

**PAGES**

**MISSING**

# THE MUNICIPAL WORLD

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

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ST. THOMAS, ONTARIO, MAY, 1896.

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## Calendar for May and June, 1896.

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

#### MAY.

1. Last day for Treasurers to furnish Bureau of Industries, on form furnished by Department, statistics regarding finances of their municipalities—Municipal Act, Sec. 252.
- Last day for passing by-laws to alter School Section boundaries—Public School Act, Section 81.
- County Treasurers to complete and balance their books, charging lands with arrears of taxes.—Assessment Act, Section 152.
- Arbor Day.
15. Last day for issuing Tavern and Shop Licenses.—Liquor License Act, Section 8.
- Contents of earth closets to be removed on or before this date.—Public Health Act, Schedule A, Rule 2 of Section 14.
24. Queen's Birthday.
31. Last day for issuing Wholesale Liquor Licenses.—Liquor License Act, Section 8.

#### JUNE.

1. Public and Separate School Boards to appoint representatives on the High School Entrance Examination Board of Examiners.—High Schools Act, Section 38 (2).
20. Earliest date upon which Statute Labor is to be performed in unincorporated Townships.—Assessment Act, Section 113.

### Books for Municipal Officers.

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For Collectors Rolls—This valuable little work is intended to assist clerks in entering taxes in the collector's roll. It gives rates by tenths of a mill, from one to nine and nine tenths mills. The author, a clerk of considerable experience, knowing what was wanted, issued the work, which should be in the office of every clerk. Price, \$2.00.

#### Drainage Laws.

Consolidated in one book, with amendments of 1895-6, neatly bound in cloth, complete index. The Drainage Act, 1894—The Ditches and Watercourses Act—The Tile, Stone and Timber Drainage Act. Price, 30 cents.

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The Municipal World,  
ST. THOMAS

# 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
J. M. GLENN, LL.B.		Editors

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ST. THOMAS, MAY 1, 1896.

Many different opinions have been expressed in reference to the new county council bill, some going so far as to say that it was entirely unnecessary. As far as we can learn, this feeling is confined principally to representatives in the present councils whose chances of election in a district are doubtful, and to the small village municipalities which, in all cases, will be merged into adjoining districts for county council purposes. The idea of the new bill is that every member of the county council should be a representative of the whole county, and although some municipalities may not have a resident representative, we do not think they will have cause for complaint. The bill is a legislative response to public opinion, and the failure of the present county councils to meet the requirement of existing conditions.

A few years ago a special committee was appointed to consider the reform of the county council system. The great majority of those interested at that time were in favor of the reduction, and that legislation on the subject should be compulsory.

In 1892 the Legislature submitted a draft bill to the councils of the province, and many valuable suggestions were received. During the past ten years as many different bills, dealing with this question, have been introduced, so that the new bill is not a piece of hasty legislation, but an important enactment which has been forced upon the Government after years of careful consideration.

It is not right to condemn a new measure until it has been thoroughly tried. If it is not found to work satisfactorily it

can be repealed or amended, and in this way it will no doubt receive as much attention as the other municipal acts.

\* \* \*

The division of the counties into districts will soon occupy the attention of all. Every municipal officer should take an interest in securing the best possible division of his county. Broad and independent ideas should take the place of the petty spirit of localism and prejudice. The dual vote with the power of any voter to cast both votes for one candidate will protect the smaller municipalities, and enable them or other minorities to secure a proportionate representation whether the minority be that of locality, politics or creed.

\* \* \*

The election of county councils by districts may have a deteriorating effect on the membership of local councils, many of whose members now look forward to the periodical holiday at the county town as the only pleasant duty they have to perform. We would suggest that, notwithstanding this, the efficiency of the local councils may be improved by electing councillors for a term of years, to retire in rotation.

\* \* \*

The preparation of voters' and statute labor lists will occupy the attention of most clerks during this month. Although many prefer to re-write the voters' list each year from the assessment roll, we recommend the correction of a copy of last year's list, to save time and avoid errors. This is quite a consideration with the clerks of the larger municipalities.

We have, at different times, published communications from clerks who have systems of their own for the preparation of the voters' list, but we have yet to see a plan that we would care to adopt in preference to the one we recommend.

In the preparation of the statute labor lists some knowledge of the situation of the roads of the township and of the various divisions is necessary; no suggestions that we could make would be of any assistance. A map of the township, showing the roads in the statute labor divisions, is most desirable, and no matter how the work is done, it generally occupies more time than the preparation of the voters' lists.

The collector's roll can very properly be commenced as soon as the court of revision of the assessment roll is over. The first duty of every township clerk should be to check the assessment roll and see that each lot is in the proper school section. The total of each section should then be ascertained. Our plan of doing this work is to transfer on separate sheets the assessed value of each lot in the different school sections, leaving a space between the columns for entering the school rates before transferring them to the collector's roll. Some clerks prefer to prepare their collector's roll according

to school sections but the great majority of the clerks make a copy of so much of the assessments as is required for the information of the collector and enter the school rates in the manner we have referred to.

\* \* \*

It is the duty of the county councils this year to equalize the rolls of 1895, and when apportioning the county rates for 1896 to use as a basis the rolls of 1894 as equalized by the council of 1895. The valuation of assessed property is to a great extent a matter of opinion, and a just relation is needed so that county rates may be levied in an equitable manner in all local municipalities. This is left to the judgment of those who are to conduct the equalization, and who, owing to their local knowledge, are best qualified. The equalization report, as adopted, should be confirmed in the form of a by-law. If any municipality is dissatisfied they may appeal from the decision of the council within ten days.

## Courts of Revision.

After the return of the assessment rolls, which should be on the first of May, or as soon after as possible, all parties assessed have fourteen days in which to enter appeals against their assessment. The first requirement of a valid assessment is that the assessor in assessing must leave for every person named on the roll as resident or having a place of business within the municipality, and send by post to every non-resident who has his name on the roll, a notice of the sum for which his real and personal property has been assessed. After the expiration of the fourteen days from the date of the return of the roll the clerk is required to give ten days' notice of the date on which the court of revision will hold its first sitting, and also to leave at the residence of the assessor a list of all complaints made against his roll and notify all persons in respect to whom a complaint has been made. When considering other appeals the members of the court may find that the assessor has, in their opinion, made errors in the assessment. For the purpose of correcting these they may extend the time for making complaints ten days later. All persons whose assessment they intend to consider should receive six days' notice, and for this purpose the assessor may be the complainant.

**THE GAME LAWS.**—The killing of deer is prohibited. A license to hunt must be obtained, the fee for which is to be \$2. Attached to the license are to be two shipping coupons, one of which is attached to each deer or part of deer on shipment, and cancelled by the carrier on arrival at point of destination. Although the hunting season commences on 20th October, no venison is to be shipped until 1st November, and not without a coupon attached. Counties or parts of counties may be set apart in which it shall be unlawful to kill deer. Settlers are prohibited from shooting moose, elk, reindeer or cariboo before 1st November, 1900.

**BAKESHOPS.**—Provision has been made for inspection and regulation of such.

The Assessment Amendment Act, 1896.

Sub-section 1 of section 27, of The Consolidated Assessment Act, 1892, as the same is amended by section 2 of The Assessment Amendment Act, 1895, is further amended by striking out the word "cities" after the words "ten acres in" in the eight line of the said sub-section.

Sections 2 and 3 refer only to assessment of property and Court of Revision in large cities.

COLLECTOR'S ROLLS.

The said act is hereby amended by adding thereto the following section as section 119a:—

119a.—1. Notwithstanding anything hereinbefore contained the council of any city or town may by by-law provide that the clerk shall make a collector's roll or rolls, as may be necessary, containing all the information required by this act, to be entered by the collector therein; and on such roll or rolls he shall set down the name in full of every person assessed and the assessed value of his real and personal property and taxable income, as ascertained after the final revision of the assessments, and opposite the said assessed value as therein described of each respective person, he shall set down in a column the amount for which the person is chargeable, for all sums ordered to be levied by the council of the said municipality for the purposes thereof.

2. Appended to each and every such roll or rolls there shall also be a table setting forth the following information, viz:—(a) the total amount of taxes levied and collected under and by virtue of such roll or rolls; (b) the name and amount of each rate levied by the municipality which is required by law or by the by-law imposing it, to be kept distinct and accounted for separately, and specifying the aggregate proceeds of each such rate so levied and collected.

Sub-section 1 of section 123 of the said act is amended by adding at the end thereof the following:—

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 the amount on the dollar to be levied for each rate, making up the aggregate of the taxes referred to in such notice.

EXEMPTION FROM DISTRESS FOR TAXES.

In case of distress for the non-payment of taxes where the owner or person assessed is not in possession, the goods and chattles on the premises not belonging to the person liable for the taxes, shall not be subject to seizure; but this restriction shall not apply in favor of a person claiming title under or by virtue of an execution against the person so liable, or in favor of any person whose title is derived by purchase, gift, transfer or assignment from the person so liable, whether absolute or in trust, or by way of mortgage or otherwise, nor to the interest of the person so liable in any goods on the premises belonging to him, or to the possession of which he is entitled, under a contract for purchase or by which he may or is to become the owner thereof upon performance of any condition, nor where goods have been exchanged between two persons so liable by the purpose of defeating the claim of or the right of distress for the non-payment of the taxes; nor shall the restriction apply where the property is claimed by the wife, husband, daughter, son, daughter-in-law or son-in-law of the person so liable, or by any other relative of his in case such other relative lives on the premises as a member of the family; and possession by the tenant of said goods and chattles shall be sufficient prima facie evidence that they belong to him.

Sub-section 1 of section 124 of the said act is hereby amended by striking out the words "or of any goods or chattles found on the premises, the property of or in possession of any other occupant of the premises," in the

12th, 13th and 14th lines of the said sub-section, and adding the following words at the end of the said subsection: "The goods and chattles of the owner of the premises found thereon shall be liable to distress for such taxes whether such owner is assessed in respect of such premises or not."

Section 126 of the said act is amended by striking out all the words of the said section after the word "land" in the sixth line thereof and substituting therefor the following words "in the same manner and subject to the same limitations as provided in section 124."

RENT AND TAXES.

The said act is amended by inserting therein the following section as section 131a:

131a. Where taxes are due upon any premises occupied by a tenant who is not liable to pay the same, the collector may give such tenant notice in writing requiring him to pay the rent of such premises as it becomes due from time to time to such collector to the amount of the taxes due and unpaid and costs, and he shall have the same authority to collect such rent by distress or otherwise for the amount of such unpaid taxes and costs as the landlord of the premises would have, but nothing in this subsection contained shall prevent the recovery of any portion of such taxes which may remain unpaid after applying any payment or payments that are made in the manner provided by law for the collection of taxes.

SALES OF LAND FOR TAXES.

All powers conferred upon town and cities by sections 121, 140, 143, 145, 152, 158, 161, 171a, 173, 181, 182, 204 and 205 of the said act, and all duties imposed by said sections upon the officers of such cities and towns, and the mayors thereof, shall hereafter be vested in and apply to the townships of York, Scarborough and Etobicoke, in the County of York, and to the Reeves of said townships, and for the purposes of the collection of arrears of taxes on lands therein and the sale of such lands for taxes, the said townships shall be considered as towns, and wherever the word "town" occurs in any of the said sections it shall be held to apply to and include the said townships, and wherever the word "mayor" occurs in the said sections it shall be held to apply to the reeve of each of the said townships for the time being.

Section 170 of the said act is amended by adding thereto the following sub-sections:

4. The treasurers of the townships of York, Scarborough and Etobicoke shall not sell for taxes a portion of any vacant lot laid out according to any registered plan, the frontage of which does not exceed fifty feet, but shall, in all such cases, sell the whole of such lot for the best price that may be offered by the bidders at such sale, and any money obtained by the treasurer as the price of any such lot shall be applied firstly in paying the arrears of taxes and interest and lawful expenses due in respect of such lot, and the balance, if any, shall be paid by such treasurer to the owner of such lot, or such other person as may be authorized by law to receive the same.

5. The sale of all lands in respect of which returns have already been made by the treasurers of the townships of York, Scarborough and Etobicoke to the treasurer of the County of York shall be carried on and completed by the said treasurer of the County of York.

Schedule K to the said act is amended by adding after the word "mayor" wherever it occurs in the same schedule, the word "reeve," and by adding after the word "town," wherever it occurs in the said schedule, the words "or township."

This act shall not in any way alter or affect the act passed in the 58th year of her Majesty's reign, intituled, An Act Respecting the Township of York, or the by-laws confirmed by the said act.

Inasmuch as "a rolling stone gathers no moss" it should be broken up and placed on the road.

New Laws Passed at Last Session of the Legislature.

INSPECTION OF MEAT AND MILK.—Cities and towns may establish public slaughter houses, and charge fees to defray the cost, the local board of health to have control. The local board may employ competent persons to inspect all slaughter houses, meat packing establishments, animal, carcasses, and meat brought in and intended for human food. Also inspect milk, and test for tuberculosis.

MUNICIPAL AUDITORS.—A board of provincial auditors, consisting of three chartered accountants, or persons otherwise qualified, may be appointed, who may act instead of commissioners under section 380 of the Municipal Act.

THE TREE PLANTING ACT is repealed and a new one substituted. An inspector of trees may be appointed. The Provincial Treasurer is to recoup to the municipality one-half of the premium or bonus paid by them for tree planting. Persons tying or fastening any animals thereto, or injuring or destroying any tree planted upon any highway, or cutting down, or removing same, without permission, are liable to a penalty of \$25 and costs, and in default of payment, thirty days imprisonment, half the fine to go to the informer. The like penalties are imposed in respect of shade or ornament trees on boundary lines.

YELLOW AND BLACK KNOT ACT.—County councils are now empowered to appoint an inspector under this act, to aid and assist the local inspectors and to act as local inspector where none has been appointed.

JURORS AT CORONERS' INQUESTS are to receive 50 cents for each day of four hours, and \$1 per day for any longer period; also 10 cents a mile for travelling expenses. Jurors on a jail inquest are not to be entitled to fees.

HIGH AND COUNTY CONSTABLES.—The appointment of a high constable is made imperative, and constables are placed under the supervision of the inspector of legal offices. On the certificate of the magistrate and the recommendation of a county judge, a constable is to be paid by the treasurer 75 per cent. of his account without waiting for the passing of the same by the board of audit. The board of audit may allow to a constable a reasonable amount in addition to his tariff fees. In case of emergency, provision is made for an advance, not exceeding \$10, in the detection of crime, or capture of persons suspected of crime. A new tariff of fees is promulgated, increasing the fees in some cases, notably in that of mileage, which is to be 13 cents. Mileage to attend assizes or sessions or before justices is also to be allowed.

POLICE OFFICERS in a city in charge of a station are authorized to take bail.

## CORRESPONDENCE.

This paper is not responsible for opinions expressed by correspondents.

All communications must be accompanied by the name of the writer, not necessarily for publication, but so that the publishers will know from whom they are received.

## District Laws.

Editor Municipal World.

DEAR SIR,—Many persons do not seem to know, or if they know, do not think that there are township municipalities which are not under county authority; in districts, where the statutes and remarks in the "World," are not applicable; otherwise your paper would be much more valuable to those living in the districts.

In these districts municipal officers are usually quite inexperienced and without much schooling, and although Harrison's Manual and your "World" are valuable aids, still law terms are so unfamiliar to them, and statutes are so seemingly conflicting, and obscure, and so many of them do not apply to these municipalities that it is no wonder if many of the officers are at a loss sometimes to know how to proceed in their duties.

Could you not get up small books for the several officers showing in plain English what their duties are, and how they ought to proceed.

For instance a Collector's Guide, which does not merely quote the statutes, and refer to cases, but which would tell the collector, what powers he had in case parties did not pay taxes promptly, how much he was allowed to charge in case he had to call upon a party a second time, if the party then paid, or if the taxes were paid or offered at any stage of proceedings or distraint.

What powers he had should he find buildings containing goods and chattles locked up.

What documents he would require to distrain for taxes, and what he should do with each of these documents.

In short explain everything that would be likely to occur while a collector was engaged collecting.

Other officers duties might be explained in a similar manner, and I think that such books would be very useful, and highly appreciated by persons requiring them.

I wouldn't expect to have all the duties and powers of the council explained in this way, nor those of the clerk, whose duties are so multifarious, but the duties of the collectors, assessors, pathmasters, poundkeepers, fenceviewers, and some of the duties of others in connection with those mentioned.

Yours truly,

R. R. COUTTS.

[We would be very much pleased to comply with our correspondents request if it was either practicable or advisable to do so. Owing to the numerous changes made in the laws, pamphlets of the kind would be useless in a very short time.

We have recently published Assessors' and Collectors' guides. The demand for special publications referring to the districts is so small that a publisher would find difficulty in securing sales sufficient to cover cost of printing.

Through our question-drawer we enable all readers to procure special information on different points as they arise in connection with their work, and a reference to the present issue will show that they are not backward in availing themselves of this privilege.—ED.]

## Retrospective.

To the Editor of THE MUNICIPAL WORLD.

DEAR SIR,—It is an old proverb better late than never; and where a debt is owing it must be very applicable and pleasing. Applicable in regard of the party owing the debt, and pleasing to the party receiving their due. Now it is late in the year returning thanks for new years favors; but being a novice in the business of committing my thoughts to writing, I thought I would wait and see the efforts of some more capable friend than myself. I am sorry to say I have seen none such yet; consequently I have to use my own poor endeavors.

Now, dear sir, I must ask you to listen to the history of a friend of ours (Municipal Clerks), and after I get warmed with my subject, I may be able to give you his name, if I get over my bashfulness. In January, 1891, an intelligent, youthful messenger applied to township clerks and others for employment, in order to aid them in the discharge of their duties, promising to use all endeavors to assist them, so as to have their work appreciated, a thing they stood very much in need of.

The bargain was closed, and well did this fellow servant keep his word. His residence was close to the northern backwoods, and many the poor municipal clerk's eye brightened with pleasure at his friend's visit, to cheer and advise him. But all pleasure is mixed with pain, and this case was no exception. Dame Rumor stated, and after events proved it was too true, our friend was leaving us, and going to a city far away. While still promising never to forget us, many thought, Alas! our friend will forget his old backwoods acquaintance, he will get too grand to recognize the old bond. But it was a mistaken idea, our friend prospered and grew strong in the city, and each new year brings compliments, good wishes and presents to his backwoods friends.

Need I tell you who this friend is? If I must; it is yourself. That your days may be prosperous, and long in the land is the wish of your friend.

A Municipal Clerk.

Boston claims to have the longest paved street in the world—Washington street, which is seventeen and a half miles in length.

## County Rates—Time for Payment.

The question of the time of payment of county rates is referred to in an interesting opinion given by the county solicitor of Wellington to the county council at their January session, as follows:

"My opinion is asked as to the time county rates should be paid to the county treasurer by the local municipalities. In answer to this question, I have to say that, under section 243 of the Consolidated Assessment Act, it is the duty of the treasurer of every township, town or village, within fourteen days after the time appointed for the final settlement of the collector's roll, to pay over to the treasurer of the county all moneys which were assessed and by law required to be levied collected in the municipality for county purposes. In section 132 of the same act, in towns, villages and townships every collector is required to return his roll to the treasurer on or before the 14th day of December in each year, or on such day in the next year, not later than the 1st day of February, as the council of the municipality may appoint. I am of opinion, therefore, that it is the duty of the local treasurer within fourteen days of the 14th of December, or where the council of the local municipality appoints a later day, that is, a day not later than the 1st day of February in the following year, then within fourteen days from such last mentioned day, to pay over to the county treasurer all county rates; and that is so whether such rates shall have been paid by the local collector to the local treasurer or not. It is open to question whether, under section 241 of the Assessment Act, all moneys actually collected for county purposes may not be payable by the township, town or village treasurer to the county treasurer whenever the same are received from the local collector; that is, where, as a matter of fact, the local collector pays the day appointed for the final settlement of the collector's roll, it is not the duty of the local treasurer to pay so much of the county rates as he shall have so received to the county treasurer within a reasonable time of his receipt thereof. I incline to think that it is the duty of the local treasurer so to pay over moneys to the county treasurer, but this question is not free from doubt."—Mercury.

The new act respecting births, deaths and marriages, requires clerks to keep a register and notify the department regularly, on or before the fifth of each month, of all deaths from contagious diseases occurring within the municipality during the preceding month. A most important feature of the act is, that while additional duties have been imposed on the clerks, the fee has been increased to twenty cents for each complete registration. We will publish next month a synopsis of the new act, with explanations by Inspector Hamilton of the Registrar General's department.

## ENGINEERING DEPARTMENT.

A. W. CAMPBELL,

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

EDITOR

## Roads.

There is not a question within the range of our material interests, which so generally affects our comfort and prosperity as the improvement of our public roads. In the country especially, business, pleasure and thrift in the every-day affairs of life are dependent upon the conditions of the public highways. A trip to the post office, to market, to mill, or errands, depend, in part, upon good and bad roads.

Can our surplus of wheat, or any farm product be marketed? It depends, how much can we draw. It depends, what special line of business shall we pursue on our farms? It depends, what shall the work of our hands or heads profit us? All depends, in part, upon the conditions of the highways. It is hardly possible for those who reside in the country, to consider a question of financial, commercial, social, educational or religious interests which is not affected in some way, either directly or indirectly by the condition of the public highways.

Good roads mean the saving of time in the transaction of ordinary business for the farm or household. A saving in the wear and tear of vehicles, harness, horses and drivers.

They mean a reduction of expense in the keep and care of the teams, and an added length of years in their usefulness. Good roads mean, that teams can draw double the load drawn over bad roads, and thus lessen the cost of getting the surplus products of the farm to market, from fifty to one hundred per cent. They mean the marketing of products at such times as will contribute most to the profit of production. Good roads would tend to regulate the flow of products to the market, which would have a tendency to regulate prices and promote a uniform activity of business, both in the country and at business centres. The more uniform delivery of products to the stations throughout the year would enable the railroads to carry our vast surplus to the great markets of the world at a less cost. For the reason, that their rolling stock and employees would have regular employment. They would not be subjected to extraordinary expense, and blockades of business at one season of the year, and idle at another. Good roads would afford a regular and pleasurable communication throughout the country.

Good roads would save those, whose business compels them to travel, many wearisome, vexatious, unhealthful exposures. There will be persons read this, no doubt, who can remember business engagements, and a condition of the highways which compelled them to plod along, sometimes up and sometimes down, with the thermometer settling down towards

zero, with the wind in their faces, suffering discomfort at every step. Good roads would enable farmers and gardeners to market greater variety of products, adding to the profits of the farm, besides the markets would be furnished with a larger general supply. They would enable farmers to travel greater distances to market, and then give encouragement to grow a greater diversity of products. They would make the advantages of markets, where there are centres of population more available. Good roads would add generally to the social and educational advantages of farm life. Farmers all over the country are moving to the towns and cities. Why? Because of the isolation of the farm. He must go or be left alone. The younger helpful members of the family demand facilities for social and educational advantages where the coming and going is easier, where daily news and mail is delivered at the door. Nothing contributes more to the interest of all, in country life, than good roads. They would enable the farmer's family to attend religious meetings, societies, lectures, concerts and entertainments, both social and educational, which would add much to the attractions of rural life. Good roads would quicken the general educational interests of the country, and the high school could then be made available to a greater number, and the people would set higher standards for educational attainments. Good roads would enable the post-office department to effect a country delivery of the mail in populous districts.

Daily papers and correspondence delivered at the door every day, would save time, increase business activity, and add to the intelligent contentment of country life. With such advantages we might expect many who have had broad educational and social advantages, who have a love of rural life, to gravitate to the country, where they would be helpful in the uplifting of the social and educational interests. If we would save the value of the farm, the stable, strong, sturdy, thinking population of the rural districts, we must give serious and practical thought to the construction and maintenance of good roads.

We conclude that the general expense of the construction of roads should be borne by those who are directly benefited, which would include towns and cities in the township where the improvements are made. Good roads, leading in all directions into the country, certainly increase the business activity, and also extend the trade of towns and cities. Besides, our city cousins take pleasant drives into the country and enjoy the luxury of good roads, fresh air, and the smell of the clover. We think the cost of the construction and maintenance should, in part at least, very justly be a general charge.

In all cases, the roadbed should be made solid and free of excess of moisture by underdrainage. A tile drain should be constructed on each side of the road,

under the storm-water ditches. The depth of the underdrains should be at least three feet with free outlets. The underdrains will carry off all the water that would otherwise accumulate under the roadbeds, and which makes our worst roads and bottomless mud holes. Besides, if the open ditches on the sides of the roads are not provided with sufficient outlets, the water will percolate through the soil or sub-soil under the travelled way. The under drains will cut this water off and carry it out without injury to the roadway, insuring a solid roadbed.

A well graded road having two underdrains, and kept smooth on the surface, will be a good road the greater portion of the year. Where gravel and stone are not to be had at any reasonable cost, underdrained graded roads are the next best improvement that can be made. At the worst season of the year for bad roads, they will be a little muddy on the surface, but a little sunshine and wind will soon dry up shallow mud.

Roadbeds underdrained, as above indicated, will require fifty per cent. less gravel to make good roads than would be required if not underdrained, where the lands are liable to be affected by *soakage* water. This system of improving highways in the absence of stone or gravel, is not an untried experiment, but an improvement that has been fully tested.

## Drainage Act Amendments.

Section 5 of the Ditches and Water-courses Act, 1894, is amended by striking out the words "two-thirds" in the fifth line thereof, and substituting therefor the words "a majority." This empowers a council, on petition of a majority of owners of all lands affected, to pass a resolution authorizing the extension of a ditch into or through more than seven township lots.

Section 9 of the Drainage Act, 1894, is amended by adding thereto the following sub-section:

(7) Forthwith upon the filing of the engineer's report with the clerk of the municipality, the clerk shall, by letter or postal card, notify the parties assessed of such assessment, and of the amount thereof.

Section 81 of the Drainage Act, 1894, is amended by adding the following sub-section thereto:

(2) Upon the petition of two-thirds of the resident owners in the drainage territory, the council of the municipality may pass by-laws empowering the commissioner or commissioners appointed under this section to use all buildings, machinery and equipments belonging to and in connection with any drainage pumping works, and to operate the same for such purposes and upon such terms as may be set forth in such by-laws upon the condition that the profits or benefits of such user shall accrue to the owners.

## The County Councils Act, 1896.

Notwithstanding anything in the Consolidated Municipal Act, 1892, or any other act, contained, and subject to the provisions of this act, county councils shall, from and after the expiration of the terms of office of the county councillors holding office at the time of the passing hereof, be composed as follows:

(a) If the population of the county is 25,000 or less, of not less than eight members nor more than ten members.

(b) If the population is more than 25,000 but less than 40,000, of not less than ten members nor more than twelve members.

(c) If the population is 40,000 or more but less than 60,000, of not less than twelve members nor more than fourteen members.

(d) If the population is 60,000 or more, of not less than sixteen members nor more than eighteen members.

For the purposes of this act, each county shall be divided into districts or divisions, which shall be known as "county council divisions," as follows:

(a) If the population of the county is 25,000 or less, into not less than four and not more than five divisions.

(b) If the population is more than 25,000 but less than 40,000, into not less than five and not more than six divisions.

(c) If the population is 40,000 or more, but less than 60,000, into not less than six nor more than seven divisions.

(d) And if the population is 60,000 or more, into not less than eight nor more than nine divisions.

Cities, towns and other municipalities separated from the county shall not be included in the computation of the population, nor shall the population of Indian reserves, which are not organized as municipalities under the Consolidated Municipal Act, 1892.

Each such division shall be designated and distinguished by its number (as, for example, the "First County Council Division"), and shall be represented in the county council by two members, who shall hold office for the term of two years, and who shall be residents of the division for which they are councillors.

The election of county councillors shall be held in alternate years and at the time fixed by law for the annual municipal elections for members of the councils of the local municipalities, and the first election held under this act shall be so held at the next annual municipal elections which shall be held after this act comes into force. No member of the council of a local municipality nor any clerk, treasurer, assessor or collector thereof shall be eligible for nomination or election as a county councillor. But a member of any municipal council for the year 1896 shall not be ineligible for nomination or election by reason only of his being a member of such council for the year 1896.

## NOMINATIONS.

The warden of every county shall, on or before the 15th day of November, 1896, and, in every succeeding year before an election for county councillors is to be held, the county council shall appoint for each county council division a nominating officer, who shall act as such until his successor is appointed. Such person may be called the "nominating officer," and his duties shall be:

(a) In every year before an election of county councillors is to be held, or before a vacancy is to be filled to fix a place within the division for holding such nomination, between the hours of one and two o'clock in the afternoon, and to give notice of such nomination under his hand, and of the election, by advertisement in two weekly newspapers in the county, to be published for at least two successive weeks prior to such nomination day, or by giving sufficient public notice thereof by printed posters;

(b) To attend at the day and place appointed for such nomination and subject to the provisions and for the purposes of this act, to perform the duties as far as made applicable by

this act, which, by law, the clerk of a local municipality is required to perform as returning officer at the nomination for an election in a local municipality. In case at the time appointed for holding the nomination, the nominating officer has died, or does not attend to hold such nomination, the electors present for the purpose of holding a nomination may choose from amongst themselves a nominating officer, who shall have all the powers and perform all the duties of such nominating officer.

In the event of the warden failing to make such appointments within twenty-four hours after the time specified, the duty of making such appointments shall devolve upon the clerk of the council.

Such nomination day shall be that Monday in the week which precedes the week before polling day.

If at the day and hour named in the preceding paragraph there are not more candidates nominated for any county council division than are required to be elected for such division, the nominating officer shall thereupon declare such candidate or candidates as are duly nominated, elected, and shall thereupon prepare and mail to the county clerk, by registered letter with postage prepaid, upon the same day a certificate under his hand of such election by acclamation. But if a greater number of candidates are nominated than are required to be elected in any county council division the nominating officer shall immediately after the lapse of the time in which candidates, under the Consolidated Municipal Act, 1892, may withdraw from nomination, certify the facts, with the names and addresses of those remaining in nomination, to the county clerk.

Any person nominated may resign either at the nomination meeting or during the following day. If such resignation is after the meeting it shall be signed and witnessed in the manner prescribed for resignations under the Consolidated Municipal Act, and delivered to the nominating officer.

If by reason of any such resignation or resignations the number of candidates remaining does not exceed that of the offices to be filled, the nominating officers shall certify such candidates as duly elected.

## ELECTION.

It shall be the duty of the clerk of the county council to cause a ballot to be printed for the election of a member or members of the council, and he shall immediately after the receipt of the certificates from the nominating officer, and before polling day, forward a sufficient number of ballots and other necessary election papers to the clerk of each of the local municipalities within each county council division where elections for county councillors are to be held, and such clerk of the municipality shall cause them to be supplied to the persons appointed to act as deputy returning officers at the said election. If all the members of the council of any local municipality shall be elected by acclamation, then the clerk of such municipality shall take all proceedings necessary for the election of a member or members of the county council in the same manner (*mutatis mutandis*) as is provided by the Consolidated Municipal Act, 1892, for the election of members of the council of the municipality.

In preparing the ballots or any notices or other papers which may be necessary, the forms appended to or otherwise provided for by the Consolidated Municipal Act, 1892, shall be used as far as applicable, and where not wholly applicable, shall be adapted by the clerk of the county council or the clerks of the local municipalities, or other officer, as the case may be, to the election of county councillors, and the words "county councillor" shall be printed on every such ballot.

The council of any local municipality in which the election of any member or members of the county council is to be held, and the clerk of such municipality and any other officer thereof shall, in case of the election of all the members of the council of the local municipality

by acclamation, nevertheless, so as to enable the election of county councillors to be held, do all things and take all proceedings which would have been necessary and as by law is provided; that is to say, provide polling places, furnish the necessary and proper voters' lists and poll books, and appoint deputy returning officers and other necessary officers, and do any and all other matters and things which would have been necessary and proper to be done had the members of the council of such local municipality not been elected by acclamation, and the returning officer and deputy returning officer shall have all the powers, rights and authorities respecting the election of county councillors, which they now have respecting the election for the members of the local municipal councils, and shall perform all the like or similar duties which they are now required to perform under the Consolidated Municipal Act, 1892, where an election is being held for the members of the council of a local municipality.

At the election of a member or members of a county council the ballots shall be placed in the same ballot box as the ballots for the members of the council of a local municipality is where an election in such municipality is being held, and shall be counted in the same manner as such last named ballots, and they shall thereafter be placed in a separate envelope or package and otherwise dealt with in the same manner as ballots for the election of members of the council of a local municipality and where an election for such local municipality is not being held the proceedings thereat and thereafter (except where the same are varied hereby) shall be as nearly as possible the same as in the case of an election for a local municipality.

## VOTERS AND VOTES.

The persons qualified to vote for county councillors shall be the persons qualified to vote at the election of members of the council of the local municipality and all local municipal clerks, and no others; and each person so qualified shall be entitled to as many votes as there are members of the county council to be elected in his county council division, and he may, at his option, when there are two county councillors to be elected, give both of his votes to one candidate, in which case he shall place two crosses within the division of the ballot wherein is the name of such candidate. But where any person being a resident voter is on the voters' list for two or more municipalities within any county council division, he shall vote for county councillors in that municipality only in which he resides, and only at the polling place of the polling sub-division in which he resides, if he is entitled to vote at such polling place. In case a voter is not resident within the division, he shall vote only once within any division, whether his name is on the voters' lists of said division in more than one polling sub-division or not.

## QUALIFICATION OF COUNCILLORS.

Every member of a county council shall possess the same property qualification as the reeve of a town is required to have, and every member of a county council before entering on his duties shall make and subscribe the declaration of office and qualification (*mutatis mutandis*) set out in section 270 of the Consolidated Municipal Act, 1892.

The clerk of each municipality shall, on the day following the return to him of the ballots, papers and statements, prepare and mail to the county clerk by registered letter with the postage prepaid, a certificate under his hand of the result of the voting in his municipality for the candidates for the county council, and such certificate shall be according to the form given in the schedule hereto.

The county clerk shall, for the purposes of this act, be returning officer, and as such shall perform the duties required of him by this act, and on receipt of the certificates from the clerks of the municipalities comprising a county council division the said county clerk shall cast up the number of votes for each candidate from

such certificates and shall, at the hour of one o'clock in the afternoon of the second Monday in the month of January, in the county council chamber, publicly declare elected the two candidates having the highest number of votes in each county council division, and shall also post up in his office for public inspection a statement under his hand showing the number of votes polled for each candidate.

Where an equal number of votes has been cast for two or more candidates in any county council division and it is necessary to determine which one or two of such candidates shall be declared to be elected, the nominating officer for the division shall, upon request of the county clerk, declare in writing for which of such candidates he votes, and in such case the candidate or candidates for whom he votes shall be elected.

The county councillors so elected shall form and be the county council for the county in lieu of the council as heretofore constituted, and such county council shall have all the rights, powers and authority heretofore vested in county councils by the Consolidated Municipal Act, 1892, and may do and perform all acts, matters and things which county councils might or could do under the said act, and all parts of the Consolidated Municipal Act, 1892, repugnant to or inconsistent herewith affecting or applicable to county councils are and shall, for the purposes of this act, be superseded hereby, and all other parts of the said municipal act, applicable to county councils, shall apply to the county councils elected hereunder.

#### VOTE FOR WARDEN.

Where an even number of votes are cast for warden and no election can be had during the first day of meeting, if no choice is made after two ballots on the second day, the senior member representing the division having the largest equalized assessment, shall have two votes. Where two councillors from such division have an equal number of votes, or where they have been elected by acclamation, the clerk shall, in open council, draw lots to ascertain which one of such two shall give the casting vote. The words "senior member" shall mean that member for such division who received at the last preceding election the higher number of votes in his division.

#### RECOUNT.

The same proceedings may be had for a recount of ballots, or for the vacating of any seat, as may now be had in the case of members of the council of any local municipality. And in case of a recount or proceedings for the unseating of a county councillor, the judge of the county or other persons before whom such proceedings are being held, may require the clerk or clerks of the local municipality or municipalities to forward, for the purposes of production before him, to the clerk of the county under seal, all ballots, books, voters' or other lists, and other papers in his hands connected with the election. In such case the said clerk shall so forward the ballots, books, voters' or other lists, and other papers as directed, with a statutory declaration that they are the ballots, books, voters' or other lists, and other papers (if any) deposited with him in connection with such election and no others, and that he has kept them safely and has not permitted or given opportunity to any person or persons to examine, inspect or see them since they were returned to him, and that he has kept them under seal securely since such return to him.

#### FILLING VACANCIES.

In case of a vacancy occurring in the county council by death of a member or from other cause before the June meeting of county council, the warden (or in case of a vacancy in that office, the county clerk) shall issue his warrant for a new election to fill such vacancy to the nominating officer of the division in which the vacancy exists in time to fill the same before the regular meeting of said council in June is held, if practicable; and where there is not time to fill the same before the said meeting such vacancy shall be filled at the

next annual municipal election, and the clerk of the county council and the councils and clerks of the local municipalities comprising the county council division in which such vacancy has occurred shall take all necessary proceedings as provided by this act to fill any election. But when an election to hold any such vacancy is held at the annual election, or at any other time during the year, the proceedings shall be the same, as nearly as may be, as in the case of the biennial election under this act, but where at such bye-election one councillor only is to be elected, each elector shall be entitled to but one vote.

The councillor so elected to fill a vacancy shall hold office during the unexpired portion of the term for which his predecessor was elected.

#### EXPENSES OF ELECTIONS.

The expenses incurred in and about the election of county councillors shall be borne by the county, but where a poll is held for the election of a member or members of the council of a local municipality at the same time as the election for the county council is held the costs of the polling booth and the fees of the deputy returning officer, poll clerk and constable, and any other expenses which would be necessary for such election for the local municipality shall be borne by the local municipality as heretofore. In case of any dispute between the local municipality and the county as to the apportionment or payment of any such expenses, the difference between them shall be summarily and finally settled by the county judge upon the application of either party, upon four days' notice to the other party, and he shall make such order in the matter as to him shall appear just. Where an election is held under this act, when no poll is required by the local municipalities, then the costs of such election shall be borne wholly by the county.

Any clerk of a county or clerk or officer of a local municipality who shall refuse or neglect to perform the duties prescribed by this act shall be liable on conviction thereof, to a fine of \$200 and costs, and the provisions of section 420 of the Consolidated Municipal Act, 1892, respecting the recovery and enforcement of penalties, shall apply to the penalties imposed by this section.

In addition to any other penalties imposed by the Consolidated Municipal Act, 1892, any clerk of a local municipality who knowingly makes a false or incorrect return under section 15 of this act, and any county clerk who knowingly makes a false or incorrect declaration of election under section 16 of this act, and any nominating officer who knowingly makes a false or incorrect declaration of election, or knowingly gives a false or incorrect certificate under section 8 of this act, or commits any other act of falsification, concealment or fraud, with intent to affect the election of a candidate or candidates, shall, upon conviction thereof, be liable to a fine of \$500 and costs, and shall be disqualified for a period of four years thereafter from holding any office or position in the gift or control of any municipal council in the Province of Ontario, and shall not be eligible during the said period for election as member of any such council.

#### DIRECTIONS TO VOTERS.

Where at any election two county councillors are to be elected there shall be added to the directions contained in schedule B of the Consolidated Municipal Act, 1892, the following paragraph specially applicable to the election of county councillors:

Where county councillors are to be elected, and the voter desires to give two votes for one candidate, he shall place two crosses, thus  $\times \times$ , on the right hand side, opposite the name of the candidate for whom he votes, or at any other place in the division which contains the name of such candidate; but no person is allowed to give two votes for one candidate except two county councillors are to be elected.

Where an election for a member or members of the county council is being held at the same

time as the election of a member or members of the council of the local municipality, the clerk of the local municipality in preparing the poll book shall insert therein a column to be headed "County councillors" between the columns headed "Refused to swear or affirm" and the column headed "Mayor or reeve," and in case no election is being held for a member or members of the council of the local municipality, the like books shall be used unless the clerk prepares poll books expressly for the election of county councillors.

All the sections of the Consolidated Municipal Act, 1892, relating to the conduct of municipal elections not inconsistent herewith and unless where other provisions are herein made and the imposition of penalties in connection with such elections shall apply to elections under this act.

#### DIVISIONS OF COUNTIES INTO DISTRICTS.

An order in council has been passed by the Ontario Government appointing the following County Court Judges to divide the present counties into county council districts under section 28. Judge Jones, of Brant; Judge Wilkinson, of Lennox; Judge Bell, of Kent; Judge Dean, of Victoria; Judge Senkler, of Lanark; Judge Creasor, of Grey; Judge Benson, of Northumberland and Durham; Judge Horn, of Essex; Judge O'Brien, of Prescott and Russell; and Judge Doyle, of Huron. Judge Jones is named as chairman. The above will form commissions of two judges each—two for the west and two for the east. Judge Jones and Creasor will divide the counties of Essex, Kent, Lambton, Huron, Bruce, Elgin and Norfolk; Judges Bell and Horn the counties of Oxford, Waterloo, Brant, Wentworth, Haldimand, Peel, Halton and Grey; Judges Jones and Doyle, the counties of Wellington, Simcoe and Dufferin; Judges Bell and Doyle, the counties of Middlesex, Perth, Lincoln and Welland; Judges Dean and Benson, the counties of York, Ontario, Peterboro', Hastings, Lennox and Lanark; Judges Wilkinson and Senkler, the counties of Northumberland, Durham, Prince Edward, Victoria, Leeds and Grenville, Frontenac, Prescott and Russell; and Judges Dean and O'Brien, the counties of Carleton, Stormont, Dundas, Glengarry and Renfrew. Judge Senkler, of Lincoln, and Judge Mackenzie, of Lambton, are appointed to act in the place and stead of any of the judges who from any cause may be unable to act on the commission.

The commissioners are to have all the powers of a judge of the High Court sitting in court, and may use the court house or other county or municipal building in which to hold their sittings, and may require the attendance of the sheriff, or any other county or municipal officer, at such sittings. The county clerk, or treasurer, or the clerk of any local municipality, shall, upon the request of any commissioner, prepare any statement, in schedule form or otherwise, that may be required of the population, acreage, assessed value, annual receipts and expenditure, and of the liabilities of the county, or of any local municipality, or any other statement, in relation to the affairs of the county, or of any local municipality which the commissioners may require, and shall furnish the same to the commissioners with promptitude, and as they may be directed by the commissioners.

When practicable, the commissioners are required to hold sittings for each county, in the court house or council chamber at the county



town. Notice of such sittings is to be given to the county clerk, and by him published weekly for two successive weeks in two newspapers within the county. The county clerk, upon receipt of the notice, is required to send a copy thereof to the clerk of each municipality in the county.

The commission may take evidence and hear county or other municipal councils or representatives or committees thereof, and other parties interested, either personally or by counsel or agent, and may receive any such written statement as they may think proper, and generally may take all such proceedings as will enable them fairly to divide the county, and where necessary group the municipalities thereof into county council divisions for the purposes of this act.

In making such division of counties the commissioners shall treat the counties united for municipal purposes, as though they were separate counties, and shall make the divisions upon the basis of population for each of the united counties separately.

In forming the county council divisions the commission shall have regard especially to assessed value, and population and extent of territory, and shall not, in making such division divide local municipalities, unless where, in the opinion of the commission, it is plainly necessary so to do in order to arrive at a fair and reasonable division, but in no case shall polling sub-divisions be divided.

The commissioners are required to commence their duties not later than the fifteenth day of May, and to make their final reports on or before the fifteenth day of October, 1896.

The expenses of the commissioners are to be paid by the Provincial treasurer, and all other expenses of what kind so ever, shall be paid by the treasurer of the county for the work done or expenses incurred in respect of each particular county, after they have been certified by the warden of such county.

#### CHANGES IN DIVISIONS.

The judge of the county court of the county, the warden thereof and the clerk of the peace, shall constitute a board, whose duty it shall be when a new village is erected or a town is separated from the county, or is erected into a city, and the arrangement into county council divisions is thereby disturbed by their order to attach such village to some convenient county council division or to re-arrange the county council divisions affected, and, if necessary, the adjoining division or divisions, but in so doing the board shall make only such changes as the altered circumstances require.

A county council elected under this act shall not, during any one term in which it is elected, raise by by-law for contracting debts or loans more than \$20,000 over and above the sums required for its ordinary expenditure without submitting such by-law or by-laws for the assent of the electors.

#### POPULATION.

The population of any county, is for the purposes of the act, to be ascertained by reference to the population of the local municipalities as shown by the last decennial census of the Dominion of Canada.

This act does not apply to the Provisional County of Haliburton.

Nothing in the act contained is to affect the election of a reeve or deputy reeve in local municipalities as provided for by the Municipal Act.

In building country roads get rid of heavy grades, either by location or cutting. The steepest grade determines the load to be hauled. The road should never keep to the alignment of the property to the sacrifice of good grade; and, to avoid expense, do not make the roadway too wide.

#### Line Fences Act, 1896.

Section 9 of the Line Fences Act is amended by inserting after the word "immediately," in the sixth and seventh lines thereof, the words "take proceedings to," and by adding to the said section the following proviso:

Provided, nevertheless, that instead of requiring execution to be issued upon such judgment the party entitled to enforce the judgment may obtain a certificate from the clerk of the division court of the amount due for debt and costs in respect of such judgment, and shall be entitled, upon lodging the same with the clerk of the municipality, to have the amount so certified placed upon the collector's roll, and the same may be collected in the same manner as taxes are collected, and shall, until so collected or otherwise paid, be a charge upon the lands liable for the payment thereof, and in such case execution shall not thereafter issue on such judgment.

#### An Act to Amend the Act Respecting Voters Lists in Unorganized Territories.

1. Chapter 2 of the act passed in the fifty-fifth year of Her Majesty's reign, intituled: *An Act Respecting Voters' Lists in Unorganized Territories* is hereby suspended for one year from the passing of this act.

2. Until a new voters' list has been prepared under an act of the Legislature of this Province, the voters' list prepared and certified under the said act, in the year 1895, shall in any election to the Legislative Assembly be the lawful voters' lists for the polling sub-divisions to which such voters' lists are applicable.

#### An Act Respecting Tax Sales in the Unorganized Districts.

1. It shall not be necessary to publish in a newspaper in the city of Toronto other than the *Ontario Gazette* the advertisement of any sale of lands for taxes required by section 34 of chapter 185 of the Revised Statute of Ontario, 1887.

An exchange states that the rural district council at Tiverton, in England, proposes to purchase a steam-roller and a sleeping car. The novelty of the latter struck us as unusual; but there is wisdom, it seems, underlying it. Hitherto lodgings for the man working a hired steam-roller have cost a guinea a week and the working expenses a pound a day. It is estimated that by carrying out the proposal considerable saving will be effected eventually in this respect. The roller is to cost £480 and the sleeping-car £55. The latter will not, of course, be as luxurious as a pullman sleeping-car, but it is hoped may meet the purpose for which it is intended. How does the proposal appeal to other councils?

#### Duties of Trustees.

Interesting reading would be afforded if a census were taken of trustees (1) who know their duties and fulfil them, (2) who know their duties and neglect them, (3) who are woefully ignorant of their duties and take no means of informing themselves. This latter class I think would be found to constitute a large majority. One of the chief duties of trustees is to visit the school regularly. How many know this, or knowing it, wilfully neglect it?

A large number of trustees seem to think they are elected to finance the affairs of the section. They will haggle over an item of ten cents for two tin cups for drinking, and will conduct the people's business in the same picayunish manner as their own. They will engage the cheapest teacher who offers, and if they succeed in lowering the general school rate a half-mill on the dollar will point with pride to their successful stewardship. What seems to be needed more than a western normal school is a training school for trustees.—*Chatham Banner*.

The drainage bill introduced in the House of Commons by Mr. Casey, the member for West Elgin, met a harsh fate, but it contained remedies for grievances which are serious, and which must be dealt with by our parliamentary representatives. As the law stands, many farmers are absolutely unable to properly drain lands which are crossed by railways, the expense of complying with the demands of the companies, or of fighting a case through the Railway Committee, being practically prohibitory. Most of the railways have put in pipe culverts across their lines. If a farmer desires to lower these in order to drain his land he can only do so on terms—and often hard terms—prescribed by the company. Neither can he, except, at a most unreasonable cost, secure additional culverts, and therefore frequently has to go long distances to secure outlets for water, perhaps brought on his lands from lands above. When the bill was before the Railway Committee, the prevailing opinion seemed to be that a general bill should be passed applying to the Dominion. This is now being prepared and will be presented during the next session. The Federal Parliament should certainly deal with this important subject.

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The council of the township of Sidney will address a circular letter to each path-master, setting forth the advantages to be derived from the commutation of statute labor, and directing them to obtain the opinion of the ratepayers in their respective divisions.

1. As to whether they are satisfied with the present system.

2. And if in favor of commuting the statute labor, at what price per day.

**LEGAL DEPARTMENT.**

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

EDITOR.

**LEGAL DECISIONS.**

**Waterford School Trustees vs. Clarkson**

Bonds—Public Schools—Secretary-Treasurer.

The secretary-treasurer of a public school board holds office for a year only, and not during pleasure, and the sureties to a bond given as security for the performance of his duties, though on its face unlimited as to time, are not liable for defaults occurring after the year, notwithstanding his re-appointment to office.

Judgment of Street, J., affirmed.

**Township of Moore vs. County of Huron.**

Statutes—Repeal of Act—Exemption—Interpretation Act  
—Con. Stat. Act, 1892, 55 Vic., c. 42, s. 533a (O);  
57 Vic., c. 50, s. 14 (O); R. S. O., c. 1.

Section 14 of the Municipal Amendment Act, 1894, 57 Vic., chap. 50 (O), must be read with section 8, sub-sections 43 and 48 of the Interpretation Act, R. S. O., chapter 1, so that rights of action acquired at the passing of the said act of 1894 are not affected thereby.

On the 29th April, 1893, a township corporation obtained an award against a county corporation under section 533a (O) of the Consolidated Municipal Act, 1892, for part of the cost and maintenance of certain bridges. An appeal against the award was successfully made to a judge, and to the Court of Appeal, the appeals being dismissed, but while appeal was before the Court of Appeal, the 57 Vic., c. 50 (O) was passed.

Held that the award was not a pending award at the date of the passage of the said act, 57 Vic., c. 50 (O).

The plaintiffs were held entitled, notwithstanding the repeal of section 533a (O), to recover the amount expended on the said bridges; but varying the judgment of the learned judge at the trial, by allowing, not merely the amount expended up to the date of the passing of the 57 Vic., but the township's proportion of the amount actually expended.

**In re Kerr and County of Lambton.**

Municipal Corporations—County By-law—Guaranteeing Debentures of Town—Assent of Electors—By-law of Town—Time of Passing—Form of By-law—Guaranty—Liability.

The assent of the electors is not required to make valid a by-law of the council of a county corporation, passed under section 511, sub-section 2, of the Consolidated Municipal Act, 1892, guaranteeing the debentures of a municipality within the county.

At the time such a county by-law was passed the by-law of the minor municipalities had not been passed, but had been provisionally adopted, and had received

the assent of the electors, in accordance with section 293, and the form that the guaranty of the county was to take was such that it could not actually be given until after the final passing of the by-law of the minor municipality.

Held that, under these circumstances, the county by-law was not prematurely passed.

The by-law in question enacted: 1. That the corporation "do hereby guarantee the due payment of the debentures," etc. 2. That upon each debenture should be written "payment hereof guaranteed by the corporation of the county," etc. 3. That the warden and clerk should sign and seal such guaranty on each debenture. 4. That when so signed the corporation should be liable to the holders of the debentures and responsible for the due payment thereof.

Held that the by-law did not impose upon the county corporation any greater liability than authorized, viz., that of guarantors.

**Canadian Pacific Railway Co. vs. Township of Chatham.**

Municipal Law—Special Assessments—Drainage Powers of Council as to Additional Necessary Works—Ultra Vires Resolutions—Executed Contract.

After the construction of certain drainage works under the provisions of the Municipal Act, R. S. O., c. 184, ss. 569 and 576, which benefited lands in an adjoining township, it was found necessary to construct a culvert under the line of the Canadian Pacific, in order to carry off the water brought down by the drain and prevent damages by the flooding of adjacent lands. By contract, under seal entered into by plaintiffs and defendants, the plaintiff agreed to construct the needful culvert at a cost of over \$200. On its completion the works were accepted and used by the municipal corporation, certain officials of the corporation having assured the plaintiff that should the funds provided under the original by-law for the construction of the drainage works prove insufficient, the necessary amendments would be made under section 573 of the Municipal Act, and the additional sum so required obtained. The municipal council passed resolutions approving of the work, and paid sums on account, but did not pass a new by-law or make any report or fresh assessment respecting the contract with the plaintiffs or the works executed thereunder.

Held, reversing the decision of the Court of Appeal (22 A. R. 330), and of the Divisional Court (25 O. R. 465), Taschereau, J., dissenting, that as the works done by the plaintiffs, under the agreement, were absolutely necessary to the efficient completion of the drainage works contemplated by the original by-law, the case came within the provisions of the 573rd section of the Municipal Act, R. S. O., chapter 184, and the contract under which it had been executed was binding upon the defendants.

Held (Taschereau, J.), dissenting, that the plaintiffs were guilty of laches in neglecting to ascertain whether the corporation was acting ultra vires before entering upon their contract, and that it would be contrary to the policy of the statute to grant them recovery which would be so largely in excess of the expenditure contemplated by the original by-law.

Appeal dismissed with costs.

A city councillor the other day, finding that most of the time of the council meeting was taken up by members desirous of obtaining information, said, "that he thought that if more members would do more work between the meetings, investigating matters for themselves and not talk so much at the meeting it would be better for the city's business." These are indeed words of wisdom. Many councillors have no information when elected and simply look upon sessions of the council as a means of educating them in the business of the municipality. It is almost impossible to consider matters of importance in a satisfactory manner if the time of the experienced members is to be given to answering unimportant questions submitted by their inexperienced colleagues.

Every member of a council should, between sessions, endeavor to inform himself as fully as possible as to the business to be considered at ensuing sessions, and endeavor to assist in the discussion of all important measures with a view to furthering the best interests of his municipality.

\* \* \*

The Minister of Education has made a move in the right direction in extending the Easter vacations in rural schools. No doubt this is preparatory to extending the midsummer vacation, and we may soon expect to see country schools on a par with urban schools in this respect. As a rule the country school is not built on the most improved hygienic principal, and in the matter of ventilation and general sanitary surroundings is not as well equipped as its city prototype. Yet the anomaly exists of city schools having from two to three weeks longer vacation during the extreme heat of summer than the schools in the country. Again, if the child's usefulness to his parents is taken into consideration there is no season of the year, in which all the available labor can so well be used as that of harvest. By all means, then, let the holiday season in all schools be of equal length.

**PUBLIC LIBRARIES ACT.**—Section 19 is repealed and a new section established. Municipalities are enabled to contribute to maintenance. Township councils may appoint a board of management to be known as "The Public Library Board." The government grants are no longer limited to the sum of \$46,000 as mentioned in the act of last year. Boards may appoint their own treasurer.

## 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.

## Fire Limit By-Law.

167.—M. B.—1. We want your opinion as to whether a council, after they have passed a by-law to prevent the erection of wooden buildings in certain limits, and a building has been erected within said limits, contrary to the by-law, has the council the power to pass another by-law authorizing the pulling down or removal of that building erected?

2. Would it be the proper way to have a clause in the by-law (to prevent the erection of wooden buildings) authorizing the pulling down or removal of buildings constructed in contravention of the by-law? See section 496, sub-section 10, chapter 42, Consolidated Municipal Act, 1892.

1. The latter part of sub-section 10, section 496, of the Consolidated Municipal Act, authorized the council of every town, city and incorporated village to pass by-laws for authorizing the pulling down or removal, at the expense of the owners thereof, of any building or erection which may be constructed, repaired or placed in contravention of any by-law passed in accordance with the provisions of the first part of said sub-section 10.

2. Yes.

## Accident on Highway Joint Liability.

168.—E. D.—NATURE OF CLAIMS.—A young man was driving a spirited team of horses along the road allowance on the 4th of last month, when the roads were breaking up. At such times the centre or travelled portion in most places is much higher than the sides of the road. It appears the team took fright at a saw-log lying on the road allowance, but not on the travelled portion, and got off the solid road, on the opposite side from the log (where the snow was rotten), and plunged about in such a manner that either the horse or his mate on the higher portion inflicted injuries from which he died soon after. The owner now claims pay from the council for the horse. The strange feature of the case is that the accident happened near the young man's home, in his own road division, in which his father, who lives on the adjoining farm, is now pathmaster, and has been so for a number of years past.

The law is that any object which is calculated to frighten ordinarily gentle horses, and which is negligently allowed to be on the highway, furnishes sufficient ground for action against a municipal corporation for any damages resulting therefrom. If the owner of the horse can show that the log was calculated to frighten horses which were ordinarily quiet or gentle, and that the pathmaster knew that the log was in the highway, and did not have it removed within a reasonable time, we think

a case of negligence, entitling the owner to recover, would be established. It has been held that a person does not lose his right of action by using a highway knowing that there are defects in it, his knowledge having the effect only of requiring a greater degree of care on his part. The person who placed the log on the highway would also be liable.

## License to Pay for Inspection of Slaughter Houses, etc.

169.—W. E. A.—Would it be legal for a township council to pass a by-law putting a small license fee on cheese factories, creameries and slaughter-houses, to assist in meeting the expense of having a sanitary inspector inspect these places, as provided by the Public Health Act?

No. But the council may direct the payment of a fee not exceeding \$1 to the proper officer for a certificate of compliance with any regulations in regard to a trade or calling. Even this fee can be charged only in cases in regard to which the council has power to make regulations. See section 286, Consolidated Municipal Act.

## Assessment Telegraph Poles and Farm Implementa.

170.—J. W.—1.—Are the telegraph poles, the telegraph wires and the instruments used for transmitting and receiving messages liable to assessment and taxation, i. e., such part of telegraph line and instruments as are within the municipality? 2. Are farmers' vehicles, such as sleighs, cutters, wagons and buggies and farm implements used upon the farm, as well as threshing machines, which are used only in threshing the owner's grain, assessable and liable to taxation?

1. No.

2. Section 7, Consolidated Municipal Act, 1892, provides, "All property in this province shall be liable to taxation, subject to the following exemptions: The only exemption which would apply to this property is that mentioned in sub-section 22, which provides "the net personal property of any person, provided the same is under \$100." It therefore follows that the property specified is taxable unless it is under \$100.

## Billiard Table License When Necessary.

171.—J. H. M.—1. We have a barber running a shop here who has one end of shop partitioned off, and in which he runs a pool or billiard table. On the door of this room he has printed "private," and as there is generally some one in this room playing, the door which closes with a spring lock from the inside, any parties cannot get in without the proprietor, who carries the key, sees fit to let him. As we have a by-law charging a license of \$30.00 for each table per year, or part of year, which is dated March 1st, the committee whom the council appointed to look after the collecting of license, or at least see that same is paid or that the by-law is not infringed by playing on such tables on which license is not paid, cannot get in to see this party's table. What we would like to know is, can the council pass a by-law prohibiting any communication with a room where a billiard or pool table is kept, and a place of business of any kind, or in what way can an infraction of the law be stopped, as I try to show in the above clause?

2. Is it necessary to appoint pound-keepers in villages every year, or are they supposed to retain office until a successor is appointed?

2b. If they are not appointed annually or do not take the declaration of office each year, where they continue to act, are they or the corporation liable to refund any fees provided by by-law, or can the same be collected from the poundkeeper or corporation by any action in court?

1. If table is kept for hire or gain the owner is liable to the penalties provided for in by-law fixing the license fee.

2. No. They retain office until a successor is appointed.

2b. No.

## Commencement of Pathmasters' Duties.

172.—A. S. Y.—At what time do the duties and responsibilities of pathmasters commence, their appointment and signing of the declaration or when they receive their road warrant?

As to the municipality, as soon as he is appointed, and as to the pathmaster himself, as soon as he has knowledge of his appointment.

## By-Law re Weigh Scales.

173.—J. T. C.—Does the council of a township have to pass a by-law to allow private parties to erect weigh scales for public use on the side of a public highway, said parties retaining all fees, and does sub-section 8 of section 497, chapter 184, R. S. O., govern such fees?

No.

## Police Village By-Laws.

174.—C. S. B.—A township council is asked by the trustees of a police village in the municipality to pass a by-law to prohibit the cattle from running on the streets of the said police village, also a by-law to impose a tax on dogs in the village.

Can such by-laws be passed, neither of them to be in force in the township outside of the police village?

No.

## Owners, Occupants and Farmer's Sons.

175.—W. D. McL.—1. A father sells his farm to his son who is not married; the father, whose wife is living still lives in the house along with the son, who owns and works the farm. Is the father entitled to be put on the assessment roll as a house holder?

2. Is an adopted son entitled to be put on the assessment roll as F. S. or joint owner?

3. A man sells his farm to his son, but holds a life interest in it. Would that entitle him to be placed on the Voters' List (part 2), as he does not live in the municipality?

1. No. The father is not a tenant. The mere fact that he lives in his son's house does not make him an "occupant" in law. The word "occupant" applies to a person other than the owner living on the land. When the owner himself lives on the land he is also the occupant.

2. No.

3. Yes.

## Part Payment of Division Registrar.

176.—J. K. C.—From New Years until former clerk had entered eight registrations of births, deaths and marriages, but as you will know I have to make a copy and send to the registrar-general.

Who is entitled to payment for these eight registrations? and if divided between us, what proportion?

Sec. 30, cap. 40, R. S. O., 1887, entitles the division registrar to a fee of 25 cents for each birth registered by him.

Your predecessor appears to come within these words, and is entitled to be paid for the registration.

School Section Limits.—Assessment of Crown Lands.

177.—Z. R.—By section 42, Public School Act, any person whose place of residence is at a distance of more than three miles in a direct line from the site of the school house of the section shall be exempt from all rates for school purposes. But when a person owns land that the three miles of section cut only part of his land, is it liable for the whole of the assessment on said land or only for the part included in the three miles?

2. A was a squatter on part of a lot on crown land not resident; was assessed on said land and paid taxes to this council for three years.

B went and built and resided with family and cleared land on said part of lot. A and B are disputing for said land.

When the Assessor for 1896 went around the township he assessed B. for said land. A put in notice to the clerk requiring the Court of Revision to have the said land assessed to his name as usual. What should the Court of Revision do in said case?

1. Where the land or property of any individual or company is situated within the limits of two or more school sections, the parts of such land or property so situated, shall be assessed and returned upon the assessment roll separately, according to the divisions of the school within the limits of which such land or property is situated. See sub-section 2, of section 12, Public Schools Act, 1891.

2. Put A also on the roll, and leave the parties to appeal to the judge, if either is disqualified.

3. The assessment of B as occupant is correct.

Payment of Trustee's Rates.

178.—J. B.—Your advice re schools does not cover the ground wanted.

The question is: The treasurer has only paid the requisition amounts of school section treasurer, whereas the clerk put in in almost every case an overplus and the council appears to have designed in the wording of by-law that the treasurer pay from "face of collector's roll." Does the law compel him to do so? Is the word "authorized" strong enough for that purpose?

In 1891 I pointed out to the treasurer the balance; he said as long as they, the trustees, got what they asked it is enough, and the balances went to the general fund. Has this treasurer done his duty according to by-law?

If our instructions, in answer to your first question are carried out, all the difficulties of your case would be remedied.

There is nothing requiring the treasurer to check over the collector's roll, to ascertain the amount of money levied in each few municipalities in which the collector has returned his roll by the 15th December, when the trustees rates are made payable. Our practice is to furnish the treasurer with a list of the sections, showing the actual amount levied in each for trustees rates, and at the same time, to mail for signature, to the secretary-treasurer of each section, an order on the treasurer, with the proper amount filled in. Section 118, referred to in previous letter, requires all sums collected, to be paid

over. The treasurer should be guided thereby, and if the clerk, in preparing the roll, enters a greater or smaller amount than actually required, he should certify the same to the treasurer. If the actual amount is levied, a copy of the by-law is all that the treasurer requires.

Assessment of Timber.

179.—N. H. B.—We have in our municipality one township on which is a pine limit owned by a certain lumber firm. Last year we assessed the saw logs on the banks of the river or lake before they were watered. The district Judge held that the assessment was void, said the logs were in transit and could not be assessed. We were advised by our lawyers to assess the standing timber this year, I mean by that the standing pine trees. Can we legally assess it?

If the land is owned by the crown, the timber cannot be assessed. But if owned by the private party, assess the land and timber together, against the owner of the land.

Electric Light Plant to Lease.

180.—W. R.—We have an electric light plant which has proven unremunerative, and which we are anxious to lease to a private party. We own the plant and power which is run in connection with our system of water-works for fire purposes only. The applicant wishes to buy our electric light plant, for which he offers a fair consideration, in order to put in an incandescent system, and he also wishes the lighting franchise and lease of the power and buildings for a period of ten years. Now the question is can we do this without submitting it to a vote of the ratepayers?

If by-law establishing the plant was submitted to the ratepayers, a by-law to sell or lease the same, should also receive their approval.

Nomination of Disqualified Candidate.

181.—Fair Play.—On nomination day there were eight members nominated for council. A was assessed for \$300 and had a farm leased in his own name, but was assessed \$300 more to son for a vote. A was elected, and the clerk at footing up the votes from different polling places, declared him the highest. B objected to A taking seat, B was the next highest and wanted seat. A got afraid and sent in disclaimer to Clerk.

B threatened clerk with law for taking A's nomination, and for declaring A the highest.

1. Could they do anything to clerk, as the clerk thought he was qualified?

2. Could A have held seat?

3. If A had not sent in disclaimer would there have to be another election, A not taking seat?

4. Could B take seat without A sending in disclaimer?

5. Could they put clerk to any trouble when he was doing everything as near law as he knew and understood it?

1. No.
2. No.
3. Not unless ordered by the judge; see section 198.
4. Not unless ordered by the judge.
5. No.

Support of Indigent.

182.—M. N.—We are troubled (that is the council) over the case of a man who got paralyzed about 18 months ago. He has no friends, and during a visit to a neighbor's house was attacked with this paralytic stroke. They kept

him until about a month ago, when they got him taken up on a charge of vagrancy, when he was sent to jail for thirty days. The sheriff wrote, I think it was to Inspector of Prisons, who answered that reeve of township had to furnish home for him. Three days ago, on expiration of his sentence, sheriff sent him to reeve's house. He is utterly helpless. It will be almost impossible to get any one to take charge of him without an exorbitant payment, and the township is very poor. What steps can we take?

1. Are council responsible for him?
2. What can be done?

1. No.

2. Sub-section 12, of section 479, empowers a council to grant aid only, and if the home for incurables in Toronto would be the proper place for him, and he is willing to go, the council might aid him under this section to an amount necessary to pay for his maintenance in that institution. Address, Home for Incurables, Toronto.

Electric Railway.—Highway.—Accident.

183.—R. C.—The Galt, Hespeler and Preston Electric Street Railway runs through part of the Township of South Dumfries on the public highway, right of way having been granted by council of said township.

Road becomes blocked by snow and remained blocked for nearly a week, parties driving on road leaving the same at certain places and driving on railway track, one individual breaking his sleigh by getting fast between the rails of said track. Is the municipality liable?

In order to render the municipality liable, negligence must be proved against it. Negligence may be proved by showing that the railway track was not in proper condition, or that this part of the road has become particularly and exceptionally dangerous, and that the obstruction or danger could properly and reasonably have been removed. The municipality is not bound to keep the road free from snow drifts, and it is therefore not liable for accidents caused by snow drifts. Without fuller particulars of the negligence complained of, we cannot express an opinion in this case, beyond stating that if the railway track was in proper condition, it would be difficult to make out a case against the municipality for not removing the snow drift.

Assessment of Timber—Bridges over Road Ditches.

184.—W. E.—I. A sells his pine timber, laying and standing, to B, who has a number of years to remove the timber. Who is to be assessed for timber, A or B? If to B, how are taxes to be collected, B living in another part of the country?

2. The council of Stephenson orders a ditch to be dug on side of road. The ditch has caused a party to build a small bridge to get in and out from his residence. Who has to pay for bridge—the council or party who built bridge?

1. The land and timber should be assessed together, against A.
2. The party who built the bridge. The municipality is not liable.

Not Liable for Road Allowance—Voters' List.

185.—W. H.—In this township lands were sold either N. or S. halves, or E. and W. halves, and as every second line is a blank

concession line a number of lots were left without road allowance.

1. Can the council be compelled to purchase or provide roads for those residents having no road allowance?

2. Would they have to for non-residents?

3. Are householders on assessment roll (without paying rates) entitled to be placed on Voters' List for municipal elections?

1. No.
2. No.
3. No.

**Treasurer Not to Pay Auditors.**

186.—C. H. K.—I have been treasurer of this town since we were incorporated, which was in 1890. My salary up to April last (1895) was \$150 per annum. I now get \$200 a year. But this year the auditors have charged me \$34 for part payment of auditing, as shown on the copy of receipt, as follows:

North Toronto, March 24, '96.  
 C. H. Kerswell, Esq., Dr.,  
 H. H. Ball, 120 hours at  
 books, 35c .....\$42 00  
 Cr. By town allowance ..... 25 00 \$17 00  
 Received with thanks,  
 H. H. BALL.

The other receipt is the same, \$17. Is this a legal way of doing?

We do not know of any provisions in the act requiring the treasurer to pay the auditors, and we venture the opinion, that in no other municipality would the treasurer do as you have done, unless for extra work performed at his request.

Section 278, sub-section 1, of the Municipal Act, provides, "in case the remuneration of any of the officers of a municipality has not been settled by act of the legislature, the council shall settle the same, and the council shall provide for the payment of all municipal officers, whether the remuneration is settled by statute or by-law of the council." Auditors are officers appointed by the council.

**Tax Sale—Municipality Purchaser—Assessment.**

187.—A. W.—There was some land bought in our municipality last summer at land sale. Who should the land be assessed to?

It should be assessed the same as if it had not been bought in by the municipality. After the expiration of the time for redemption it is exempt, under sub-section 7, of section 7, Consolidated Municipal Act, 1892.

**Arrears of Taxes—Special Audits.**

188.—H. W.—1. Can back taxes be collected when the act has not been followed re return of collector's roll?

2. After accepting audit of previous year, council passes a by-law to pay \$250 to a clergyman to make a special audit of the municipal accounts since the beginning of municipality and correct errors. Is it valid?

1. No.
2. Sections 258 to 268, of the Consolidated Municipal Act, refer to the appointment and duties of auditors of the accounts of the previous year. If an enquiry into the finances of a municipality is required, the proceedings to be taken are as laid down in section 383 of the Municipal Act, which provides, that in case one-third of the members of the council, or thirty duly qualified electors, petition for a commission to issue under

the great seal, to enquire into the financial condition of the corporation and things in connection therewith, and if sufficient cause is shown, the lieutenant-governor-in-council may issue a commission accordingly, and the commissioner or commissioners, or such one or more of them, as the commission empowers, shall have the same power to summon witnesses and enforce their attendance, and compel them to produce documents, and to give evidence as any court has in civil cases; expenses to be paid by the municipality.

This is the only way in which a re-audit of municipal accounts can properly be secured, and if objection is taken to the payment of the special auditor appointed by the council, the treasurer would have no right to pay over the money.

The legislature, at the session just closed, passed an act to provide for the appointment of permanent commissioners, to be called "Provincial Municipal Auditors." This act was passed in response to a demand for the investigation of the accounts of the municipalities by auditors of experience. If councils are not particular in the appointment of auditors, and allow their affairs to get in such a condition as to require a special auditor to investigate, this can only legally be had by complying with the provisions of section 383, and the Lieutenant-Governor will then appoint one or more Provincial municipal auditors, to report on the financial affairs of the municipality and matters connected therewith.

**Physician—Medical Health Officer—Indigents.**

189.—C. A. P.—1. Can a physician collect his fees for attendance and medicine on an indigent from the council?

2. If he attends in his capacity of medical health officer to the board of health upon an indigent, is council liable for all expenses incurred?

1. No, unless his services were ordered by the council.
2. No, unless his services were ordered by the board of health, under instructions contained in the Public Health Act.

**Assessment—Tax Sale—Right of Way.**

190.—ASSESSOR.—1. At land sale for taxes this year 100 acres are offered, 50 of which brings the required amount. Should the whole lot be assessed to original owner this year or only the unsold portion?

2. Are a farmer's implements and necessary machinery liable to taxation? They are assessed in adjoining municipality.

3. When a person with a heavy load is met by another, light, who has the right of way?

1. The whole lot.
2. Yes.
3. If the load is so heavy that the driver finds it impracticable to turn out, it is his duty to immediately stop, and if necessary for the safety of the other vehicle, and if required so to do, he shall assist the person in charge of the light vehicle to pass without damage. If he can turn out he should turn out to the right from the centre of the road, allowing to the vehicle so met one-half of the road.

**Form of Reeve's Warrant.**

191.—CLERK.—What is the form of a reeve's warrant authorizing the treasurer of the municipality to sell lands that are in arrears and liable to be sold for taxes?

Treasurer of the Municipality of .....  
 Your are hereby commanded to levy upon the lands mentioned in the list hereto annexed and described for the arrears of taxes due thereon, with costs, pursuant to the statute in that behalf, and for your so doing this shall be your sufficient authority.

Given under my hand this ..... day of ..... 189 , and the seal of the municipal corporation of the ..... of .....

[SEAL.] Reeve of the municipality of .....

**Re Repeal of By-Law Fixing Tavern Licenses.**

192.—J. M.—To repeal or rescind a by-law is it necessary to pass a by-law or is a resolution of the council sufficient?

The by-law in question was one passed three years ago raising the duty on tavern and shop licenses. Our council rescinded it by a resolution, and passed another by-law fixing the duty to be paid at \$125, \$75 less than it was previously. Some of the ratepayers say we should have passed a by-law to repeal the original by-law.

A by-law should have been passed to repeal by-law fixing tavern licenses before new by-law was passed.

**Statute Labor—Where to be Performed.**

193.—L. K.—Can the council order a man whose residence and property is in but one division to perform the whole or any part of his statute labor in another division?

Section 100, sub-section 2, Assessment Act, provides that every resident has the right to perform his whole statute labor in the division in which his residence is situated, unless otherwise ordered by the municipal council. Section 521, sub-section 5, of the Municipal Act, states that township councils may pass by-laws regulating the manner, and the division in which statute labor or commutation money shall be performed or expended.

Section 101 of the Consolidated Assessment Act provides that, where a resident makes default in performing statute labor, the overseer shall return him as a defaulter to the clerk before the 15th of August, and the clerk is required to enter the commutation for the statute labor against his name in the collector's roll. The overseer for the division, in the following year, is to receive notice of the money collected, and he is required to expend the same upon the roads in the statute labor division where the property is situated, so that if under section 100, sub-section 2, the council have the authority to direct the performance of statute labor in a division other than that in which the land lies, and the owner made default and was so returned the clerk, the overseer for the following year would have no alternative, but to expend the money in the division in which the land laid, so that, although the sections of the act are not clear, we are of the opinion that the council have no authority to require performance of statute labor

for a particular property in other than the division in which the property is situated, but that unless the council otherwise order, the whole of a resident's statute labor may be performed in the division in which the residence is situated. Sub-section 5, of section 521, authorizing the passing of by-laws for regulating the manner and the divisions in which statute labor or commutation money shall be performed or expended, only refers to general by-laws, dividing municipalities into statute labor divisions, or for regulating the expenditure of the commutation money, when by-law passed under provisions of sub-section 2 of said section.

When by-law is passed under the authority of sec. 94 of the Consolidated Assessment Act, or the Municipal Amendment Act for 1895, we are of the opinion that the commutation money collected, should be expended on the roads in that part of the township to which the by-law refers. Under sub section 5, of section 521, above referred to, councils have authority to regulate the divisions in which statute labor shall be performed.

**The Municipal Amendment Act, 1896.**

1. Sub-section 1 of section 22 of The Consolidated Municipal Act, 1892, is amended by inserting after the word "taxation" in the sixteenth line thereof the words "assessment, improvements," and by adding at the end of said sub section 1 the following words: "And the Lieutenant-Governor-in-Council may also by such proclamation provide that the territory so added or to be added to the city or town shall, for a period of time to be mentioned in the proclamation, continue to form part of the electoral division for the purposes of elections to the Legislative Assembly of which it had theretofore formed a part."

**HOUR OF NOMINATION.**

2. The said act is amended by inserting therein the following as section 110a.  
110a. Notwithstanding anything in sections 109 and 110 of this act contained, the council of any township not divided into wards, may by by-law provide that the nomination for reeve, deputy reeve and councillors, may be held at one o'clock in the afternoon, and the council of any township divided into wards, may by by-law provide that the nominations for councillors may be held at one o'clock in the afternoon instead of at the hours and times in the said sections mentioned.

**ELECTION RETURNS, CITIES AND TOWNS.**

3. Section 155 of the said act, is hereby amended by adding after sub-section (3) thereof the following as subsection (3a):—  
(3a) In cities and towns each deputy returning officer shall, as soon as the duties enumerated in sub-sections (1) and (2) of this section shall have been performed, or in case of his illness or inability as aforesaid, the person chosen by him shall forthwith proceed directly from the polling place to the office of the clerk of the municipality with the ballot box and the said packets, and there deliver the same, personally, and forthwith on the same day, and as soon as is possible after leaving the polling place, to the clerk of the municipality; and no deputy returning officer in a city or town shall under any circumstances take the ballot box or packets, or allow the same to be taken to his home, or house, or office, or place of business, or to any house or place whatsoever other

than the office of the clerk of the municipality. And for any breach of the provisions of this subsection a deputy returning officer shall incur the penalties provided in sections 167 and 168 of this act. The returning officer shall remain at his office on the evening of polling day until the said boxes have been so returned to him. Nothing in this subsection shall prevent any deputy returning officer from doing what shall be necessary to make the declaration provided for in sub section 2 of this section.

4.—(1) Sub-section (e) of sub-section 1 of section 167 of the said act is amended by adding thereto, after the word "name" in the sixth line thereof, the following words "or advise or abet, counsel or procure any other person so to do."

(2) Sub-section 2 of section 210 of the said act is hereby repealed.

5. The Consolidated Municipal Act, 1892, is amended by inserting therein the following as section 198a.

198a.—(1) In any case where an election has been held invalid owing to the improper refusal of the returning officer or deputy returning officer to receive ballots tendered by duly qualified electors, or to give ballot papers to duly qualified electors, the judge may, in his discretion, order the costs of the proceedings to unseat the person declared elected, or any part thereof or any other costs, to be paid by the respondent or by such returning officer or deputy returning officer.

(2) Nothing in this section contained shall affect any right of action against such returning officer or deputy returning officer nor be deemed to relieve such returning officer or deputy returning officer from any penalty to which he may be liable under the provisions of the said act.

6. Section 223 of the said act is hereby amended by striking out the word "third" in the third line thereof and substituting therefor the word "second."

**NO COUNCIL TO DO BUSINESS AFTER THE 31ST DECEMBER.**

7. Section 284 of the said act is hereby amended by adding at the end thereof the following words: "But no council of any local municipality shall, after the 31st day of December in the year for which the members were elected, pass any by-law or resolution for the payment out of money, or which involves, directly or indirectly, the payment of money, nor shall they enter into any contract or obligation on the part of the municipality, nor appoint to or dismiss from office any officer under the control of the council, or do any other corporate act after said date, except in case of extreme urgency. But the council may do any necessary business before the 31st day of December, which may, having regard to the circumstances be done at such time, and which, by this act, they are now authorized to do at their last meeting."

**COUPONS ON DEBENTURES.**

8. The following shall be added to said act as section 405a:

405a.—The coupons attached to every such debenture issued by any municipal corporation other than a city shall each be signed by the head of the municipality and the treasurer of the corporation.

9. Sub-section 2a of section 436 of the said act as amended by section 11 of the Municipal Amendment Act, 1893, is amended by adding at the end thereof the following:

"And may pass by-laws for regulating the hours of labor persons employed in livery or boarding stables, and by the owners of horses, cabs, carriages, carts, trucks, sleighs, omnibusses and other vehicles kept for hire within the said city, and for licensing drivers of cabs within the said city."

10. The following shall be added to section 444 of the said act, as sub-section 1:—

(1) The council may in its discretion appropriate any sum necessary and pay for the

protection, defence or indemnification of members of the police force in proper cases, where suits or prosecutions are brought against such members of the force, and costs are necessarily incurred and damages recovered, and where the Board of Commissioners of Police certify to the council that the case is a proper one for such payment or indemnity.

11. Sub-section 15 of section 479 of the said act is amended by striking out all that portion thereof after the word "land" in the seventh line and substituting therefor the following words:—"in or adjacent to the municipality for the purpose of providing an outlet for any sewer or of establishing works or basins for the interception or purification of sewage and for making all necessary connections therewith, but subject always to the payment of compensation to persons who may suffer injury therefrom and to any restrictions and liabilities imposed by this act in that respect or otherwise."

12. Section 481 of the said act is amended by adding thereto the following sub-section:—

(2) The council of any municipality may offer and pay a reward or rewards for the discovery, apprehension and conviction of any person or persons guilty of personation, as defined in the said act.

13. Sub-section 1 of section 487 of the said act is amended by inserting the words "or town" after the word "city" where it occurs in the fifth and eleventh lines of said sub-section.

14. Sub-section 1 of section 489 of the said act is amended by adding thereto the following as paragraph (d)

(d) The council of any city having a population of over 100,000 may, by by-law, amalgamate for voting at municipal and school trustee elections and upon questions submitted to the electors by the council, two polling sub-divisions into one division, with one polling place therefor, and may by such by-law provide that three or less of such polling places shall be in a public school house or public building belonging to or controlled by the municipality in or conveniently near to such polling sub-divisions; and where any school house shall be so used the council shall forthwith pay to the public school board a sufficient sum to cover any damage to the same and any expense for cleaning or otherwise caused by such use. But no such school house shall be so used or taken without the consent first had and obtained of the board of school trustees.

The board of police commissioners or the chief of police for such city shall cause a police constable to attend at each such polling place in a school house or public building where an election is being held, to perform the duties required by this Act of a constable appointed for that purpose by the returning officer.

15. Sub-section 38 of said section 489, as amended by the 23rd section of the Municipal Amendment act, 1895, is hereby further amended by striking out the words "in any case where it is so far as known to said officer or other member of the police force a first or second arrest for such offence," in the seventh and eighth lines thereof.

**HAWKERS AND PEDLARS.**

16. Sub-section 3 of section 495 of the said act is amended by inserting the word "pedlars" after the word "hawkers" in the first line thereof; and by inserting after the words "silver-ware," where they occur in the fourth line of paragraph (a), the words "furniture, carpet, upholstery and millinery"; and by adding after the word "force" in the ninth line of the said sub-section the following words, "which license fee for a city of over 100,000 inhabitants shall not be more than \$50 for a two-horse wagon, \$30 for a one-horse wagon, \$15 for a push-cart and \$1 for one carrying a basket."

17. Sub-section 6 of section 503 of the said act is hereby amended by adding thereto the following words:—"Provided always, that farmers and other producers may sell such produce and articles at stores and shops in the municipality at any hour of the day."

*To be continued.*

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