessary teams, the work to be done according to the direction and dictation of the pathmaster, thus making the operator simply a part; the operator to be employed for the season's work only, and in fairness to others, the job must be passed around, so that he cannot expect to be hired for more than one season.

Another plan is for the Council to employ the operator and one team, the beats requiring the service of the machine to furnish the remaining team or teams. Still another; where the Township is divided into four wards or sections, to have one man and one team employed in each ward so as to distribute the honors and patronage, these men to have charge of the machines in their respective wards. In townships more advanced in this work, the operator and two teams are employed by the Council, he to appear when called upon at any beat in the Township even if he has to pass from a townline to the opposite one. He is given no plan to follow, no directions, but is supposed to exercise his best judgment in the performance of the work; except where his judgment may conflict with the idea of the pathmaster, in which case the pathmaster rules.

Under all foregoing plans, no attempt is made at operating the machine during the early part of the season when the ground is in fit condition, and when the work can be easily and properly performed; but the machine must remain idle awaiting the statute labor season when, as a general thing, especially in clay sections, the soil is baked so hard that perfect work cannot be done and it is unreasonable to expect satisfactory results. Often this work is commenced just when these roads are becoming serviceable and are ruined for the remainder of the summer. In such cases the investment is unprofitable, the labor is wasted, the roads are injured, farmers are deprived of services which are urgently required at this important season on the farm, and the benefits which would result from improvements upon the roads, if such labor was expended at a proper season and under plans, are lost to the community.

A proper plan to adopt would be as follows:

1. Prepare a complete plan of the township showing all road allowances, water courses, bridges, etc.

2. Classify these roads according to their importance, dividing them into, (a) main roads, (b) roads of moderate travel, (c) roads of least travel.

3. Prepare a proper specification fully describing the roads according to the above specification, setting forth the width of roadbed, plan of drainage, amount of crown, kind of material to be used as a covering, whether gravel or broken stone,

depth and width to which it should be laid, how the material shall be prepared and applied, etc.

4. The grading machine should be owned by the township, one man should be employed to have charge of and operate the machine, and he should be a fixed resident of the municipality in order that his services may be retained for a number of years. He should be thoroughly practical, and have some mechanical knowledge. He should be provided with a copy of the above specifications and each spring with a committee of the council should examine the roads and determine the portion to be graded, as far as possible extending the work of previous years, securing continuity and uniformity in all work.

5. The operator should hire a sufficient number of teams to work the machine, and the same teams should be always employed, in order that they may become accustomed to the work.

6. Where roads have already been gravelled, but the surface has become flattened by traffic and other causes, they should be carefully examined by the council, and all improvements required specified. As far as possible, the old gravel or stone roadbed should be preserved, and, except in cases where it is absolutely necessary to raise the grade, no earth should be placed upon it. But the shoulder should be cut off, turned outward and removed, and a new coating of metal applied to the centre of the road.

### The Cost of Hill Taxes.

The tax we have to pay, because the original cattle tracks and paths lead abruptly up and down over hills, seems to be as immovable as the hills themselves which cause it. Immense sums would be eventually saved if many hill roads were re-located. In learning how to improve our highways and to construct new ones, it is well to learn where lines should run in order to insure economy in grades and reduce the tax on time, strength, wear and tear and maintenance caused by hills.

Writing on this subject in the *Portland Industrial Journal*, Mr. S. D. Gray tells of roads over hills which "must not be gone around because our fathers travelled them, and we may as well be foot-sore as they." He cites a case "in which both town and county commissioners refused to act. This road was two miles in length with eight rugged hills, four of them unsafe to ride up or down. All these hills could have been avoided and a level road made for less than \$1,000 that would pay for itself in ten years. The old hills still remain. What we need is an understanding not how to build our roads, but to say where our roads can and should be built."

Stratford has abolished the ward system.

### The Agricultural Text-Book.

Reference has been made, recently, in the MUNICIPAL WORLD, and widely through the Ontario press, to the new text-book on agricultural, prepared for use in public and high schools, by Mr. C. C. James, Deputy Minister of Agriculture. The matter is not one, however, to be passed over with the mere press notice usually accorded to new literature. No more important departure has yet been made in the educational system of the Province. No measure has been taken which promises more valuable results, than does the introduction of such a text-book into the schools.

That "the basis of Canada's wealth is agriculture" has passed into an axiom. We want farmers; educated farmers; farmers well equipped with ideas as well as with brawn; farmers who know that there is something in their occupation more than trudging behind a plow, or hoeing all day in a field of corn.

Vocations are apt to be, by the general public, divided into trades, professions, business pursuits, and farming. Farming is dignified with a class by itself. It is a little better than a trade, a little less than a business. This is an impression which has prevailed too long, and is crowding the cities and towns with young men who can better, far better, serve themselves and society by remaining on the farms.

There is no profession more honorable than farming. There is none which affords wider opportunities to a young man of ambition and intelligence. The ability demanded by a large business, if brought to bear on farming operations, will bring financial success. Parliament is open to the farmer. There is no office of the state, within the gift of the people, too high for the farmer to attain. The farmer who makes the most of his opportunities has everything to expect.

A glance over the new agricultural text-book will indicate the branches of strictly professional knowledge which a farmer should acquire. The text-book, while elementary, contains brief outlines of botany, geology, chemistry, entomology, and other branches of science. Beyond this, a farmer should possess a business man's acquaintance with commerce and the markets. A farmer who is well up in the science of his profession is a thoroughly educated man.

There are three important factors belonging to the use of text-books on agriculture, in the schools. (1) It will show to the rising generations that farming has a dignity far beyond that of mere manual labor. (2) It will create an interest in the science of farming, which will help to populate our unoccupied lands with intelligent farmers. (3) As a mere branch of education, there is no better training.

The first of these, the true dignity of farming, has already been commented upon. The two latter are intimately

related. No branch of science is taught in the schools merely to fill the brains of students with facts. The object of instruction in chemistry, in botany, and kindred subjects, is largely to train the powers of observation. To do this successfully, the student must be interested, and to be interested, the subject must be a living one, not a dead book-task. What could be better than to teach the pupils of the rural districts the facts of agriculture in order to train them to observe, in order to thoroughly interest them? They have, every day, opportunity to turn their knowledge to practical account. No expensive apparatus is required. Every barn-yard, every field affords the pupil a pleasant means of comparing his lesson with facts as he sees them, and thus unconsciously obtaining the best of mental exercise. As a means of education, there is no subject so meritorious for rural school as "Agriculture".

The use of the new text book has not as yet, however, been made compulsory, a condition which should be remedied at the earliest possible period. Perusal leaves no doubt as to its merits as a text-book. As a subject which will teach the dignity of agriculture, which will attract the rising generations to the farm, which will at the same time afford the best of training for the faculties of observation, nothing so satisfactory has yet been placed on the school curriculum. Left, however, as an optional subject, it will be taught by the teacher in only a half-hearted way; it will be received by the pupil in much the same spirit as that in which it is taught; it will find its way into a portion of the schools, only to please a few boards of trustees; and it will be left out of the schools to please others. Nothing of this should be permitted; the subject is of great importance, and should be compulsory in the rural village and town schools at least, and will do good in the cities.

The Barrie Council has passed a by-law to be submitted to the ratepayers on the 14th of this month, authorizing the sale of debentures to the amount of \$100,000. Of this, \$77,000 will be used in the purchase of the waterworks system, the balance to be spent in paying arbitration expenses, and extending the water mains to Allandale, and other parts of Barrie. The debentures are to cover 30 years, \$5,437.13 to be payable each year. A by-law to reduce the council to a mayor and six councillors was rejected on the second reading, it being the opinion of the majority of the council that the town is not ready for the reduction.

Berlin, Ontario, has appointed Mr. W. M. Davis, formerly of Woodstock, to the position of town engineer, with a salary of \$1500.

The Council of Amherstburg is laying 40,000 square feet of cement-concrete sidewalk this year at a cost of 12½ cents per foot.

### The Old Land and the New.

Everywhere in romantic, hilly Scotland good roads are to be found, and only those who have travelled over them know the great measure in which they add to the real merits of the rural districts. Not merely in the well-populated districts are the roads good, but in the craggy, mountainous parts as well, where sheep-grazing is almost the only possible means of utilizing the lands. When any portion of these roads is out of repair, the traveller may know that one man "is not earning his siller."

In Scotland farmers do not work on the road, but spend their time where they can do so to better advantage—on the farm. The repairing of roads is let by contract and is under the supervision of an engineer or inspector, the inspector advertising for tenders on so many miles of road. It is then the duty of the contractor to see that the gutters are kept open and the water drawn off, particularly in the fall and spring of the year. Broken stone is furnished him and with a one-horse cart, he draws this wherever needed for patching, filling up hollows and ruts as they form. In this way the roads are kept smooth as a floor—so smooth that very rarely in Scotland is a farm conveyance drawn by more than one horse.

Roughly estimating, the settled area of Ontario approximates the total area of Scotland—about 30,000 square miles, while the population of Ontario is about one-half that of Scotland. At the time when statute labor was abolished in Scotland—nearly a century ago—the population was less than the present population of Ontario, being then only 1,800,000, while Ontario has now over 2,000,000 inhabitants. Ontario with respect to her highways is one hundred years behind Scotland, but is better able in wealth, population and experience to make rapid strides for their improvement. The seed of a better system and better methods is being scattered over the province, and less than a quarter century should find us on equal footing in every respect with the older lands.

The *Belleville Sun* complains of the carelessness with which inflammable refuse is thrown into the street. The same condition of affairs is true of a great many other towns and cities. Shopkeepers empty paper, dust, ashes and other garbage into the streets; the people do not know that they are being imposed upon; the merchants do not know that they are working against their own best interests in thus littering up the main thoroughfare, and everyone goes along in blissful ignorance of the fact that they are surrounded by a great deal of unnecessary dirt.

Toronto sewers empty 250 tons of sewage daily, into the Bay.

## Imperfect Drainage.

It is the almost universal experience that the drains and channels originally built in small towns to conduct away the surface waters gradually prove inadequate in size as the towns develop into cities of larger proportions, and as a result both trade and travel may be considerably inconvenienced. In not a few instances also, the flooding of cellars and private premises may constitute dangers to the public health, frequently furnishing causes of actions against the municipality for damages. These primitive drains, also, often become the media for the conveyance and diffusion of germs of infectious diseases, on account of the almost universal practice in small towns of permitting the adjacent property holders to discharge their sewage into them. The principal dangers from this source are in the percolation of fecal matter into the soil, the exhalation of dangerous odors, and the spread of disease by winged insects or birds which feed on carrion or fecal matter, or inhabit filthy or damp places.

Flies are particularly active in this regard, as they are very hardy and are known to be able to pass the bacilli of many infectuous fevers, even of cholera, through their digestive organs in a living condition. Some recent experiments were made in Berlin by Dr. George F. Nuttall, on the effects produced on flies feeding them on a bullion solution of fresh plague organs from mice dead thirty-six hours after inoculation. They died when fed in this way, but experiments showed that they may live many days after they have taken infected food; they also showed that living infected flies may, after living twenty-four or forty-eight hours, or even longer, in a clean apparatus, with no infected food, be full of virulent plague bacilli, and hence the danger if they fall into food supplies, or void their excreta into them.

The late war has also shown the important part that flies play in the spread of infectious diseases. A commission composed of members of the Army Medical Corps, reported unanimously to the War Department that the fly was responsible for the typhoid fever infection in the United States army camps during the late war. The latent dangers in cellar or premises overflowed with fecal dilutions, or in stagnant pools in the bottom of poorly constructed open drains or gutters are therefore apparent.

Brampton is endeavoring to award an electric light contract. A satisfactory agreement was nearly completed, when it was discovered that the old company had a perpetual franchise to place poles and wiring on the streets, a condition which the new contractor would not accept. A franchise is easily given, but a difficult thing, very often, to annul. Municipalities of Ontario are every day giving away to electric companies, valuable privileges, which, in a few years, will bring repentance in dust and ashes.

## Farm Drainage.

The depth to which water should be lowered by drainage, below the surface of the ground, need seldom exceed 3 feet for ordinary farm crops, while under some conditions the lowering of the water table may be less. There are instances on springy hill-sides and on flat areas between rises of ground, where the water is maintained within 4 feet of the ground for only a short period in the spring. In instances like these where the water falls normally to 5 or seven feet below the surface as the season advances, it is only necessary to insure a sufficient drying of the surface for a depth of 18 inches in which the plants may begin to grow. When this is done the gradual fall of the water table as the crop grows, allows the sub-soil to become sufficiently dry and open, through the natural process of drainage and evaporation from the surface. Where such land is deeply drained, there is liable to be a needless waste of much water.

In sandy soils, too, and others which are naturally leechy and open, it is not so important to draw the ground water down as low as when the soil is more close and impervious in texture. But in all cases where the water table usually remains as near the surface as 4 feet during the whole summer, the drainage system should be planned to draw the water down at once to 3 or 4 feet below the surface, and hold it there.

There are times when the ground has become very dry, and especially when the soil is stiff clay and has checked to a large extent as a result of drying, when heavy rains come they percolate so rapidly into the system of tiles that a large share of the water is lost before it has time to be absorbed by the soil. In such cases, although no provision is made for it, were tile drains provided with a few valves at different places in the system, which might be closed at such times, and thus retain the bulk of water for a day or more, until sufficient time has elapsed for the water to be taken up by the capillary pores of the soil, no inconsiderable advantages would be derived from it. When a heavy rain is preceded by a dry period, on tile drained ground a very large part of the water is lost through the drains, when the soil is much in need of it.

The vast difference between United States rule and Spanish mis-rule is already being illustrated in the island of Porto Rico. The U. S. military engineering staff in the island is now investigating harbors and possible railway routes and centres, and is building wagon roads. About 150 miles of railway has been in operation and this will be extended so as to form a marginal route around the island. The Island of the West Indies would still belong to Spain if that country had kept up the Good Roads Movement.

## Lesson for Aldermen.

In the second year of this office, in the eleventh month, in the twelfth day, it came to pass that there was a meeting of authorities. These were the real authorities, or aldermen of the city, and high judges in the matter of what was good for the people. Exceedingly wise they were, and in their own estimation, their intellects were of great size, twenty cubits in diameter at the least.

And it came to pass on this day that the wise men assembled together and exchanged thoughts of such weight and brilliancy that they amazed even themselves.

And the people heard the reports thereof and were grieved.

"Indeed," said they, "it is time after all that the thoughts of our rulers are on a dead bias."

So they went home and wept copiously, because of the density of their rulers' foresight.

But little did the rulers or aldermen care for the people, and it happened that when the news of the dissatisfaction reached their ears, they snapped their fingers and said: "Pooh, little do they know what is good for them, we rulers are the people, and withal the real thing."

So they rejoiced in their thoughts, and continued to conduct business at the old stand in the city hall.

And after much discussion and deep thinking, in which their intellects were stretched to the utmost, the rulers, or aldermen, hit upon a scheme which has not been surpassed for its wisdom or brilliancy since the world began.

And they said: "We will fix the people. We will give unto all the poor corporations the playgrounds of the people."

But they made a provision allowing the people to breath the fresh air from the tops of their houses.

And it came to pass that all the poor and down-trodden corporations expressed glee at the wisdom of the authorities.

And the people at this were aghast, and hesitated to act.

But soon they said: "We will act," and they straightway bought pencils with which to mark their ballots at the next election of the rulers.

And the people organized for a great round up of the rulers, and the slaughter was great.

The Chinese are supposed to have been the first to construct arch masonry bridges, probably as early as 2900 B. C. In Egypt, Ethiopia and Greece, very ancient stone arches have been discovered. The Romans were the first to use arches of considerable magnitude. The first of these in Rome, of which there is authentic knowledge, was the Cloaca Maxima sewer, built about 615 B. C. The greatest distance ever spanned by a single masonry arch is supposed to be 251 feet. An iron arch in Portugal spans 561 feet.

## LEGAL DEPARTMENT.

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Editor.

## LEGAL DECISIONS.

## Taylor vs. City of Winnipeg.

*Municipality—Highway—Liability for non-repair—Negligence—Ice and Snow on Sidewalks.*

The plaintiff's claim was for damages for an injury sustained by falling upon an icy slope which had formed on a sidewalk in the city of Winnipeg, adjacent to a public well supplied with a pump, which was daily used by a large number of people. The well was one of about sixty provided by the corporation, and maintained at its expense, and a number of men were employed by the corporation, whose duty it was to visit the well from time to time during the winter, and remove or reduce the mounds of ice on the sidewalks and around the pumps, caused by the freezing of the water that dripped from them, or was spilled from pails while being carried away. One of these employees was on the spot on the very day of the accident and did not consider it necessary to do anything for the purpose of making the place more safe for foot passengers; and other employees of the city, whose duty it was to report unsafe conditions, had passed the place on the same day and made no report upon it. The action was tried without a jury. The evidence for the plaintiff showed that there was a general slope of the ice from the east to the west side of the walk, that there were lumps or raised places in the ice at two different points and that the ice was very smooth and slippery at the place where the plaintiff fell, but the judge thought the witness had exaggerated the height of the lumps and the steepness of the slopes. He came to the conclusion also that the ice mounds and slopes on the sidewalk had been caused, not from the water that dripped from the pump, or was spilled in filling pails there, but the spilling of water from the pails while being carried along the sidewalk or in the filling of other vessels, and so were the result of negligence on the part of other persons and not of any faulty construction of the pump or its approaches; and that the place where the accident happened was not shown to have been at the time more unsafe than many other spots on the sidewalks are frequently rendered by local conditions where freezing and thawing follow each other at short intervals.

1. Held, following the city of Kingston vs. Drennan, 27 S. C. R. 46, that the mere allowance of the formation and continuance of obstructions or dangerous spots in the highways due to accumulation of snow or ice, may amount to non-repair, for which the corporation would be liable, but it is in every such case a

question whether, taking all the circumstances into consideration, it is reasonable to hold that the municipality should have removed the danger.

2. That in the present case it would not be reasonable to hold the city liable, as there are over sixty such wells in the city, usually placed at street crossings and in constant use, and to keep the sidewalks near them completely free from ice or roughened by chopping or sprinkling sand or ashes on them would be well nigh impossible. Action dismissed with costs.

## Re British Mortgage Loan Co.

*Municipal Corporations—Assessment and Taxes—Court of Revision—Appeal to County Judge—Assessor—Right to Appeal.*

The appeal from the Court of Revision to the County Judge in a case where such court allows an appeal against an assessment, cannot be made by the assessor as such, nor as a ratepayer, but the appeal must be made by the corporation itself.

Judgment of Armour, C. J. reversed, Meredith, C. J., dissenting.

## Notes.

*By-law—Reasonableness—Prevention of Street Singing and Music—Divisional Court, Decision of, when not Binding on Another Divisional Court.*

In Kruse vs. Johnson (1898) 2 Q. B. 91, a strong Divisional Court, Lord Russell, C. J., Jenne, P. P. D., Chitty, L. J., and Wright, Darliuf, Channell and Mathew, J. J., was called on to determine the validity of a municipal by-law prohibiting any person playing music or singing in any public street within fifty yards of any dwelling house, after being requested by any constable, or an inmate of such house, or his or her servant to desist. The Court held that the by-law was valid, Mathew, Jr. dissenting, and, in so doing, the majority of the Court lays down the principle that in considering the validity of by-laws made by a public representative body like a county council the Court ought to be slow to adjudge them unreasonable, unless they find them to be partial and unequal in their operation as between different classes, or manifestly unjust, or made in bad faith, or involving oppressive and gratuitous interference with the right of those subject to them, as would, in the minds of reasonable men, be without jurisdiction. Mathew, J., suggests that in cases where there is no appeal from the decision of a Divisional Court, the decisions of a Divisional Court are not binding on another. This view was recently acted on by the Chancery Division Court in Ontario, sitting as a Court for Crown cases reserved, when it differed from a previous decision of a similar court composed of the Judges of the Queen's Bench Division. See Queen vs. Hammond, 29 Ontario, 211.

## Municipal Election.

*Nomination Paper—Election Order—1898, R. 4 (2)—R. S. O., c. 223, s. 128 (1).*

Cox vs. Davis (1898) 2 Q. B., 202, is a case which may be useful as an authority for the construction of the Municipal Act, R. S. O., chap. 223, section 128 (1). The point in question was as to the validity of a nomination paper, which under the British Election Ord., 1898, r. 4 (2) is required to contain the name of the candidate nominated, and to be signed by the proposer and seconder, as does section 128 (1) of the Municipal Act. The paper in question was in proper form, but the name of the candidate had been filled in after the paper had been signed by the proposer and seconder, but there was no evidence that the proposer and seconder had not assented to the name filled in as candidate. Grantham and Lawrence, J. J., held that the paper was valid, though conceding that it would not be so if the name filled in had not been assented to by the proposer and seconder. The decision of the returning-officer in favor of the validity of the paper was, under the Election Ord., 1898, r. 7, held to be final and conclusive, and the case cannot, therefore, be regarded as an authority.

## Reg. vs. Cushing.

Judgment on appeal by defendant from order of Ferguson, J., dismissing a motion by defendant from a certiorari to remove a conviction of defendant by the Police Magistrate for the City of Hamilton, for selling fresh meat, consisting of mutton, lamb and veal, in less quantities than of the carcass without a license, contrary to by-law 839 of the City of Hamilton. Held that the provision of the by-law, under which the conviction was made was not warranted by s. 581 of the Municipal Act, such section only authorizing the passing of a by-law for the granting of licenses for sale in quantities less than by the quarter carcass. The Municipal Act forbids the requiring of a license for exercising any trade or calling unless the municipality is authorized or required by the statute so to do, and thus renders necessary a special authorization and not an implied one. The act limits the right of a municipality to charge market fees unless it declares the whole municipality free to vendors outside of the market place intending to make free the whole of the municipality except the market, unless the municipality is willing to be bound by the schedule of fees in the statute. Order made for issue of certiorari. On its return an order quashing the conviction may be taken out without further motion. Following the practice, costs of motion to be paid to defendants by informants.

Mrs. Church—Did you ever catch your husband flirting?

Mrs. Gotham—That's the way I did catch him.

## Assessment of a Contractor's Plant.

Oct. 3rd, 1898.

To the Editor of the *Municipal World* :

DEAR SIR, — I herewith send you a copy of Judge Carman's decision re appeals of W. I. Ponfore and the Canadian Contracting Company, contractors on the canal here. It is the first case in this county where contractors' plants have been assessed, they have been allowed to haul heavy loads and destroy our roads and not contribute a cent towards the expense of the municipality they were in. We were repeatedly told that we were the first who ever offered to assess the contractors of Gov. works. As long as I have anything to do with municipal matters I will assess everything assessable and see that it is done. The more you enlighten rural municipalities in such the more they will appreciate your paper as it is from rural municipalities where you will get most of your support, as large towns and cities generally have their own printing houses to do their work, etc. I send you decision thinking it may be of some use to you.

Respectfully yours,

GEO. KERR,

Reeve of the Township of Osnabruck.

In appeal, Ponfore and Canadian Construction Company, appellants, Township of Osnabruck, Respondent.

It is contended in these cases that the property assessed is exempt from assessment.

1. Because the property is vested in the government by clause 12 of the contract, and is exempted under section 7 of the Assessment Act, sub-section 1.
2. As to part of the property on the ground that it is steamboats and sailing vessels which are exempt under section 7, sub-section 29.
3. That the property is owned outside of the Province.

As to the first ground of appeal that the property is vested in the government:

The Assessment Act in the interpretation clause, says that the term property shall include both real and personal property as defined. Section 7 of the Assessment Act says all property in this Province shall be liable to taxation subject to exemptions among which are :

1. All property vested in or held by Her Majesty, etc., and either unoccupied or occupied by some person in an official capacity. The property assessed is vested in Her Majesty by clause 12 of the contract for a special purpose. The ownership is actually in the contractors. Property only vests in Her Majesty as a security for the due fulfilment of contract. But even if the property is vested absolutely in Her Majesty it is not unoccupied and is not held by anyone in an official capacity and consequently is not exempt on that ground. But sub-section 2 of section 7 settles the matter as far as the first ground is concerned, it says: Where

the property mentioned in the preceding clause (sub-section 1 of section 7) is occupied by any person otherwise than in an official capacity, the occupant shall be assessed in respect thereof but the property itself shall not be liable, so that exemption on this ground must fail even if the property be absolutely vested which it certainly is not.

As to the second ground that part of the property is vessel property:

Sub-section 29 of section 7, reads: "Vessel property of the following description, viz: Steamboats, sailing vessels, tow barges and tugs; but the income earned by or derived through or from any such property shall be liable to be assessed. Dredges have been held not to be steamboats, and the scows connected with them are not barges in the usual acceptance of the term, but are a part of the apparatus by which the dredge is enabled to carry out the purpose for which it was constructed, so that no part of this property is exempt as vessel property.

As to the third ground :

Section 7, sub-section 23, says, all personal property which is owned out of this Province, except as hereinafter provided. The property assessed is personal property, but section 11 of the act says, all personal property within the Province, in the possession or control of any agent or trustee for or on behalf of any owner thereof, who is a resident outside of the Province, shall be liable to assessment in the same manner and subject to the like exemption as in the case of other personal property of the like nature under this act.

And again, section 38 of the act says: All personal property within the province, the owner of which is not a resident in the province, shall be assessable like the personal property of residents, and whether the same is or is not in possession or control or in the hands of an agent or a trustee on behalf of the non-resident owner, and all such personal property of non-residents may be assessed in the owner's name as well as in the name of the agent, trustee or other person, if any, who is in the possession or control thereof.

The property shall be assessable in the municipality in which it may happen to be. I think these two sections, 11 and 38, of the Assessment Act, settle the question of the assessment of personal property owned out of the province.

There was no evidence given as to value so it only remains for me to dismiss the appeals.

(Signed) R. B. CARMAN.

Sept. 27th, 1898.

Mr. Kerr also sends copy of a decision against the Bell Telephone Company for statute labor.

The case was municipality of township Osnabruck vs. Bell Telephone Company, for statute labor, for 1896 and 1897. We got judgment for full amount and costs. Would you kindly make a memo of it in your paper, as it may help other municipalities. The

company did their best to beat us, as it was a test case in this section at least. It came before Judge Carman, of Cornwall.

## Registration of Drainage By-laws.

In answer to a question by E. W., we expressed the opinion in the January number of the *WORLD* that Drainage By-laws should be registered, though there is no provision in the Drainage Act requiring such a by-law to be registered. Sec. 396, of Chap. 223, R. S. O., 1897, provides as follows: "Subject to the provisions of sec. 398 of this act, every by-law passed by municipalities for contracting any debt by the issue of debentures for a longer term than one year, and for levying rates for the payment of such debts, on the rateable property of the Municipality, or any part thereof, shall, within four weeks of the final passing thereof, be transmitted by the clerk of the municipality, in the case of a county to the registrar of the registry division in which the county town is situated, and in case of a local municipality to the registrar of the division in which the local municipality is situate." On the 6th of September, last, Mr. Justice Ferguson, in the case of *Sutherland, Innes Co. vs. Township of Romney*, held that the provisions of 55 Vic., Cap. 42, s. 351, as amended by 60 Vic., Cap. 45, s. 7, s. s. 1, and s. 47; R. S. O., Cap. 223, s. 396 (1) with reference to registration of by-laws creating debts, apply to Drainage By-laws. Section 398 provides: "Nothing in sections 396 to 401, inclusive, contained, shall make it obligatory upon any city, town or village, to register any by-laws providing for the issue of debentures, passed under the provisions of the Municipal Drainage Act, or under the provisions of this act relating to local improvements, but the same may be so registered at the option of the municipality." In view of the punitive provisions of s. s. 6 of s. 396, clerks cannot be too careful in regard to their duties as to registering by-laws. This sub-section provides: "Any clerk who neglects to perform within the proper period, any duty devolving upon him in virtue of this section shall be subject to a fine of \$200 to be recovered by prosecution in the name of the Attorney General of Ontario in any Court of competent jurisdiction, and in default of payment, to imprisonment for a period not exceeding 12 months."

Browne—Did you ever see a man who wanted the earth?

Towne—Oh, yes.

Browne—Who was he?

Towne—A first trip passenger on an ocean liner.

"By jove, I'm awfully glad to see you here, Miss Brown! When I first came in I felt quite nervous—everybody looked so awfully clever."—Punch.

## The Public School.

By W. Atkin, Esq., Inspector of Public Schools,  
County of Elgin.

## VI.

## RELATION OF TRUSTEES TO TEACHERS.

It lies wholly within the duties of trustees to determine the number and grade of teachers to be employed in their school, so long as they comply with the provisions of the School Act. When the average attendance in any school for three successive years exceeds fifty pupils, trustees are required to provide a second room and an assistant teacher. An additional room and additional teacher shall be provided for each additional fifty pupils.

In the case of public schools with continuation classes, that the school may rank in Class A, the teacher must hold a first-class certificate of qualification, unless in charge of the school in 1896, and continuously since that year. In order that the school may rank in Class B or C, the teacher may, at least, hold a second class certificate. If trustees employ an uncertificated teacher, they may be held personally liable for the amount of salary. To be valid all agreements between trustees and teachers shall be in writing, signed by the parties thereto, and shall be sealed by the corporate seal. (Blank forms of teachers agreement may be had at the MUNICIPAL WORLD Office.) Any teacher who wilfully neglects or refuses to carry out this agreement shall, on complaint of the trustees, be liable to the suspension of his certificate by the inspector, under whose jurisdiction he may be for the time being.

No person engaged to teach a public school shall be deemed a qualified teacher who does not, at the time of entering into an agreement with the trustees and during the whole period of such engagement, hold a legal certificate of qualification. Any teacher who enters into an agreement with a board of trustees for one year, and who serves under such an agreement for three months or over, shall be entitled to be paid his salary in the proportion which the number of days he has taught, bears to the whole number of teaching days in the year.

Every teacher shall be entitled to his salary during sickness, certified by a physician, for a period not exceeding four weeks for the entire year. This period may be increased at the pleasure of the trustees.

If at the expiration of a teacher's agreement with a board of trustees, his salary has not been paid in full, such salary shall continue at the rate mentioned in the agreement until paid, provided always that an action shall be commenced within three months after the salary is due and payable by the trustees.

All matters of differences between trustees and teachers, in regard to salary or other remuneration, under a valid agreement, shall, whatever the amount in

question, be brought in the Division Court of the division where the cause of action arose.

The most important duty, trustees owe the ratepayers of their section is prudence in the selection of a teacher. In many cases selections are made from applications made in answer to advertisements. In such cases, very often, wholly unsuitable, inefficient teachers, who cannot secure good situations where they are known, are employed, much to the disappointment of all interested in the school. It would be a good policy for trustees to keep a list of good teachers and when a change is necessary, make an effort to secure one of them even if it cost a few dollars more in his salary.

Having engaged a teacher with a reputation for efficiency, the trustees should arrange to visit the school together or in turn, regularly, to see that it is not lacking in equipment as the regulations require, and anything else that would add to its usefulness, and that the school is being conducted in accordance with regulations prescribing the duties of teachers. At such visits trustees will have opportunities to give both teachers and students encouragement in their work and to give their moral support to the teacher in the management and discipline of the school.

It is the duty of trustees to dismiss from the school, any pupil who shall be adjudged so refractory by the trustees and teacher, that his presence in the school is deemed injurious to the other pupils, and where practicable, to remove such pupil to an industrial school.

Trustees may collect from the parents or guardians of pupils attending school, a sum not exceeding twenty cents per month, per pupil, to defray the expense of text books and other school supplies

They may exempt from the payment of school rates, wholly or in part, any indigent persons (notice of such exemption to be given to the clerk of the municipality, on or before the first day of August,) and where deemed necessary, may provide for the children of such person, text books and other school supplies at the expense of the section.

## Municipal Reform.

The question of municipal reform involves the election of competent officials, and the selection of trained subordinates: the enactment of new laws, and the enforcement of those already on the statute book; the maintenance of law and order, and the suppression of vice; the determination of whether a city shall own and operate its own franchises, or lease them to a private corporation, or give them away to private parties; municipal functions; of cleanliness, health and sanitation; municipal standards, taste and finally, of civic patriotism.

In different parts of the United States associations have been formed under different names. All these are combinations of citizens who have determined to

take matters into their own hands and compel reform and obtain effective and pure city government. And they appear to be doing it. In Canada, such organizations have only been attempted on a small scale. In Montreal an association was once formed which did good service in the direction of checking the combine which at that time controlled the civic council. But its action was more well meaning than effective in promoting lasting results. But the taking-the-bull-by-the-horns spirit so generally seen in the States is sadly lacking in Canada. We go on year by year feebly electing inefficient bodies of civic administrators and content ourselves with grumbling and recrimination when the inevitable results are seen. It will be a good day for Ottawa and other Canadian cities, when the citizens take the matter of municipal reform into their own hands and deal with it boldly and in a drastic manner. "The Citizens' Association, of Albany completely revolutionized the methods of administration." Why should not Ottawa's citizens do the same in connection with administration that year after year is becoming more and more the cause of unrest and distrust, which must necessarily gather strength as the civic undertakings, and consequent taxation increase in magnitude. But there is another point on which stress has to be laid, and no reform is to be looked for until the citizen awakes to a full sense of his duty and his public responsibility. We must, as Mr. Woodruff says, instill into our citizens a keener appreciation of their duties within the borders of their own town or city, and the true meaning of civic patriotism and its obligations, so that they may see there is "quite as much heroism in voting for one's principles on election day or in service on a board of aldermen, having the interests of a hundred thousand people and millions of dollars in its charge, as serving the country on the field of battle or on a battle ship." Does the average Ottawa voter think this? When we saw, for example, the voting on the main drainage by-law the other day, involving nearly half a million dollars immediately, and heaven knows what, prospectively, drawing out 1,263 voters out of some 5,000, there is grave reason for fearing that such is not the case. Apathy lies at the root of much of the evil deplored and it is perhaps hardly fair for any citizen to criticize hastily actions which he has done nothing to prevent, or deplore evils for the existence of which he himself is mainly responsible. But the present growing municipal evils must go. The fiat is proclaimed from the gulf to the northern fringe of civilization. The Americans are taking the means best suited to themselves to make them "go." It is time Canadians followed their example. Let Ottawa lead. We have before advocated the formation of a Citizens' Committee here and the present time is opportune for repeating the suggestion.—*Ottawa Free Press.*

## A Municipal Convention.

ALD. SHEPPARD PROPOUNDS A BRIGHT IDEA THAT MAY RESULT IN GENERAL MUNICIPAL IMPROVEMENT.

Ald. Sheppard is to the fore with an excellent idea. Recognizing the fact that the Municipal Act is constantly being tinkered and patched without affording general satisfaction, he proposes that a provincial convention of mayors, wardens and reeves, be held in this city some time next January or February, before or during the session of the Legislature, and that various matters of common interest be talked over, such as exemptions, assessment, school systems, police systems, fire systems, bonus systems, license systems, good roads and general systems of taxation. Mr. Sheppard's idea is that a Provincial Municipal Association be formed, to meet annually, biennially or triennially, with sections representing cities, towns, villages and townships, the same as in the Board of Trade; that papers shall be read at these gatherings, to be subsequently discussed, and that the conclusions arrived at shall be reported to the Local Government. The worthy alderman will probably bring the matter up in Council at an early date and issue invitations to the various mayors, reeves and wardens to attend the first convention in this city. Mr. Sheppard recognizes that a new set of municipal officers will be elected in January and that consequently many of the men in power will be out then, but proposes to bring the subject up at this date by issuing circulars and to renew the invitations to attend when the elections have been decided. In order that the convention shall have the benefit of experience the present incumbents of office will be invited to attend as well as their successors. It is impossible to over-estimate the practical value of such a movement, and it is to be hoped that Alderman Sheppard's proposition will be taken hold of with the unanimity that it merits.

The above is taken from a Toronto exchange and is, no doubt, suggested by the reports of Municipal Conventions in the United States and the success that attended the Municipal Tax Exemption Convention, which met in Toronto during September, 1897. Our recollection of this convention is that the delegates were at a loss for special information or statistics relating to the important question they were supposed to consider, with the result that nothing was accomplished. The Toronto hotels welcomed the contributions of their municipal guests, who were, no doubt, pleased with the trip. The Municipal Act does not provide for the payment of travelling expenses for convention purposes. The act provides for the payment of any travelling expenses necessarily incurred in, and about the business of city corporations, only. Our representatives in the Local Legislature are sufficiently near and quite as capable of discussing municipal reforms as are members of councils, whose term of office is indefinite and who have no time to devote to the exhaustive investigation necessary before proposed changes in our Municipal system can be properly understood.

## They are Even Now.

The Scotchman in Edinburgh—"We hae Wei-hai-wei."

The Scotchman in New York—"An' we hae Hawaii, we hae."

## The Ward System.

The opinion in favor of doing away with the ward system in towns and cities, and reducing the number of councillors, is increasing. Wherever the question has been submitted to the electors a favorable opinion has been expressed.

This change, while not urged as a panacea for all municipal ills, is regarded as one well calculated to raise the administration of our municipal affairs to a higher level.

Under the present ward system a narrow and local view of his duties is liable to be taken by an alderman. He is constantly being reminded by the electors of his ward that he is the representative of that ward at the council board and his value as a representative is measured by the amount of money he can have expended in his ward, and the other advantages he can secure for his constituents. This influence constantly operating upon the alderman, it is contended, narrows his views of public duty. The tendency of the ward system is to create parties in the council. There is a natural tendency under the ward system for the representatives to combine in order to secure the largest share of the civic expenditure for their particular locality. In other words it encourages what is known as log-rolling in the council.

With the whole city to select from it is believed that a better class of citizens would be available and that better men could be induced to offer themselves for election. Men elected by the electors of the whole city would be more likely to look at questions coming up for consideration from the standpoint of the interests of the whole city and not a particular part of it.

That our present municipal system is somewhat clumsy, extravagant, and in some respects unsatisfactory, is generally admitted. The doing away with the ward system and reducing the number of aldermen is worthy of consideration.—*Windsor Record.*

## Municipal Affairs for September.

Although *Municipal Affairs* has been in existence but a brief time it has more than justified its creation by the scientific, as well as the extremely practical value of its articles. The last number opens with a valuable history and analytical study of "Municipal Corporations in Our Colonial period." by Dr. John A. Fairlie. "Direct Employment of Labor vs. the Contract System" is discussed by J. W. Martin, of the Fabian Society of London, particular attention being paid to the success of the Works Department of the London County Council. Leonard Tuttle, in "Local Option in Taxation," maintains that cities and counties should be permitted to abolish the personal property tax, and raise their revenues by whatever taxes they see fit to adopt. The arguments favoring such a plan are

forcibly presented. Prof. J. W. Jenks favors the establishment of "A State Municipal Board," and thoroughly considers every possible phase of administrative vs. legislative supervision of cities. Every person interested in municipal home rule will find this article extremely interesting. The experience of the vacation schools in New York is given by Dr. William Howe Tolman, who originated the movement some years ago. Following this is a symposium upon "Women's Work on City Problems." Everyone interested in securing better municipal conditions will find here abundant suggestions for practical work. The aim, to show what has been accomplished by women and the means of attaining these results, has been thoroughly realized.

## An Assessment Appeal.

An appeal before His Honor Judge Hughes from the decision of the Court of Revision of Aylmer took place in that town recently. The assessor had without calling for a statement fixed a valuation on the stock of the firm of Finch & Co. at \$8,000, which the Court of Revision reduced to \$6,000. The question involved was as to the exemptions on the value, because of the amount remaining unpaid on the original purchase thereof. It appeared that the assessor had valued the stock without calling upon the firm for a written statement prescribed by the Assessment Act, but by comparison with other merchant's stocks in the town, which were visibly smaller. It appeared the firm had purchased the original stock from an assignee of an insolvent, but had paid nothing in cash, and had given notes payable by instalments for the whole stock; they had purchased other goods since upon which remained a considerable indebtedness.

The Judge held that the stock of other merchants in town were probably paid for; that some of them were well known to possess capital invested in their business, in which case no deductions such as were applicable to this case could be made. This view being understood, and that because the stock over and above what was due on original purchase thereof amounted to only \$3,600, the assessment was reduced to \$3,500, and no costs were allowed.

## A Bad Compliment.

A poor woman who had a son of whom she was very proud, unintentionally paid him a very bad compliment. Speaking of the boy to the priest, she said: "There isn't in the barony, yer riverence, a cleverer lad nor Tom. Look at thim, yer riverence," pointing to two small chairs in the cabin. "He made thim out of his own head, and faix he has enough of wood left to make me a big arm chair."—*London Spectator.*

In a French town the authorities have posted a notice stating that "every cyclist meeting a policeman is requested to stop and allow him to ascertain the speed he is riding at."

## QUESTION DRAWER.

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

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

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

## Road Lines and Fences.

407.—J. H. M.—I would like your opinion on a road running between No. 2 and No. 3 concession, A living on one side, and B on the other. This summer A moved his fence into the road about six feet, then B on the other side moved his in a good deal further, leaving the road about thirty-five feet wide. They refuse to move the fence back without the council runs the line for them.

1. Can we compel them to move the fences back without running the lines.

2. Who will have to bear the expense of running the lines, the council or party concerned?

3. What proceedings should we take to have the fences properly moved?

If the council is satisfied that A, B or one of them is encroaching upon the highway, they may indict them or him, as the case may be, or the council may pass a by-law under sec. 557, cap. 223, R. S. O., 1897, for directing the removal of the fences. The council is not bound to run the lines for them. If proceedings be taken against them they run the risk of having to pay costs, and a fine if it be found that they are encroaching on the road. One of them certainly must be if the road is the ordinary four-rod road.

2. There is no provision which would apply to this case which gives either party the right to have the lines run at the expense of the other. Each one must run the line at his own expense or content himself to take chances upon his being right in case proceedings are instituted. This does not appear to be a case to which sections 14 or 15 of chap. 181, R. S. O., 1897, could apply.

3. If the council is not certain where the boundaries of the road are, they should employ an engineer at their own expense, and have the true lines ascertained, and then take the proceedings above mentioned, if the parties encroaching on the road will not remove the fence.

## School Fees Non-Resident Children.

408.—CLERK.—A resides in — township and sends his children to — village school, it being the nearest school to his residence. Some years ago the township council made a verbal agreement with the village council to refund half of A's school rate each year into village school, they to admit A's children free, which has been done. This year the village council has notified township council to enter the following rates on the collector's roll against

A's land and to pay the same over to the village council, viz. School Debenture By-law, —mills in the dollar; general school rate —mills in the dollar. There is no union formed between the sections only the verbal agreement, nor has any by-law been passed in our council to levy any special rates against A's land, only the regular rates of the township.

1. Would the clerk be justified in placing the said rates on the collector's roll?

2. Could the village council compel A to pay said rates?

3. Could the township council legally collect said rates from A?

1. No.

2. No.

3. No.

## Registration of Plan and Dedication of Streets.

409.—J. K. R.—By a plan dated 1872, A laid out certain parts of the town of R known as P section, and therein laid out a lot known as lot 85, which abutted on Quarry street. Subsequently, in the year 1895, the said A and O registered a joint plan, on which plan they laid out certain streets, among others a street known as a continuation of Barr street, which cuts off a strip twenty feet wide from the northerly side of said lot 85. This plan was registered on the 12th day of July, 1895. The new joint plan of 1895 was based on an agreement between A and O, who owned the land on each side of the said Barr street, and this said Barr street was made by A and O, each giving a twenty-foot strip off the said lands.

The municipal council, by resolution, sanctioned the laying out of this street of a width of 40 feet before the registration. Subsequent to the registration of the 1895 plan the lot 85 was sold by the said A to X, and X registered his deed after the registration of 1895 plan (it is stated that X was aware of the plan of 1895). X's deed reads lot 85 according to the plan of the 1872 plan, but does not describe the lot in feet. This Barr street property has until lately been used as a street, and some little grading done by the corporation since 1895, but this year X has built a fence enclosing the twenty feet of land which has heretofore been used as a street.

Other lots on this plan have been sold by O to other parties. Of course A claims he sold X the lot as shown in plan 1895, and X claims he bought the lot as described in plan 1872, but the deed reads as stated.

The municipal council wants this obstruction removed so as to make the street straight and in compliance with the intentions of the original owners of the street, and who intended by the 1895 plan to donate it to the town. The plan, so far as surveyor's certificate and witnesses before a commissioner and registration is concerned, seems to be all right only so far as it effects said lot 85 and all other lots on the same side of Barr Street, does it appear to be defective, in that they are not properly described.

1. Is the registration of the 1895 plan a sufficient dedication of the land to the town?

2. Can the town have fence removed on strength of this ownership as acquired by above registration?

In asking the foregoing questions I have no reference to our powers of expropriation, but we want to know if the registration of the plan mentioned before, even although it may be defective as regards the lot in question, will give us a free title to it.

3. Does the 1895 plan fulfil the requirements of section 100, chap. 136 of the Registry Act as regards this lot?

1. If the plan of 1895 shows Barr Street, and, as shown on the plan, Barr Street includes the strip which X has fenced in. It does not seem to matter to us that Lot 85 is not numbered. Apart altogether from what the plan shows, the Council may be able to make out a

case of dedication by the owner of the land. An action can be brought against X to remove the fence and in that action evidence of A's intention to dedicate this strip of land, and evidence of X's knowledge of that fact, and that it was not A's intention to convey this particular strip to X can be given. But we will not advise the Council to bring an action if the plan does not show this strip as part of Barr Street.

2. Yes. As we have already intimated we think that the public is entitled to the street, assuming that it was shown on the plan, even though the plan may be defective as to the lot.

3. It does not appear to comply with the act in regard to lot 85.

## Voting on By-law—Drainage.

410.—A. H. S.—1. Our township council passed a by-law commuting the statute labor system. Can the question be printed on the ballot papers, "Are you in favor of the by-law?" to be voted on next January at the time of municipal elections, or would it be necessary to have two sets of men, one for the other against the by-law to get the opinion of the electors?

2. If a watercourse runs across a road and the owner of above land ditches his land to road, the municipal council ditches road. The owner below will not open ditch through his land. Is it the owner of the land above or the council that should enter action to have said ditch opened?

1. We do not think such a question can be submitted to the electors in either way suggested.

2. Proceedings will have to be commenced by the party who cannot submit to the existing condition of things. Neither party can compel the other to incite proceedings. We refer you to the Ditches and Watercourses Act.

## Drainage.

411.—J. T.—I live in the township of Brooke, and own one hundred acres of land. I have paid about \$400 in taxes for cut-offs and I have no outlet yet. I had a ditch surveyed for one five years ago, and was beat on it, on the ground that I should have gone south instead of west. The year before it was done, the reeve of Brooke signed an agreement with the reeve of Euphemia, that only the lots on first concession of Brooke, and my lot is on the second concession. If the council of B. don't get me the privilege to drain into it, can I come onto the council for damages, and what is the way to get at it, or what would be my best plan to work on?

You do not state sufficient facts to enable us to say what rights or remedies you have. No ground for claiming damage is disclosed. There are two acts relating to drainage, "The Ditches and Watercourses Act" and "The Drainage Act." If the work was done under either of these acts and there was no negligence you would have to work out your remedies under the acts if you were aggrieved. You had better make out a rough plan showing the locality of your lot and the drainage work when the work was done, the act under which it was done, and whether you made any complaint under the provisions of these acts or either of them, and also how you have suffered damages. We should

also have a copy of the agreement you speak of in order that we may judge whether it has any force or effect.

#### Township's Liability for Hospital Account.

**412.**—F. M.—Is a township council under any obligation to send a person to a hospital for treatment when the medical health officer for the township (without consulting the Board of health) certifies that the person needs hospital treatment and is not able to pay for it? We have a county House of Refuge.

No.

**413.**—J. E. S.—I want to know if there is anything in the Ontario Statutes to prevent a Provincial Land Surveyor or Drainage Engineer doing drainage work and acting as commissioner, and laying out and making assessments on ratepayers in two or more municipalities in the district, acting as county councillor? The party may be a candidate for 1899.

No, provided he is not acting for the county.

#### Dispute re Road Established Forty Years.

**414.**—S.—A dispute having arisen between the municipal council of S and a number of landowners regarding the width of a blind line which was established by by-law about forty years ago; said by-law called for a 66 foot road, but when first located the settlers placed their fences only 33 feet apart, and have so remained ever since. Lately the council ordered owners on each side of line to move their fences back to make the road 66 feet according to by-law. They refused, contending that when the road was established the land belonged to the Crown, that no notice then or afterwards was given to the Crown Land Department of the establishing of said line, consequently patents were issued without any reservations being made for said road, that they were willing to give the two rods now used for road without compensation, but desired to be paid for the extra two rods claimed by the council. A satisfactory settlement could not be reached and the matter was referred to arbitration. The arbitrators allowing said owners at the rate of \$25.00 per acre, for the extra 33 feet claimed by the council, the parties to move fences and other obstructions, leaving the road allowance 66 feet wide.

1. In accordance with decision of the arbitrators, will it be necessary for council to pass another by-law and conform to sections 375 and 376, R. S. O., 1897?

2. Would each of the parties receiving compensation under award have to give a deed of the land given by them?

3. Has the by-law, if one is necessary, and the award to be registered?

4. If registration is necessary would that not be sufficient title for municipal ownership to said road?

1. We do not think that sections 375 or 376 apply to a case of this kind. If the by-law passed forty years ago is a good by-law, it can be registered under subsection 2 of section 633, cap. 223, R. S. O., 1897. There is no provision for registering the award. We think that the best and safest course is to proceed under section 632, have notices prepared setting forth the fact that the council of the municipality intends to pass a by-law for the purpose of opening up a public road across certain lots, naming them, which said road is described as follows, (here describe the road by metes and bounds) and that a meeting of the council will be held on the—day of—, at— etc., at which time and place all parties inter-

ested or affected and desiring to be heard are required to attend.

The by-law will require to be registered under the authority of section 633, but if all the owners made deeds the by-law need not be published in a newspaper. If you will look at the September number of the WORLD you will find at page 141 an article on opening or closing up roads.

#### Electric lighting in Township Adjoining Town.

**415.**—H. S. M.—In our township there is an incorporated town that has its electric lighting from a private firm. Said firm offer to extend their system outside the town limits into our municipality if we contract with them to do so. A certain number of ratepayers of the township just outside the town limits have petitioned the council to enter into a contract with the said firm and to cause a special rate to be levied on their properties to meet one-half the expense, the other half to be paid from the general funds of the township.

1. Is it legal for the council to enter into a contract with a firm that are under contract to a neighboring municipality?

2. Would it make any difference when they do not set up a separate plant for our use, but only give us a lamp or two from the plant used in the town?

3. Have the council power to levy a special rate on the properties of the parties who petition them to do so for either one-half of the cost or the whole of it, and if they have, what steps are necessary to make it legal?

4. In the event of any of said properties changing owners, would the purchaser be holden for the special rate?

5. If he is, what steps would he have to take to relieve his property?

Section 568 of the Municipal Act provides: "Every municipal council shall have power to contract for a supply of gas or electric light for street lighting and other public uses for any number of years not, in the first instance, exceeding ten, and for renewing such contract from time to time for such period not exceeding ten years, as the council may desire." Section 686 of the Municipal Act empowers the council of townships to pass by laws on a sufficient petition for lighting certain areas by means of a special rate on the property.

1. Yes.

2. No.

3. We think so. We refer you to the above sections of the Municipal Act for the procedure.

4. The rate is a charge upon the property the same as taxes.

5. The property would have to bear the burden during the period fixed by the by-law of the council passed upon the strength of the petition.

#### Tender of contracts.

**416.**—SUBSCRIBER.—We think of letting all our municipal contracts by the lowest bid, instead of by tender. Do you approve of it and is it legal?

Sub section 2 of section 320, cap. 223, R. S. O., 1897, provides: "No municipal council shall assume to make any appointment to office, or any arrangement for the discharge of the duties thereof by tender, or to applicants at the lowest remuneration." Section 3, chap. 20, R. S. O., 1897, requires the councils of counties to

ask for tenders for the publication of the lists of corrections by Justices of the Peace and the contracts is to be given to the newspaper making the lowest tender. There are only cases which we are aware of where councils are limited to a certain prescribed mode of contracting. In other matters councils may take such measures as they deem proper in letting contract so long as they are not calculated to prejudice the interests of the municipality. In other matters of importance we think the tender system better than the method proposed. It affords better means for protecting the interests of the municipality.

#### Losing a Road in Summer — Statute Labor of Non-Resident.

**417.**—J. S.—1. Some time ago our council passed a by-law opening a piece of road, which cannot be used during the summer owing to its passing through a bog. Can the council now legally pass a by-law or resolution allowing the road to be fenced during the months which it is impossible (i. e., a fence across the road) the fence to be taken down during the winter?

2. A is assessed as a non-resident on the resident roll for \$150. He spends a short time each year on the lot, and thinks he is liable to only half per cent for statute labor, instead of for two days' labor. I hold that he must do two days work to commute therefor at the rate fixed by council for residents. Am I right?

1. It is the duty of the council to take precautions to protect the public, and if it is found that a particular road is, for any reason dangerous to the travelling public, the council may do whatever may be reasonably necessary to protect the public from danger. We do not see the necessity of passing a by-law or resolution. It will afford no protection to the council, itself. The council should, when the proper time arises, direct the pathmaster or employ some person to put up a fence, and also a warning that it is not safe to travel on.

2. We cannot agree with you. It may be that he ought to have been placed upon the assessment roll, but we express no opinion upon that because we do not know the facts of the case. His land is assessed as non-resident land, and we assume that he has not required his name to be entered upon the assessment roll. This being so, the clerk must be governed by the roll, and he must discharge the duty imposed upon him in such a case by sub-section 2, of section 102 of the Assessment Act, Cap. 224, R. S. O., 1897.

#### Assessors and Equalization Union School Sections.

**418.**—CLERK.—When assessors meet to equalize union school sections does s. 85 of Cap. 292, R. S. O., 1897, cover their remuneration? If not, is the rate anywhere fixed by statute?

We understand that the Minister of Education has given the opinion that assessors performing the duties of equalizing union school sections under section 51, of the Schools' Act are to be regarded as arbitrators within the meaning of section 85, and entitled to the remuneration thereby fixed, from the funds of Union section.

## Purchasing a Road.

419.—T. B. M.—Our council bought the right of way for a new piece of road on private property, 50 feet in width, paid for it and got the deeds, properly executed and registered. The road was opened and surveyed by a P. L. S. and work has been done along it. Now is it necessary to pass a by-law to establish said road or is it now a legal highway?

We do not think so. We are assuming, of course, that all persons interested or affected have made conveyances. You had better look at section 630, Cap. 223, R. S. O., 1897, and see whether the council has observed the provisions of that section.

## Illegal Contract.

420.—E. B. M.—1. About four years ago a ratepayer of this township owned a lot of land with no road opened leading to it. A sum of money accrued against said property as taxes, and the municipal council granted the amount to the owner of land for the purpose of opening a concession line. The contract has never been fulfilled and the amount has not been carried forward on the roll from year to year. Will it disqualify owner of land from holding the office of reeve or councillor in said township?

2. Can he be compelled to fulfil contract if not pay money?

We do not think the council had any power to make such a contract. It was, in effect, an attempt to exempt the lands from taxation. But though we do not consider the contract a binding one, we are, nevertheless, of the opinion that he is disqualified. In the case of Regina ex rel Fluett vs. Gauthier the facts were as follows: "The trustees of a common school in the town of Sandwich, being about to erect a schoolhouse, the defendant, Gauthier, offered to supply a certain quantity of brick to them for that purpose. They told him that if the town council would agree to pay him for the brick they would take them. He then said that he would take payment for them by letting the amount go against his taxes in each year, with interest at eight per cent. upon the whole amount unpaid. This proposition was made by defendant in person to the town council and was accepted by them. The defendant furnished the bricks. John Wilson, J., in giving judgment said: "I do not think it necessary that a valid contract should be shown, binding on the corporation to disqualify the contractor from sitting as a councillor of such corporation. If there is no contract binding on the corporation, the danger is the greater if the party improperly uses his position to his own advantage, and to the prejudice of the municipality. The policy of the law is that no man shall be a member of a municipality who cannot give a disinterested vote in a matter of dispute that may arise. If his judgment is likely to be clouded by self interest in a matter of contract or quasi contract, he should not be a member of the council."

## Farmers Sons and Voters Lists.

421.—SUBSCRIBER.—There is a difference of opinion in regard to the legality of placing the name of a farmer's son on part one of the

voters' list as F. S. and M. F., who has been away more than six months out of twelve prior to the return of the assessment roll by the assessor, either teaching school or as a student. I see nothing in the Municipal Act giving him a right to be on. The Manhood Suffrage Act I think gives him the right to be on part three.

1. Can he legally be placed on part one?
2. If on, can he take the oath of a farmer's son?
3. If he does, would it be perjury?

1. It is the duty of the clerk to prepare a voters' list, containing the names of the persons appearing by the assessment roll to be entitled to be voters in the municipality. See section 6, Voters' List Act, Cap. 7, R. S. O., 1897. It is not the business of the clerk to take evidence to determine whether he is rightly on the assessment roll in any practical capacity. That must be left to the judge, who, if there is an appeal against the right of the voter to be on the voters' list, may hear evidence and strike his name off, or confirm his right to be on.

2. A person is deemed a resident notwithstanding occasional or temporary absence. As a student in an institution of learning in the Dominion of Canada, but this does not apply to a person teaching school. See s. 112, the Elections Act, 9 R. S. O., 1897.

3. Yes, if wilfully and corruptly done.

## No Wards or Deputy Reeves.

422.—J. O. M.—I understand by your editorial on deputy-reeves that townships are still in wards and that deputy-reeves need not be elected in future. As I understand the statutes as amended by the session 1898, all townships are out of wards and deputy-reeves are still to be elected by a general vote over the whole township.

1. Are wards abolished in townships for election by Act of 1898?
2. Are deputy-reeves still to be elected under the same sections referred to above?

1. The act of 1898, does not in express terms abolish wards, but it provides that the reeve and councillors shall be elected by a general vote. The elections must therefore be by general vote without any regard whatever to the divisions of the municipality into wards.

2. Sec. 73 of the Municipal Act, Cap. 223, R. S. O., 1897, as amended by the act of 1898, now reads: "The council of every township shall consist of a reeve, who shall be head thereof, and four councillors, who shall be elected by a general vote." Under this act nominations are to be made for the positions of reeve and four councillors only. There are to be no nominations or any election of deputy-reeves.

## Municipal Councillors May be Candidates for County Council.

423.—A. M.—The County Council Act, 1896 states that no member of the local council shall be eligible for nomination or election for a county councillor, also required to have the same property qualification as the reeve of a town.

1. Is there any change since?
2. Having or owning a property in the county to the assessed value of \$2,500 as follows: In

the divisions where I live I am assessed for \$6,400, and own a farm in it, but not assessed for it, possibly assessed to upwards of \$200, and the balance of \$2,500. Could I qualify for a county councillor?

3. Being a member of the local council am I eligible for nomination and election to end of year?

4. Would I have to be assessed the \$600 in this division, or would it do to be worth \$600?

1. Yes. Section 81, Cap. 223, R. S. O., 1897 provides: "Any person having the necessary qualifications, and not disqualified, who is a member of a local municipal council for the year in which nominations are held for the election of members of the county council, shall be eligible for nomination and election as a member of the county council at such election; but no member of a council of a local municipality shall sit or vote as a county councillor, &c."

2. Section 77 provides: "Every member of a county council shall possess the same qualification as a reeve of a town is required to possess, and shall also be a resident of the county council division for which he is a county councillor." Sub-section 1, of section 76 requires a rating in his own name, that is the name of the candidate, or the name of his wife, on the last revised assessment roll of the municipality, to at least the value following, over and above all charges, liens, and encumbrances affecting the same. In towns; freehold to \$600 or leasehold to \$2000." This language is not apt in the case of a county, because there is no assessment roll for the county. It surely cannot refer in the case of county councillors to the municipality in which the county councillor resides, because a division might be composed of parts of several municipalities, and a councillor might not have enough property in the municipality in which he resides but have ample property in the division. Nor do we think it is to be confined to the division, because we can find nothing referring to a division, so far as the qualification is concerned. We are, therefore, of the opinion that if a councillor has sufficient property in the county, to the value above stated, he is eligible, but we think there must be a rating upon the assessment roll to, at least, the value stated, over and above encumbrances.

When subscribers desire to know whether they have sufficient property qualifications they should state the nature of the property, whether freehold or leasehold, its assessed value, the amount of encumbrance and, if leasehold, the length of the term, but from what we have stated above, you can easily determine whether you are qualified.

3. You are eligible to be nominated and elected a county councillor for the year 1899.

4. It is the assessed value which governs, not the value of the property.

Visitor in France—What a terrible political crisis! Degenerative Citizen—Oh, you just wait till 1900, the year of the Exposition!

## Collection of Taxes.

Concluded from Page 168.

shall be liable only for the taxes of the assignor or of the company which is being wound up, and for the taxes upon the premises in which the said goods were at the time of the assignment or winding up order, and thereafter while the assignee or liquidator occupies the premises or while the goods remain thereon. 58 V. c. 47, s. 7.

This proviso excepts and exempts goods in the possession of a warehouseman and those of an assignee for creditors or a liquidator and collectors must be governed by its provisions.

(2) The goods and chattels exempt by law from seizure under execution shall not be liable to seizure by distress unless they are the property of the person who is actually assessed for the premises, and whose name also appears upon the collector's roll for the year as liable therefor. R. S. O. Cap. 143, s. 27 (1).

For a list of the goods exempted from execution see Cap 77, R. S. O., 1897. It will be observed that the person who is actually assessed for the premises, and whose name also appears upon the collector's roll for the year as liable therefor is not entitled to any exemption.

(3) The person claiming such exemption shall select and point out the goods and chattels as to which he claims exemption. R. S. O., 1887, Cap. 143, s. 27, (2).

Collectors should be as diligent as possible in the collection of taxes and should, if possible, make them out of the chattels if the person who ought to pay them neglects to do so because it is a frequent objection to the sale of lands for taxes, that they might and ought to have been made out of the goods and therefor that it is unlawful to sell the lands to satisfy them. Municipal councils ought also, as far as possible, to avoid making extensions of time for the collection of taxes or special arrangements in regard to the collection of any person's taxes. They should insist upon the taxes being collected and the roll returned within the time fixed by statute and in any case, the taxes should be gathered in, in sufficient time to enable the clerk and the county treasurer to perform their duties in regard to those taxes which cannot be collected.

## The Dominion Voters' List.

## HOW THE GOVERNMENT'S DECISION IS RECEIVED.

Shortly after the last issue of the WORLD was mailed, clerks, whose voters' list had been accepted by the Clerk of the Crown in Chancery received a circular from that official which reads as follows :

"I beg leave to inform you that by a recent decision from the Department of Justice, the Clerks of the Peace in the Province of Ontario, are to be recognized as the officers intended to be meant by the word "Custodians" in Section 10 of the Franchise Act of 1898. I therefore

return you the accompanying voters' list, thanking you for sending the same."

\* \* \*  
A township clerk \* writes, \* stating that the following should have been added to the circular :

Verily, verily I say unto you that unto him that hath shall be given, and from him that hath not shall be taken away, even that which he hath."

\* \* \*  
CLERKS SHOULD ORGANIZE.

Mr. J. C. Morrison, clerk of McKillop claims that the judge and clerks are as much custodians of voters' lists as the Clerk of the Peace, and that county meetings of clerks should be held to bring our rights before the M. P's. and M. P. P's. of the province. In the plebiscite vote the fees to the Clerk of the Peace in South Huron for voters' lists and certificates amounted to \$111, which the ten clerks of the municipality should have received for furnishing the same, and the same amount or more at the election last March. We have ten votes, where the Clerk of the Peace has none. We are the only real custodians; the laws put a heavy penalty on us if we make any errors for neglecting duty, and yet we receive no protection in any way. Every county should be organized.

\* \* \*  
Mr. D. Cairns, Clerk of Draper, says :

"It is plainly to be seen that the government of the day are determined to put every little fee in the hands of officials who have invariably enough salary for work done. My contention is that the clerks of the municipalities are the proper custodians of the voters' list. They also have all the work to do, and, in the most of cases, very poorly paid, and more especially the clerks in Muskoka. There is not much in it for the municipal clerks, but I think it is wrong to bunch the whole to the clerks of the peace so that they may have the fees from the work of municipal clerks."

\* \* \*  
Mr. P. Hart, of Osciola, writes :

"From my view of the matter, it appears rather a singular decision how the clerks of the peace can be appointed the custodians of the voters' list, when the law only allows them to get two copies from the township clerk, and after the clerk has delivered all the law requires he still has charge of the balance of the list, say one hundred copies, more or less."

\* \* \*  
LETTER FROM A MEMBER OF THE DOMINION CABINET.

Mr. F. J. Craig, Clerk of Strathroy, encloses the following letter received from a member of the Dominion Cabinet :

OTTAWA, OCT. 12TH, 1898.

F. J. CRAIG, Town Clerk, Strathroy :

"Your letter of the 6th October reached me and was immediately forwarded for explanation. I am informed by the Secretary of State, who has given his attention to the subject that, having regard to the fact that the clerks of the municipalities in Ontario compiled and printed the original lists and had always on hand extra copies ; he instructed the clerks of the Crown in Chancery to obtain from these officials, the voters' list for use in the Federal elections. That view of the law was, however disputed by the clerks of the peace, who claimed that under the Ontario Statutes they were the legal custodians of the lists, and the returning officers, in taking the Plebiscite, were then instructed to obtain lists from either the clerks of the peace or the clerks of the municipalities, and as the latter officials had the lists in print, preference was, no doubt, given to them.

As the point in dispute became a matter of controversy, and in order to remove any doubt as to which official should be regarded as the

custodian of the lists under section 10 of the Dominion Franchise Act, the question was referred to the Department of Justice for decision, when it was held that as Sec. 77 of the Ontario Election Act provided that the proper lists to be used for the purpose of an election to the Legislative assembly "should be the lists certified by the judge and transmitted to the clerk of the peace" that official should be considered as the custodian of the list for Federal purposes.

While I should have been pleased had the decision been the other way, you will readily understand that I cannot call in question the decision arrived at by the Department of Justice."

Mr. Craig says : "It now remains for the municipal clerks to press for a change in the Ontario Act, which they can easily obtain if they are determined to have justice done to them. We are required to do the work and we ought not to submit to doing all the work while others who do nothing, get all the pay."

\* \* \*  
THE RIGHTS OF MUNICIPAL CLERKS.

E., another clerk writes as follows :

"At this time when all trades and callings have their guilds or unions or some other institution having for their principal object the betterment of their members financially ; when even the preachers of the gospel have their augmentation schemes, does it not behoove the municipal clerks to be up and doing also ? This question arises when we recall the action of the Dominion Government in the present Plebiscite. They refused to accept the voters' list from the poorly paid municipal clerks, who are certainly the custodians of them, and, as such, entitled to the fee therefor, preferring rather to have the duty performed by the highly salaried clerks of the peace.

At nearly every session of the Legislature new duties are imposed on the clerks with penalties, greater in some cases, than the year's salary, if he neglects to carry them out. Now the writer would advocate the imposition of a few additional duties with their corresponding fees, viz : That all clerks, at least in the rural municipalities, be ex-officio issuers of marriage licenses, commissioners for taking affidavits, and deputy-returning officers in all elections, both Dominion and Provincial. The clerk in this municipality has frequently been called on for marriage licenses by parties who were under the impression that the supplying of these pertained to his office. Again in the smaller villages and in country places it would be a convenience many to know at once where to apply for affidavits when making conveyance of properties, etc.

The Dominion Government are once more using the voters' lists that are the work of the Ontario clerks and there can surely be no objection to employing them once in about four years in the capacity of deputy-returning officers. A saving might also be effected by arranging for the use of the ballot boxes belonging to the municipalities, thus doing away with the mileage and other expenses of the returning officer, distributing, etc. The returning officer in this riding refused to appoint the municipal clerk a deputy under the plea that he did not need it, the distribution of these offices being apparently looked at in the nature of a charity dole, and not on account of the fitness or experience of the candidate. Possibly the returning officer did not urge the same plea when he was asked to accept his office.

E.

29th September, 1898.

## Quite Wasted.

Somebody has invented a noiseless cannon. That's the way with science—always putting help where it isn't needed ; why don't some of those cranks invent a noiseless alarm clock ?