

# THE MUNICIPAL WORLD

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## Calendar for April and May, 1902.

APRIL 1. Clerks of counties, cities and towns, separated from counties, to make	
return of population to Education Department.—P. S. Act, section 73.	
Last day for Free Library Board to report estimates to the council.—Public	
Libraries Act, section 12.	
Last day for petitions for Tavern and Shop Licenses to be presented.—Liquor	
License Act, sections 11 and 31.	
Last day for removal of Snow Fences erected by councils of townships, cities,	
towns or villages.—Snow Fences Act, section 3.	
From this date no person compelled to remain on market to sell after nine a. m.	
—Municipal Act, section 579, (9) R. S. O., 1897.	
Last day for Boards of Park Management to report their estimates to the council.	
—Public Parks Act, section 17.	
5. Make return of deaths, by contagious diseases, registered during March, R.S.O.,	
1897, c. 44, s. 11.	
7. Last day for Treasurers of Local Municipalities to furnish County Treasurers	
with statement of all unpaid taxes and school rates.—Assessment Act, sec. 157.	
High Schools open (third term). High Schools Act, section 42. Public and	
Separate Schools open after Easter holidays.—Public Schools Act, section 96	
(3).—Separate Schools Act, section 81 (3).	
8. Last day for Collector to return to the Treasurer the names of persons in arrears	
for water rates in municipalities.—Municipal Waterworks Act, section 22.	
15. Reports on night schools due to Education Department (session 1901-1902).	
20. Last day for non-resident land holders to give notice to clerk of ownership of	
lands to avoid assessment as lands of non-resident.—Assessment Act, section 3.	
25. Last day for clerk to make up and deliver to the assessor, lists of persons	
requiring their names to be entered in the roll.—Assessment Act, section 3.	
30. Last day for completion of roll by assessor.—Assessment Act, section 56.	
Last day for non-residents to complain of assessment to proper Municipal	
Council.—Assessment Act, section 86	
Last day for License Commissioners to pass regulations, etc.—Liquor License	
Act, section 4.	
MAY 1. Last day for treasurers to furnish Bureau of Industries, on form furnished by	
Department, statistics regarding finances of their municipalities.—Municipal	
Act, section 293.	
County treasurers to complete and balance their books, charging lands with	
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Box 1321, St. Thomas, Ont.

ST. THOMAS, APRIL 1, 1902.

Dr. James Wood has been appointed treasurer of the town of Sarnia, in the place of Mr. J. B. Barrie, deceased.

\* \* \*

The council of Gravenhurst is submitting a by-law to the electors for their assent, providing for the raising of the sum necessary to buy out the electric plant now in operation in that town.

\* \* \*

The ratepayers of the village of Bridgeburg have, by a majority of twenty-six, signified their assent to the passing of a by-law providing for the raising of \$32,000 to construct a system of waterworks in that village.

\* \* \*

At a special session of the county council of Essex, held last month, Mr. Henry Morand, the county treasurer, was dismissed, and Mr. George A. Wintermute, of the township of Maidstone, was appointed to the office in his stead.

\* \* \*

After a service extending over forty-five years, as clerk of the municipality of Preston, Mr. W. A. Husband had voluntarily retired from the position. The kindly old gentleman has earned the respect and good-will of his fellow-citizens by the exercise, in his public work, of qualities sufficient in themselves to make him the subject of eulogy. His stewardship has been a most remarkable one in length, and a most satisfactory one to the municipality, which saw in him a faithful, earnest, well-read and thoroughly posted clerk. Very few men in that part of the county have served their municipality so faithfully and well as Mr. Husband, and to say that he carries into private life the respect of the entire community is to tell he bald truth.—Ex.

## School Law Amendments.

Notwithstanding the consolidation and revision of the School Laws last year the amendments adopted at the recent session of the legislature are more numerous than usual,

The High Schools Act Amendments refer to the maintenance of county pupils and additional grants, which, in future, may be made to any school on a two-thirds vote of the county council. High school trustees are authorized to award scholarships and make grants to encourage athletics. The Public Schools Act Amendments provide that trustees may, when authorized by the ratepayers, pay for the conveyance of pupils to schools in cities, towns and villages.

That trustees in urban municipalities may be elected in accordance with the ward system is made clear.

That manual training and domestic science classes may be formed and money borrowed on debentures for repairs or improvements to school property.

The Separate Schools Act Amendments provide for continuation classes and grants and for the disposition of school property when not required in urban municipalities.

### An Act to Amend the High Schools Act.

His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 7 of section 34 of *The High Schools Act*, is amended by striking out the word "may" in the fourth line of the said subsection and inserting in lieu thereof the word "shall."

#### MAINTENANCE OF COUNTY PUPILS AND AID TO HIGH SCHOOLS.

2. The said section 34 is further amended by adding thereto the following subsections:

(8) In adjusting the liability of the county for the maintenance of county pupils in attendance at any high school situate in any town separated from the county, the county council (or in case of disagreement, the county judge) shall deduct from the amount for which the county is liable for maintenance in such cases, such amount as the municipality so separated from the county, would have paid towards such grant had such municipality formed part of the county.

(9) Subject to the deduction provided for in subsection 8 of this section, when the trustees of any high school in a village, town or city adjacent to a county or in a town separated from a county, have notified the county clerk that such high school is open to non-resident and to county pupils on the same terms as resident pupils, the county council shall, in all cases, pay for the maintenance of county pupils at such high school, or schools, a sum equal to eighty per cent. of the average cost of the yearly maintenance of pupils at such high school, provided that this subsection shall not apply to cities having a population of 100,000 or over.

(10) Any county council may, by a two-thirds vote, give additional aid to any one or more high schools or collegiate institutes in the county, without giving such aid to all the high schools in said county.

#### COUNTY COUNCIL MAY GRANT AID TO ONE OR MORE OF ITS HIGH SCHOOLS.

3. Subsection 1 of section 38 of the said Act, is amended by striking out all the words in the said subsection after the word "school" in the fifth line, and inserting in lieu thereof the words "and the council of any county may, by a two-thirds vote of the members thereof, pass by-laws from time to time, for granting additional aid to any one or more high schools in the county without making a similar provision for the other high schools therein."

#### SCHOLARSHIPS FOR PUBLIC AND SEPARATE SCHOOL PUPILS.

4. Section 32 of *The High Schools Act* is amended by adding thereto the following subsections:

(4) The board of trustees of any high school or collegiate institute may annually award a number of free scholarships to the pupils of the public or separate schools situate within the municipality. The number of said scholarships shall be fixed by the high school or collegiate institute board, and the said board may award the same by competitive examinations or otherwise, and shall have full power to prescribe the tenure of said scholarships and vote money for the expenses of holding any examinations therefor. Such scholarships shall be awarded only to a ratepayer of the municipality or municipalities contributing to the maintenance of such high school or collegiate institute.

(5) The board of trustees of any high school or collegiate institute may annually award a number of free scholarships, not to exceed six per high school or collegiate institute, to the pupils of said high school or collegiate institute on the results of form or other examinations within the said high school or collegiate institute, said scholarships to entitle the holder to not more than one year's free tuition in said high school or collegiate institute, and the high school or collegiate institute board may make all necessary rules and regulations regarding these scholarships.

#### ATHLETICS AND SCHOOL GAMES.

5. Section 11 of *The High Schools Act*, is amended by adding thereto the following paragraph:

The board of trustees of any high school or collegiate institute may annually vote a sum of money, not exceeding \$30 in cities of 100,000 or more, and not exceeding \$150 in other municipalities, for the encouragement of athletics and the expenses of school games.

#### MAINTENANCE OF COUNTY PUPILS IN SCHOOLS IN UNITED COUNTIES.

6. Subsection 2 of section 38 is amended by adding thereto the following:

(1) But in such case each county forming such union shall pay for the maintenance of pupils resident in it who attend any high school situated in any other of the united counties.

### An Act to Amend the Public Schools Act.

His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

CONVEYANCE OF PUPILS OF RURAL SECTIONS TO  
URBAN SCHOOLS.

1. Section 21 of *The Public Schools Act* is amended by striking out the words "city or town" in the fourth, sixth and thirteenth lines, and substituting therefor the words "urban municipality"; and by adding to the words "urban municipality," thus substituted in the thirteenth line, the following words, "to pay for the conveyance of the pupils to such schools."

CONSOLIDATION OF SCHOOL SECTIONS.

2. Section 41 of the said Act is hereby amended by adding to the first subsection the following: "or on request made in like manner to pass by-laws to consolidate two or more sections into one for the purpose of providing a central school. The trustees of the sections thus united shall continue to be trustees of the united section, but if deemed expedient the municipal council may by by-law limit the number of the school board to two members for each section, each trustee holding office for two years and one retiring annually by rotation. The trustees shall have all the powers ordinarily exercised by trustees of a rural school section, and in addition the power to meet the cost of conveyance of children to the central school established under the jurisdiction of the board."

ELECTION OF TRUSTEES WHERE COUNCIL ELECTED  
BY GENERAL VOTE.

3.—(1) Section 61 of *The Public Schools Act* is amended by adding thereto the following subsections.

(7) In cities and in towns, until a resolution has been passed under the preceding subsection, the school trustees shall continue to be elected by wards notwithstanding that the aldermen or councillors are elected by a general vote, and the division of any city or town into wards under any former provision of *The Municipal Act* or any special Act in force at the time of the abolition of wards for the purpose of municipal elections, shall be deemed to be continued for the purpose of the election of public school trustees.

(8) Where the board of trustees are elected by ballot the election of public school trustees in such city or town shall be conducted as nearly as may be in the same manner provided by section 61 of this Act, and the officers for holding such election shall be appointed by the municipal council as if the election of councillors or aldermen by general vote had not been adopted or prescribed for such city or town.

(9) Where the election of trustees is not by ballot, the election of public school trustees in such city or town shall take place, as nearly as may be, in accordance with the provisions of section 60 of this Act.

(2) Provided that nothing in this section contained shall affect the validity of any election of public school trustees heretofore held.

CONTESTED ELECTIONS.

4.—(1) Subsection 1 of section 63 of *The Public Schools Act*, is amended by inserting therein after the word "trustee" in the second line, the words "or as to the return made by any returning officer."

(2) Subsection 2 of the said section 63, is amended by inserting therein after the word "elected" in the second line, the words "or may order a new election."

(3) The amendments made by this section shall apply to elections heretofore held as well as to those held after the passing of this Act.

MANUAL TRAINING AND DOMESTIC SCIENCE.

5.—(1) The Board of High School Trustees, the Board of Public School Trustees and the Board of Separate School Trustees, or the Board of Education and the Board of

Separate School Trustees or any of such boards, in any city or town, may enter into agreements for the formation and carrying on of classes for manual training and domestic science in connection with the work of the schools under the management of such boards, and for providing suitable buildings, apparatus and appliances for carry on such classes and the appointment of teachers therefor.

(2) The school corporations so agreeing, may delegate the management and control of such classes and the buildings, apparatus and appliances used in connection therewith, to a joint committee composed of representatives of each of such school corporations, and any joint committee so appointed may procure, from time to time, such buildings, apparatus, appliances and material as may be deemed necessary for carrying on the said classes, and may engage teachers therefor.

(3) Each of the members of such joint committee shall hold office during the pleasure of the school corporation by which he is appointed.

(4) Every joint committee appointed under this section shall annually on or before the first day of February, furnish to each of the school corporations represented, an estimate showing the amounts required for carrying on the work of such classes during the then current year, and such school corporations shall include in the estimates to be furnished to the council of the city or town, the amount so required for the said classes, and the same may be included in the school rates of the municipality and levied and collected therewith.

BORROWING MONEY FOR REPAIR OR IMPROVEMENT OF SCHOOL PROPERTY.

6. Subsection 1 of section 74 of *The Public Schools Act*, is amended by inserting therein after the word "thereto" in the fourth line, the words "or repairs or improvements of the school property."

An Act to Amend the Separate Schools Act.

His Majesty, by and with the advice and consent of the legislative assembly of the Province of Ontario, enacts as follows:

ISSUE AND FORM OF DEBENTURES.

1. Subsection 7 of section 61 of *The Separate Schools Act* is repealed, and the following substituted therefor:

(7) The debentures issued under the by-law may be for such amounts as the trustees may deem expedient, and shall be in the form set out in Schedule H to this Act.

CONTINUATION CLASSES.

2.—(1) The Separate School Board in any municipality or section in which there is no high school, shall have power to establish, in connection with the schools over which it has jurisdiction, such courses of study, in addition to the courses already provided for the fifth form, as may be approved by the regulations of the education department. The classes established under such courses shall be known as "Continuation Classes."

(2) The trustees of any number of separate school corporations may, by mutual agreement, determine that continuation classes shall be conducted in one only of the schools under the jurisdiction of the corporations entering into such agreement, and in all such cases the trustees shall have the same power to provide, by rates levied on the taxable property of their respective sections, for the tuition of pupils attending such continuation classes as they possess under this Act for the tuition of pupils attending the schools under their immediate jurisdiction.

(3) No pupil shall be admitted to the course prescribed for continuation classes who has not passed the entrance examination to a high school or so some higher examination, or whose

qualifications for admission have not been approved by the principal of the school and the separate school inspector.

(4) Non-resident pupils and all other pupils who have completed the course of study prescribed for the fifth form whether resident or non-resident, may be charged such fees as the trustees may deem expedient.

(5) Any teacher who, at the date of this Act, holds the position of principal of any school in which a continuation class has been established, shall be deemed a qualified teacher of such school, but every teacher appointed principal after the date of this Act, whose classes consist entirely of pupils who have passed the entrance examination, shall be the holder of a least a first-class certificate.

(6) The Minister of Education shall apportion among the schools conducting continuation classes, such sums of money as may be apportioned by the legislature, subject to the regulations of the education department. The municipal council of the county shall pay, for the maintenance of such classes, a sum equal to the legislative grant appropriated by the Minister of Education for such class, and any further sums the municipal council may deem expedient.

URBAN BOARDS MAY DISPOSE OF PROPERTY NO LONGER REQUIRED.

3. *The Separate Schools Act* is amended by inserting therein, after section 33 of the said Act, the following:

33a. It shall be the duty of the board of trustees of every urban school, and they shall have power, to take possession of all property which has been acquired or given for separate school purposes and to hold the same according to the terms in which it was acquired or received, and to dispose, by sale or otherwise, of any school site or property or any part thereof not required in consequence of a change of site or other cause, to convey the same under their corporate seal, and to apply the proceeds thereof to their lawful school purposes or as directed by this Act.

Probably the best-known man in the county of Simcoe died of hemorrhage of at his home, in Cookstown, on April 1st, after a few days' illness, in the person of Col. R. T. Banting, county clerk. He was born in Queen's County, Ireland, 76 years ago, coming to Canada in 1845. For many years he was connected with the militia, commanding the 36th Regiment. He was clerk of Essa township thirty years, and had been county clerk since 1861.

\* \* \*

Our attention has been called to the following resolution recently passed by a township council:

"Moved and seconded, that the accounts of the members of the Board of Health for services rendered during the past year, amounting to \$398.15, be paid."

These accounts should be paid by the Local Board of Health, out of moneys set apart by the council of the municipality for the purpose pursuant to section 56 of the Public Health Act. (R. S. O., chap. 248.) Section 57, of the Act, requires the township treasurer to honor and pay out of moneys belonging to the municipality in his hands, all cheques or orders of the Local Board of Health, or any two of its members, for services performed under their direction by virtue of the Act.

## .. The Good Roads Convention ..

The Good Roads Convention, held in Ottawa on the 13th and 14th of March, under the auspices of the Eastern Ontario Good Roads Association, was a marked success. The attendance was large and representative, made up principally of prominent municipal councillors from every part of Ontario, and experts who have made a life-long study of road-making and its various branches.

The proceedings and addresses were inspiring and instructive, of a character that will lend impetus and new life to the good roads movement in this Province and through Canada. Noteworthy features of the convention were the addresses of the Hon. Martin Dodge, Director of the United States office of Road Inquiries at Washington, and Col. W. H. Moore, President of the United States National Good Roads Association, both of whom presented the good roads problem in a manner that stirred the enthusiasm of their audience. The convention had the patronage of their Excellencies the Governor-General and the Countess of Minto, who attended on Friday afternoon. The Countess of Minto has, on other occasions, expressed a deep interest in the movement for good roads, and the remarks of the Governor-General at the convention, though brief, were strongly favorable. An extremely large extent of country was represented. Not only were prominent men present from every county in Eastern Ontario, but delegates were also in attendance from counties situated as far as 250 and 300 miles from Ottawa.

Among the leading people who attended were the following: Their Excellencies, Lord and Lady Minto; Hon. Sidney Fisher, Minister of Agriculture; Mr. R. L. Borden, M. P., Leader of the Conservative Opposition; Hon. Senator Dodge, Director of Bureau, Public Roads Inquiry, Washington, D. C.; Col. W. H. Moore, President National Good Roads Association of the United States; Mr. A. W. Campbell, C. E., Toronto, Assistant Commissioner Public Works, Ontario; F. J. Deane, M. P. P., Kamloops, B. C., President British Columbia Good Roads Association; Mr. Andrew Pattullo, M. P. P., Woodstock, President Ontario Good Roads Association; Mr. A. F. Wood, ex-M. P. P., ex-warden Hastings County; Warden R. Cummings, Carleton County; Warden L. Charbonneau, United Counties Prescott and Russell; Warden J. Brennan, Renfrew County; Warden W. J. Anderson, Lanark County; Warden H. McMillan, United Counties Dundas, Stormont, Glengarry; Warden Spoor, Frontenac County; Warden Gerow, Ontario County; ex-Warden Graham, Victoria County; County Councillors Rogers, Perth; W. H. Anderson, Kemptville; Jas.

McEwan, Dayton; ex-Warden J. E. Campbell, Colelake; County Clerk Dr. Edwards, Frontenac County; ex-Warden, J. C. Bradley, Carleton County; County Councillor Geo. Boyce; County Councillor B. Rothwell, and County Councillor D. H. McLean; Major Shepherd, Queenston; Reeve Allan, of North Grimsby township; Reeve F. E. Caldwell, Gloucester; County Councillor Chas. Mohr, Galetta; County Councillor J. M. Rogers, Perth; County Councillor W. D. McLeod, Kirk Hill, Glengarry; Mr. David Moir, Almonte; Mr. C. Lapierre of the Canadian Portland Cement Company, Montreal; County Councillor John Edwards, Algonquin; Prof. Shutt, Experimental Farm; John Brown, Beachburg; P. S. Vanvleet, Toronto; John Dow, Kenmore; County Councillor H. H. Hughes, Heckston; T. L. Boyd, Eastman's Springs; T. D. McCormick, Picton; Jno. Young, Brockville; John Brennan, Stittsville; Reeve S. Mann, Stittsville; T. L. Barclay and J. W. Willis, Whitby; W. L. Smith, Toronto; John Leggo, Ottawa; J. W. McLean, Westmeath; ex-Warden Wm. Thompson, Labelle County; County Councillor M. T. Buchanan, Ingersoll; John Young, Brookdale; County Councillor M. Avery, Frontenac; County Councillors Josiah Hallman, F. Walter, Waterloo; C. O. Wood, Carleton; J. J. Smith, Carleton; J. C. Cox, Montague; J. P. Brady, L'Ange Gardien; County Councillor W. N. Rogers, F. Britton, Gananoque; Mayor A. M. Ross, Whitby; County Councillor George Geron, Claremont; T. L. Barclay, Whitby; County Councillor S. McClure, Jas. Shaw, township clerk A. Murphy, and C. W. Butler, Fitzroy; Mayor A. Lefebvre, Labelle; G. G. Shane, Plantagenet; A. G. Argue, Stittsville; County Councillor Dr. Stacey, South Mountain; J. Greene, Diamond; R. McRitchie, Shawville; Thomas McDowell, Clarendon; W. J. McGregor Lancaster; County Clerk E. Abbott Johnson, L'Orignal; John Bright, Myrtle; John Vipond, Brooklyn; Thomas Hodgins, Carp; Reeve F. McNaughton, Finch, Charles Fairbairn, Vittoria; J. E. Farrell, Whitby; Jas. Henderson, Ottawa; township clerk, H. B. Billings, Billings' Bridge; W. J. Devitt, Greenwood; A. C. Campbell, Ottawa; Dr. T. A. Brisson, Montreal; M. Mackey, Fallowfield; A. McCracken and Dr. Mahoney, Cornwall; D. Stewart, Hull; County Councillor E. Chatrand, Cumberland; County Councillor D. Dunning, Cumberland; J. C. Bradley, Hazeldean; J. Nesbitt, Merivale; F. Walter, Waterloo; township Councillor James B. Sully, Osgoode; H. Welbanks, Ottawa; County Councillor D. McDirmid, Avonmore; township Councillor Robert Fraser, Winchester; County

Councillor Dr. Stark, Berwick, W. A. Sheriff, Fitzroy Harbor, and others.

THURSDAY MORNING.

Thursday morning's session was opened by the president of the association, ex-Warden J. C. Bradley, who extended a cordial welcome to the delegates assembled. He referred to the work of the association, more especially the good roads train, which is proving a revelation to those who have seen the grader shaping the travelled roadway, the crusher breaking stone, the attached elevator's rotary screen for grading the stone, the bins for holding the stone, and the spreading wagon coming along to spread it on the road at any depth required by means of a lever from the driver's seat.

The railways furnished free transportation for the machinery and experts, the Sawyer-Massey Company, of Hamilton, gave the free use of their machinery and expert road builders, and the Canadian Portland Cement Company furnished the cement for the culverts. The Ontario government also gave the benefit of the services of Road Commissioner Campbell.

The report of the secretary, Mr. H. B. Cowan, gave an account of the work done by the association during the past year. The good roads train started out last year in June. Mr. W. J. Devitt, a road expert, was engaged to superintend the building of the concrete culverts required.

Sample stretches were laid, two in Leeds county, one near Gananoque and one near Lansdowne; Grenville, one at Kemptville; Dundas, old military road leading into Iroquois; Stormont, one near Newington; Glengarry, one at Alexandria; Prescott, one near the village of Plantagenet; Carleton, one at the village of Carp; Lanark, one a mile and a half from Almonte; South Renfrew, one near Egansville; North Renfrew, one at Pembroke.

Each county council conscientiously did its best to select the worst possible stretch of road. A grant of \$100 was asked from the county councils for each stretch of road built.

As planned at present, the work for this year will be completed in the following order: Carp, Egansville, Pembroke, Almonte and Kemptville.

### COMMUTING STATUTE LABOR.

The question of commuting statute labor was introduced by Reeve T. W. Allan, of North Grimsby.

"One advantage of the new method is," said Mr. Allan, "that it reduces the work of the township clerk by from fifteen to twenty per cent. It does this by obviating the necessity of issuing the statute labor rolls, receiving the declaration of office by pathmasters and returning the rolls."

"The new system does not impose any hardship on the poorest taxpayer, because a man who has not the money to pay the tax can go on the road and earn the amount necessary in less time than it

would have taken him to work out his statute labor under the old system."

"For the purpose of carrying out the plan adopted, the township is divided into two districts, each of which is under the management of a commissioner. These officers receive \$1.50 per day each while employed. They did receive \$2.00 but the pay was cut to \$1.50, which, personally, I think is too little. These men will earn, perhaps, \$100 a year."

"Two great advantages connected with the new system are that the work is done just when it will prove of most value, and labor-saving machinery can be made use of. Under the old plan of operations we had a road-grader, but the pathmasters never seemed able to make proper use of it. Now we do make good use of such a machine. By using it we are able to grade our clay-roads at a cost of \$20 to \$30 per mile. And a road once made will hold in fairly good shape for five years. Besides the grading, we keep going over our roads with a planer. We put this machine over the roads just as soon as they are dry in the spring, and after a heavy rainfall in the summer we put it at work again. The cost of planing of all the clay roads of the township is \$40 each application. As a result of all this work we have roads on which it is a pleasure to drive."

"The municipal rate is the same as it was, the cost to the people of putting in statute labor has been reduced, and our roadways have been improved."

#### THURSDAY AFTERNOON.

Mr. Hugh McMillan, Warden of Dundas, Stormont and Glengarry, presided at the afternoon session on Thursday, and extended a cordial invitation to the distinguished American visitors, Hon. Martin Dodge and Col. Moore, who responded briefly.

#### COUNTY ROADS OF WELLINGTON.

The county roads system of Wellington was the subject of an address by County Councillor James McEwan, of Drayton.

"The work of building good roads in Wellington was carried on between '60 and '65. The work was first begun through road companies, but this system was not satisfactory, and the roads built by these private corporations were soon bought up by the county, and the system was extended by the same authority. All told, 145 miles were built. These roads are all paid for now. Wellington County does not owe a dollar to-day for roads or anything else."

"During the last ten years the average cost of maintenance has been \$10,727, or say \$74 per mile. This covers not only the cost of maintaining the roads proper, but includes as well the county bonuses for wire-fencing and bridge work. Our bridge work has, during the last few years, been very costly, because we have some fairly large rivers in our county, and we have been building new steel bridges. And

all this bridge work (as well as the ordinary repair work and wire-fence bonus) is, as I have said, included in the \$74 per mile for maintenance. The cost of maintaining the gravel part alone is about \$45 or \$50 per mile."

"The roads are managed by the county council. Each councillor has charge of the work in his own division. I do not think our system of supervision and control an ideal one, because so many men are elected without reference to their fitness for this particular kind of work. A competent commissioner, with a knowledge of road building, would be the best sort of supervisor."

"As a result of what has been done by our county, the townships have also been encouraged to go into the work of good road building, and in my own township of Maryboro we now have 75 or 80 miles of good roads. This is half the mileage of the township."

#### HASTINGS COUNTY ROADS.

The history of the splendid system of county roads was related by A. F. Wood, ex-M. P. P., of Madoc.

"Before these roadways were built, said Mr. Wood, there was a very wide difference in the values of lands at the front and rear of the county. Land was worth \$100 an acre at the front, while at the rear land quite as good was worth but \$10 per acre. How is it to-day? Last week a farm twenty-eight miles back from the front, containing one hundred acres with ordinary farm buildings was sold for \$7,000 cash, the owner of another farm near by, with brick buildings on his place, refused \$8,000. The value of land at the rear of the county has increased in value in the last half century at the ratio of ten to one, as compared with the front of the county. The agent of the Canada Company tells me that he values land at the rear end of our county at double the price of lands at the rear of the adjoining counties of Addington and Peterboro—this difference in valuation being due to the fact that we have good roads, while the adjoining counties have not."

"We tried first letting the work by contract, but found, no matter how carefully the contracts were drawn, that the most gravel was distributed on the road at the points nearest the gravel pits. Eventually we appointed a gravel road committee of the county council, together with a paid superintendent of gravel roads. This superintendent of gravel roads organized gangs of five to seven men, each gang under a foreman, for the purpose of keeping the roads in repair. These men were supplied with the tools required by the county. As a result of one year's experience we found that under this system the cost of maintaining the roads was reduced by one-half."

"Each foreman reports to the superintendent, the superintendent reports to the gravel road committee, and the committee reports to the whole council. Under this system every ratepayer in the county is

really a supervisor. If a ratepayer finds a man or a foreman shirking the work he at once reports to the councillor for the division, and the matter is attended to without delay. The satisfaction given by the present system is shown by the fact that in 25 years we have had but two superintendents. We have to-day 400 miles of excellent road, and the roads are maintained at a cost of \$12,000; \$3,000 more is raised for the purpose of gradually extending the system and for the maintenance of the bridges, of which we have one hundred in the county.

#### THE PROVINCIAL GRANT.

The appropriation of one million dollars to aid in the improvement of highways was discussed by Mr. Campbell, Commissioner of highways, in the course of which he said:

"It is absurd to expect that the entire cost of maintaining the roads of the province shall fall upon the farmers of Ontario. There is not a person in the province who is not benefited by the highways, and for this reason the cost of maintaining them should as nearly as possible be distributed evenly over the whole population. There is only one way in which this can be accomplished and that is by means of a grant from the provincial funds. The grant of a million dollars by the province for this purpose has been spoken of as a mere bagatelle, but I hope not many more months will pass before this appropriation will be absorbed by the municipalities and further appropriations called for."

"Some object, that it is necessary for local authorities to spend \$2 in order to get \$1 from the province. This is hardly the case. Let me explain, one-third of the amount spent will come from the provincial funds; about another third will come from the towns and villages, while the balance will be contributed by the townships. But, although only one-third of the total sum will come from the townships, the Act says the entire amount shall be spent on rural highways. Even the third that is spent by the township will practically all come from the commutation of statute labor. It practically amounts to this, that the rural municipalities by paying a straight tax in money instead of working out the statute labor, will secure \$2 from the towns, villages and Provincial Treasury for every dollar they spend themselves. And even the dollar spent by the townships will be in lieu of statute labor now performed."

#### THURSDAY EVENING.

Warden R. Cummings, of Carleton County, presided at the evening session, the chief features of which were the addresses of R. L. Borden, M.P., Mayor Cook, of Ottawa; Col. W. H. Moore, Hon. Martin Dodge and A. Pattulo, M. P. P.

#### SENATOR DODGE.

Hon. Martin Dodge, Director of Public Roads Enquiry, Washington, D. C., said this was practically his first visit to Canada, and it had the result of dispelling

some illusions. He found there was really very little difference between the people here and those on the other side of the line. It was strange that the two English speaking people on this side of the Atlantic, who had made immense progress in other respects, should be so far behind in the matter of improving highways. Although there were three million miles of highways in the United States not much more than one per cent. of that distance had been permanently improved. During the last quarter of a century in the United States, attention had been devoted to the construction of railways rather than highways, and Canada was copying this example. This could not, perhaps, be deemed a mistake, but if it was thought necessary to diminish the cost of long-distance transmission by building railways, one-half the anticipated benefit would not be derived unless the railways were supplemented by wagon roads, so as to get the reduction of cost in the short as well as in the long haul. The people in the United States were awakening to the importance of this question, and now that the trans-continental lines had been built and the country grid ironed with railways, were devoting themselves to the improvement of the highways, so as to diminish the cost of transportation by horse and wagon.

MR. PATTULLO.

Mr. Andrew Pattullo, M.P.P., in an address which was followed with close attention, sketched the history of the formation of the good roads association. After the association succeeded in inducing the provincial government to appoint a provincial road instructor, the association ceased to have an active existence. This was a mistake because the association should meet at least once a year. The association managed to attract the ear of the country and no mistake had been made in the appointment of Mr. Campbell as road instructor. That gentleman had addressed over a thousand meetings and wherever he had spoken he had won approval and carried the judgments of his audience. The only regrettable thing was that there were not, in Ontario, half a dozen men of the same type as Mr. Campbell. The voting of a million dollars, by the legislature, for the improvement of roads, was another direct result of the association's work. How that appropriation was to be taken advantage of he could not say, but the matter was being threshed out by the municipalities, and it was to them that the legislature would look for guidance. "Have we reached the ultimate," asked Mr. Pattullo, and went on to say: "I believe not. I believe we will offer the municipalities of the province more money, in the near future, for the building of good roads. In saying that, let me frankly add that I do not conceive it to be the duty of the legislature to build the roads of the province. We cannot afford to do it. The best we can do is to offer you some

premium to help yourselves. I think, perhaps, the present assistance may be doubled or perhaps trebled, without drawing unduly on the resources of the province. We are just now discussing the taxation of some corporations; and without discussing what the result of future legislation may be, I believe that these great corporations, particularly the railway corporations, would be willing to pay a very large amount of taxation if the proceeds of such taxation were devoted to improving the highways of the country, because they would get the benefit of the expenditure as well as you." (Applause.)

COL. W. H. MOORE.

Col. Moore, the president of the National Good Roads Association of the United States, which has over 200,000 members, was the next speaker.

He said that he had listened with great interest to the address given by Mr. Pattullo, who told about the million dollar grant that the provincial legislature had given to the province for improving the present road system.

This grant he considered merely a trifling sum of money to the amounts being given by some of the states in the American Union, and instanced a case where one county in Texas is raising \$2,000,000. He assured his hearers that every dollar of money they spent in improving the roads of the country increased the value of their property fully ten per cent."

"The people are becoming so enthusiastic over this good roads question," said Col. Moore, "that it will be one of the strongest planks in the platform of the Canadian politician in the very near future."

Such has been the case in the States, where they have over three and a half million miles of roads.

He said that while the Ontario Good Roads Association is doing a great work, yet they should endeavor to form a Dominion organization, for the secret of getting good roads is due to organization, agitation, education and legislation.

FRIDAY MORNING.

Warden W. J. Anderson, of Lanark, presided at the Friday morning session.

CONCRETE CULVERTS.

Mr. David Moir, of Almonte, who was shown how to make concrete culverts last year by the expert sent around by the Good Roads Association, was the first speaker called upon. Mr. Moir, who had purchased some \$200 worth of moulds and is now making concrete culverts for townships, gave a short, practical address which he illustrated by means of moulds, sample pipes, etc., which he had with him on the platform, and brought out a number of valuable points in culvert construction.

Mr. A. W. Campbell, in the course of an address on culvert construction, strongly urged the use of concrete for this purpose, recommending tile for small sluices, arch-

culverts of concrete for openings over three feet in width, and concrete abutments for bridges.

FRIDAY AFTERNOON.

The closing session took place on Friday afternoon, Warden John Brennan, of Renfrew, presiding. The first speaker was Major James Sheppard, who discussed the use of implements in the construction of broken stone roads.

"You cannot," said the speaker, "get good roads without machinery. In buying machinery for this purpose it is a most unwise thing to attempt to save by cutting off some of the attachments usually sold with a crusher. You may save a few dollars on the first cost of the machine, but you will lose a large sum annually in the expense of operation. An illustration of this was afforded in Nova Scotia, where two machines were operating within three-quarters of a mile of each other, under precisely the same conditions. The one handled the material at half the cost at which it was handled by the other machine."

THE MINISTER OF AGRICULTURE.

Hon. Sidney Fisher dealt with the importance of good roads from an agricultural standpoint. "The price of that which a farmer has to sell is," said the Dominion Minister of Agriculture, "based upon delivery at the point at which it is sold. Every dollar added to the cost of delivery means, therefore, a dollar less in the farmer's pocket. In dairying, which, in a large part of Canada, is the greatest of our industries, the condition of the roads is a matter of special consideration. Good roads are important to this industry now; the importance will be increased if, as I believe, in addition to hauling milk to factories, we are soon to see cheese, after making, hauled to central depots to be cured in cold storage. As it is now, I believe five per cent. could be cut off of the cost of assembling the milk by an improvement of ten per cent. in the condition of the roads, and if the roads were improved by fifty per cent., the relief in transportation would be consequently increased. You can form an idea of how much that would add to the profits of an industry which is profitable even under present conditions.

THE U. S. OFFICE OF ROAD INQUIRIES.

Before the close, the visitors from the United States, Senator Dodge and Col. Moore again addressed the convention.

The Hon. Martin Dodge described fully the work being done by the United States Government's Department on Good Roads. This department, he said, has appointed a large number of scientific experts to examine, in all sections of the country, the road-building materials, and samples are sent to Washington for the purpose of testing them. These tests are made and the reports are published and distributed, especially to those who are interested in the matter. The same work is being done in all the states. If one state were obliged to go to the expense of

making this investigation it would multiply the cost eight or ten times.

Col. W. H. Moore only had a few minutes in which to speak, but in that time he managed to say a great deal.

"In our country," he said, "we are establishing the free delivery mails. I know that the farmers do not control more than two-fifths of the wealth of this country. Briefly, what we want established in the government is a department for the supervision of the construction of good roads, and we want that department as firmly established and as well recognized as the department of fisheries or marine. And I say to you that this matter is engaging the attention of the people generally, indeed, it is forcing its way into politics. England, France, Germany, Austria, Italy and other countries have their roads built by government aid, and we are going to do likewise in the United States. You will do likewise here before very long. It is all very well for the timid and over-careful people to croak about there being too little money in the country. Has there not been found money to furnish armor? For my own part I believe it is better to arm men with picks and shovels, than with swords and bayonets. I think it better to give them as weapons useful tools rather than spectacular and useless implements for human slaughter. We are preparing for a great international congress. We expect to see Canada well represented. We are glad that you had competent delegates at the Buffalo meeting. In this international congress I believe we are going to do great good as between nations. There is no doubt that you may aid in bringing about great things."

It is a matter of regret that limited space permits so brief a review of the proceedings. The addresses were followed by interesting discussions; among those taking part, in addition to the speakers already mentioned, being: John Edwards, Algonquin; Reeve W. Mann, Stittsville; A. Murphy, clerk of Fitzroy; Warden Anderson, of Lanark; M. Avery, Addington; Chas. Fairburn, Victoria; ex-Warden Christie, of Ontario county; John Bright, Myrtle; George Gerow, Pickering; Warden Walter, Waterloo; M. T. Buchanan, Ingersoll; ex-Warden Boyce, Carleton; D. H. McClean, Carlton; James Graham, Lindsay; W. J. Devitt, Greenwood; C. C. Lapiere, of Montreal, and others.

#### A DOMINION ROAD DEPARTMENT.

During the Friday morning session, a large deputation waited on the Minister of Agriculture, and urged that a Dominion Road Department be established similar to the Office of Road Inquiry at Washington, of which Hon. Martin Dodge is director. Hon. Mr. Fisher gave the deputation an encouraging hearing, and stated that, if time and means would permit, he might be prepared to do something towards spreading information on the subject of roadmaking.

## Legal Department.

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

### Re Township of Nottawasaga and County of Simcoe.

Judgment on appeal by the County of Simcoe from order of Boyd, C., refusing to prohibit the county judge of Simcoe from proceeding to hear and determine the appeal of the township from the equalization of the assessment rolls for the year 1900, of the various municipalities within the county by its council. The motion was made on the ground that the township had not authorized the appeal, and that the county judge had no jurisdiction, as the 1st of August, the time fixed by statute, had passed. The Chancellor held that the provisions in section 88, of the Assessment Act, as to the disposal of the appeal before the 1st day of August was merely directory; and that the rolls of the year 1900, now under the consideration of the county judge on the equalization appeal were not as and upon the result of the appeal, to be used for the present year, but are, as finally equalized by him, to be used as the basis of apportionment for the next year. Re Revell, 46 U. C. R., at p. 345. Held, that there is nothing in section 88, sub-section 1, which requires the passing of a by-law. Such a matter is one of those in regard to which the determination of a council may be signified by a resolution. Port Arthur High School Board vs. Fort William, 25 A. R. 522, 527. Held, also, that the provision at the end of sub-section 7, of section 88, is merely directory. A right of appeal is given by the Act; the county judge is authorized to hear and determine it, and take evidence; the 1st of August arrives, and only part of the evidence has been taken. It cannot have been intended that, under such circumstances, the proceedings taken become futile, to give an appeal by one sub-section and render it nugatory by another, nor is it possible to reconcile the duty cast upon the judge to hear and determine the matter with a positive direction that, whether it has been possible or not to hear it fully, it must be determined not later than 1st of August. Reg. vs. Rochester, 7 El. & Bl. 923, Nickle vs. Douglas, 35 U. C. R. at p. 140, re Ronald and Brussels, 9 P. R. 232. The objection that time must be held to be of the essence of the direction, otherwise the whole machinery for the collection of taxes through the country would be thrown out of gear, and the municipalities left without supplies, is a formidable one, and makes the decision in the case a choice between two evils. But it must be held that the intention of the legislature, as revealed by the Act, was that the county rate should not be struck until appeals against the equalization had been determined, and that they did not forsee the possibility of an appeal being

prolonged to an extent to interfere with the machinery provided for the collection of rates. This means that the county judge must go on with the appeal and determine it with all possible expedition, and that there can be no prohibition. Re Revell, supra, is of no help whatever towards solving the real difficulty in this case. Appeal dismissed with costs.

### Township of Anderdon vs. McCarthy,

Judgment on appeal by plaintiffs from judgment of Boyd, C., in so far as it finds valid the conveyance made by defendant, J. McCarthy, to his son, the defendant, Daniel P. McCarthy, of the house and six acres of land occupied as a home by defendants. The plaintiffs are judgment creditors of the defendant, J. McCarthy. During the progress of their action, and judgment issued, plaintiffs alleged that the father, being in insolvent circumstances, conveyed this property and other parcels of land to his son; and that the conveyance was made without consideration, to defeat creditors, and was an unjust preference. The Chancellor, at the close of the evidence at the trial, refused to leave to plaintiffs to amend so as to sue on behalf of all other creditors, because of opinion on the evidence, that there had not been an unjust preference under the statute of 13 Elizabeth. The son had paid for the house, and if not repaid was to have it; the transaction, therefore, was honest, although it took its present shape under pressure of circumstances, and what influenced the son chiefly was that he was going away from the country; but set aside the conveyance as to the other parcels. Held, Armour, C. J. O., dissenting, that this was not a case of preference of a creditor. If it were amendment might not be necessary to bring the case within R. S. O., ch. 147, section 2, sub-sections 2 and 3, so as to raise a presumption. Daniel F. McCarthy's case is that he is entitled as a purchaser by reason of a bargain made between him and his father, and, therefore, amendment would not aid plaintiffs, whose case must rest upon the statute of Elizabeth or R. S. O., ch. 147, section 2 (1.) The rule of law laid down in Merchants Bank vs. Clarke, 18 Gr. 594, is not applicable to all cases. There is no rule statutory or otherwise, which forbids a judge or jury from finding in a case of this kind in favor of defendants upon their own uncorroborated testimony if after examination with care tribunal is convinced of its truth. See Jack vs. Greig, 27 Gr. 6. Here there is no finding of fraud, and, therefore, Commercial Bank vs. Wilson, 3 E. & A. 257, is distinguishable. Appeal dismissed with costs.

## Municipal Legislation, 1902.

This Act is of rather more than usual length, and contains numerous provisions of more or less importance to the public of the Province generally and, in some instances, of special interest to the residents of particular localities therein. Provision is made, amongst other things, for the making of agreements between the corporation of any town or incorporated village in which are located lands used wholly for farming purposes, and the owners of such lands, as to the rate of taxation to which they shall be subject, for periods not exceeding five years at a time.

Power is given to the Lieutenant-Governor-in-Council, upon the application of the council of any town or incorporated village in the districts where there is no county organization, or upon the application of the owners of the lands of half the assessed value of all lands in the area proposed to be withdrawn from such town or village, to reduce the area of such town or village, subject to arbitration in case the council of the town or village or municipality to which it is proposed to annex such lands, oppose the same—subject to the provisions of sec. 71a of the Act, the council of every city is hereafter to consist of the mayor and three aldermen for each ward, unless the council of any city has, prior to the first of November in any year, passed a by-law reducing the number of aldermen to be elected for each ward to two. This by-law must receive the assent of the electors qualified to vote at municipal elections, before it is finally passed.

No member of a school board for which rates are levied shall be qualified to be elected a member of any municipal corporation after the passing of the Act.

Returning officers or deputy-returning officers are empowered to administer the oaths prescribed by the Municipal Election Act, whenever they shall respectively think proper, as well as at the request of any candidate or his authorized agent.

The councils of cities having more than 100,000 inhabitants are authorized to pass by-laws before 16th of November, in any year, for the holding of the meeting for municipal nominations on the Monday preceding the last Monday in December, and for the nomination of public school trustees on the last Monday in December.

Nomination papers must be filed with the returning officer, or the chairman, within one hour from the time of the opening of the nomination meeting. A penalty of \$50 is imposed on persons who vote for aldermen or councillors more than once.

Subsection 4 of section 384 and subsection 1 of section 386 are made to apply to ALL towns in the Province.

Councils of cities and towns may take and acquire lands for drill-shed or armory purposes, and may pass by-laws for the establishment of a public scavenging system.

Councils of cities, towns and incorporated villages may pass by laws respecting the transmission of electricity and steam under or over the streets of the municipality.

The councils of towns and cities having less than 100,000 inhabitants, and the board of commissioners of police in cities having 100,000 inhabitants or more may pass by-laws for examining, licensing and regulating electrical workers, and for fixing the sums to be paid for licenses.

No by-law can be passed by the council of any municipality granting a bonus to an established industry or to any industry which has been removed to the municipality proposing to pass the by-law, from another municipality.

Service of notice of action against a county, pursuant to subsection 3 of section 609, is made necessary.

Municipalities may pass by-law for the purchase, conditionally or otherwise, or for the rental of roadmaking machinery, etc., and for issuing debentures payable in not more than five years to pay the purchase money for same.

County councils may enlarge the area of police villages on the petition of two-thirds of the ratepayers of the village, and of the majority of the ratepayers in the territory to be added, and the trustees of such villages may pass by-laws for entering into contracts for the supply of light or heat by any person or company to the police village or the residents therein.

Councils of townships, towns or villages may pass by-laws for the construction, purchase or leasing of such ferries as are mentioned in section 38 of the Act.

The Act, as passed, reads as follows :

His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :

### AGREEMENT WITH OWNERS OF FARM LANDS IN TOWNS AND VILLAGES AS TO RATE OF TAXATION.

1.—(1) *The Municipal Act* is amended by adding thereto the following as section 18a :

18a. The corporation of any town or incorporated village in which are situated lands wholly used for farming purposes, may enter into special agreements with the owners of such lands as to the rate of taxation to which the same shall be subject for any period not exceeding five years at a time, and may pass by-laws to give effect to such agreements, but no such by-law nor any agreement provided for thereby shall take effect or be valid or binding

unless approved by a vote of not less than two-thirds of the council of the town or village as the case may be.

(2) Subsection 7 of section 18 of *The Municipal Act* is amended by striking out the words "nor in limits or area below the proportionate limits prescribed by this Act," at the end of the said subsection.

### REDUCING AREA OF TOWN, ETC., IN UNORGANIZED TERRITORY.

2. *The Municipal Act* is amended by adding after section 18, as enacted by section 2 of *The Municipal Amendment Act, 1901*, the following section :

18b.—(1) Upon the application of the council of any town or incorporated village, in the districts where there is no county organization, or upon the application of such number of owners of any lands in any such town or village as shall represent at least one half the amount of the assessed value of all lands included within the limits or area proposed to be withdrawn from such town or village, the Lieutenant-Governor in Council may, but subject to arbitration as hereinafter mentioned, reduce the area of such town or village and may exclude and detach such lands or any portion thereof or any lands situate outside the new limits to be defined by such arbitration, from the said town or village, and annex the same to some adjoining municipality.

(2) Provided that such reduction of area and detachment or separation of lands where the council of the town or village or of the municipality to which it is proposed to annex such lands, as the case may be, opposes the same, then and in that event the matters in difference shall be submitted to and be subject to the award of the arbitrators to be appointed under subsection 4 of this section, who, by their award, may confirm, modify, vary or entirely reject the proposed reduction of area, and detachment or separation of land, and in the event of entire rejection by the award of the said arbitrators, no further proceedings shall be taken for a period of two years.

(3) In the event of the proposed reduction of area and detachment and separation of lands not being entirely rejected by the arbitrators, but by their decision taking effect in whole or in part, and in default of agreement between the municipalities interested, the arbitrators shall in their award, determine the terms and conditions of said separation and the adjustment of assets and liabilities with respect to the lands so separated, between the municipal corporation of such town or village and the municipality to which such lands shall be annexed, and who shall award the amount to be paid to the town or village from which such lands have been taken by the municipality to which they have been annexed, and the amounts to be received by such last mentioned municipality from the town or village, together with such other terms and conditions as the said arbitrators may impose.

(4)—(a). One of the said arbitrators shall be appointed by the Lieutenant-Governor in Council, another shall be named by the council of the said town or village, and the third arbitrator shall be appointed by the council of the municipality to which it is proposed to annex such lands.

(b) In case the council of such town or village or municipality fails to appoint an arbitrator within six weeks after service of notice from the other municipality interested, naming the arbitrator, or in case an arbitrator appointed by any such council, refuses to act, then in any or all of such cases, arbitrators to take their place shall be appointed by the Lieutenant-Governor in Council.

(c) In case of the death or incapacity of any such arbitrator occurring after his appointment, another arbitrator shall be appointed in his place by the same authority which appointed the arbitrator so dying or becoming incapacitated, and the provisions of clause (b) as to



appointments by the Lieutenant-Governor in Council, shall apply to the appointments to be made under this clause, where any council fails to appoint a new arbitrator within two weeks from the date of the death or incapacity of its arbitrator so dying or becoming incapacitated.

(d) The award of the said arbitrators, or a majority of them, shall be binding and final.

(5) The fees of the arbitrators, including the cost of the award, shall not in any case exceed \$75, and shall be paid by the town or village municipality from which said lands are detached and the municipality to which said lands are annexed, in equal shares.

(6) After the separation of such lands from the town or village, the municipality to which the same shall be annexed, shall pay to the town or village from which such lands have been taken, such part, if any, of the debts of the town or village, as may have been agreed upon or determined by arbitration, and shall be entitled to receive from and be paid by the said town or village, the value of the interest, which, at the time of such separation, the lands so separated had in the property or assets of the town or village as hereinbefore provided.

(7) The application for separation of lands from such town or village, under this section, shall be by petition to the Lieutenant-Governor in Council, and same shall define, by metes and bounds, the new limits intended for such town or village, but the town or village shall not, by such change of boundaries, be reduced in population below the number of seven hundred and fifty souls.

(8) The municipal privileges and rights of the town or village, shall not be thereby diminished or otherwise interfered with, as respects the remaining area thereof.

TIME WHEN PROCLAMATION ADDING TERRITORY TO CITY OR TOWN TAKES EFFECT.

3. Section 24 of *The Municipal Act*, is amended by inserting therein after the word "proclamation" in the fifth line of the said subsection, the words, "to take effect on some day to be named therein or in any further proclamation in amendment thereof."

CONSTITUTION OF COUNCILS IN CITIES — REDUCING NUMBER OF ALDERMEN.

4. Section 70 of *The Municipal Act*, is repealed and the following substituted therefor:

70. Subject to the provisions of section 71a of this Act, the council of every city shall consist of the mayor, who shall be the head thereof, and three aldermen for each ward, to be elected in accordance with the provisions of this Act, provided always that the council of any city may, on or before the first day of November in any year, pass a by-law reducing the number of aldermen for each ward to two, and at the next municipal election, and thereafter, two aldermen shall be elected for each ward; but such a by-law, before the final passing thereof, shall receive the assent of the electors of the municipality, qualified to vote at municipal elections. Provided that this section shall not affect the right of any city to have four aldermen for each ward under the provisions of any special legislation in that behalf.

MEMBERS OF SCHOOL BOARD DISQUALIFIED AS COUNCILLORS.

5. Section 80 of *The Municipal Act*, is amended by inserting therein, after the word "trustee" in the eighth line, the words "and no member of a school board for which rates are levied," but this amendment shall not apply so as to disqualify any person elected prior to the passing of this Act.

ADMINISTRATION OF OATHS BY RETURNING AND DEPUTY-RETURNING OFFICERS.

6. Section 117 of *The Municipal Act* is amended by inserting therein after the word

"he" in the third line thereof the words "when-ever he shall think proper or."

DATE OF NOMINATIONS IN CITIES OF 100,000.

7.—*The Municipal Act* is amended by adding thereto the following section immediately after section 119:

119 a.—In cities having a population of 100,000 inhabitants, or more, the council thereof may by by-law to be passed not later than the 15th November in any year, enact that the meeting of electors for the nomination of candidates for the offices of mayor and aldermen shall be held on the Monday preceding the last Monday in December, and that the meeting of electors for the nomination of public school trustees shall be held on the last Monday in December.

NOMINATIONS TO BE MADE WITHIN ONE HOUR FROM BEGINNING OF MEETING.

8.—Subsection 1 of section 128 of *The Municipal Act* is amended by adding at the end thereof the words "and be filed with the returning officer or the chairman within one hour from the time of opening of the meeting."

PENALTY FOR VOTING MORE THAN ONCE FOR ALDERMAN OR COUNCILLOR.

9.—Section 162 of *The Municipal Act* is amended by inserting therein the following as subsection (1a),

(1a) Any person who votes for aldermen or councillors in a city or town in which the aldermen or councillors are elected by general vote, after having already voted for aldermen or councillors in the city or town at some other polling place at that election, and any person who votes for aldermen in a division of a city in which the aldermen are elected in two electoral divisions after having already voted for aldermen in the same division, shall incur a penalty of \$50, to be recovered with full costs of suit by any person who shall sue for the same in a division court having jurisdiction where the offence was committed; and any person against whom judgment was rendered shall be ineligible either as a councillor or an elector at the next annual election.

ADMINISTRATION OF OATH TO DEPUTY-RETURNING OFFICER AND POLL-CLERK.

10.—Section 313 of *The Municipal Act* is amended by adding thereto the following subsection:

(2) Whenever by this Act any oath or affirmation or declaration is required to be taken or made by a deputy-returning officer, and no special provision is made therefor, the same may taken or made before the returning officer for the ward or municipality, or before the poll-clerk, or before any justice of the peace having jurisdiction in the municipality; and the deputy-returning officer or any justice of the peace may administer any oath or affirmation or declaration required to be made by a poll-clerk under the provisions of this Act.

TIME AND MODE OF PAYMENT OF DEBENTURES IN TOWNS.

11. Subsection 4 of section 384 and subsection 1 of section 386 of *The Municipal Act* (as amended by section 15 of *The Municipal Amendment Act, 1898*) are amended by striking out in each of them the words "in towns having a population of 5,000 or under."

SECOND-HAND DEALERS, ETC., IN VILLAGES NOT TO PURCHASE FROM MINORS.

12. Paragraph 4a of section 484 of *The Municipal Act*, as amended by section 20 of *The Municipal Amendment Act, 1900*, is amended by inserting after the word "town" in the second line, the words "or village."

ACQUIRING SITES FOR DRILL-SHED OR ARMOY.

13. Section 534 of *The Municipal Act* is amended by adding thereto the following:

By councils of cities or towns:

(4) For entering upon, taking and acquiring so much land in the municipality as may be required for the purposes of a drill-shed or armoury for any militia or volunteer force having their headquarters at the municipality, without the consent of the owners of such lands, making due compensation therefor to the parties entitled thereto under the provisions of this Act, or for acquiring by purchase, with the consent of the owners thereof, such lands for the purposes aforesaid, and for issuing debentures of the corporation, for the amount, sufficient to pay such compensation or purchase money, and any debt incurred under such by-law shall be payable within thirty years from the date of the issue of the debentures, and it shall not be necessary to obtain the consent of the electors to any by-law passed under this subsection, but a two-thirds vote of the council shall be required.

14. Section 539 of *The Municipal Act* is amended by striking out the words added at the end of the said section, by section 18 of *The Municipal Amendment Act, 1901*, and inserting the said words at the end of the paragraph numbered 2 in the said section 539.

KEEPING AND STORING OF GASOLINE.

15. Section 542 of *The Municipal Act* is amended by adding thereto the following, as subsection 17e:

17e. For regulating the keeping and storing of gasoline, for prescribing the materials of which vessels containing the same shall be composed and the classes of buildings in which the same may be stored and kept for sale, and for the prevention of accidents from the combustion or explosion of gasoline.

CLEANING EARTH CLOSETS.

16. Section 551 of *The Municipal Act* is amended by adding thereto the following subsections:

4a. For directing and regulating the payment by the owners, lessees or occupants of real property, of the expense of cleaning and disposing of the contents of earth closets, privies and privy vaults, and of adding such expense to the collector's bill, and collecting the same in like manner and with other municipal taxes.

4b. A municipality may undertake the work in the last subsection referred to, as a municipal service, and in such event the said work shall be done exclusively by the officers and workmen employed by such municipality in such service, and the municipality, its officers and workmen shall, in such case, have all the powers and authorities conferred upon the local board of health and its officers and workmen.

4c. A municipality may provide by the same or any other by-law, for the collection in any other manner than by adding expense to the collector's roll, for extra or other services set forth in such by-law or referred to in subsection 4a, or may collect for such services by action at law.

4d. A municipality or its officers may contract or agree with owners, lessees or occupants, for the payment for services hereinbefore referred to, and, in default of payment, may collect the amounts from time to time due under such contract by action at law or by adding the said amounts to the collector's roll and collecting the same with other municipal taxes.

ESTABLISHMENT OF PUBLIC SCAVENGING SYSTEMS.

17. Section 552 of *The Municipal Act* is amended by adding thereto the following subsections:

(2) By-laws may be passed by the councils of cities and towns, for any of the purposes mentioned in section 551, as amended hereby, and for establishing, maintaining and regulating a system of public scavenging or system for the collection and disposal of ashes, refuse and

garbage within the municipality, and for such purposes may, subject to the approval of the Provincial Board of Health, acquire by purchase or otherwise or enter upon and take, with or without the consent of the owners thereof, such land as may be necessary therefor and may erect thereon such buildings, plant and machinery as may be required, and may, for the said purposes acquire such further plant, machinery, tools and material as the council may deem necessary; but where the amount required for acquiring the land and erecting and placing the necessary buildings, plant and machinery thereon exceeds the sum of \$2,000 the by-law shall require the assent of the ratepayers of the municipality before the final passing thereof.

(3) In case the council of the said corporation and the owner of any land taken or injuriously affected thereby, under this section, fail to agree as to the amount of the compensation to be paid to such owner, the same shall be determined by arbitration in the manner provided by *The Municipal Act*.

(4) The municipal corporation of such city or town, for the purpose of providing the money for the acquisition of the necessary lands, buildings, plant and machinery, and for the initial establishment of the said system; may, from time to time, issue debentures of the said corporation for such sum as the council of the said corporation may deem expedient, which said debentures shall be made payable not more than ten years from the day on which they shall respectively bear date, shall bear interest at a rate not exceeding 4 per cent. per annum, payable half-yearly, shall be signed by the mayor and the treasurer of the said city or town for the time being, and may be made payable either in sterling money of Great Britain or in currency in Canada, in this Province or elsewhere, as the said corporation may deem expedient.

(5) For the payment of the debt and interest represented by the said debentures, to be issued under the authority of subsection 4 of this section, there shall be annually raised, levied and collected by the corporation during the currency of the said debentures, a sum sufficient to discharge the said debt and interest when the same shall be respectively payable, said sum to be raised by an annual special rate upon the amount of the ratable or assessable property of the said corporation, according to the then last revised assessment roll thereof.

(6) In lieu of establishing a system of public scavenging, as provided in subsection 2 of this section, the said corporation may contract with some person, firm or corporation for the removal of all ashes, refuse and garbage within the said city or town upon such terms and subject to such conditions, rules and regulations as the council may deem expedient, and the said council may pass by-laws for regulating the removal of such ashes, refuse and garbage under such contract.

(7) The council of the corporation of the city or town may, from time to time, pass by-laws, dividing the said city or town into certain areas, districts or sections within which all ashes, refuse and garbage shall be collected, removed and disposed of, and may impose a special rate upon the assessed real property therein, according to the assessed value thereof, in order to pay all expenses incurred in collecting, removing and disposing of all ashes, refuse and garbage therein.

(8) No land within the said city or town shall be exempt from liability for assessment under subsection 7, but all land within the said city or town, no matter by whom owned or how or for what purpose or by whom used or occupied, shall be liable to assessment thereunder anything in any special or general Act or in any by-law to the contrary notwithstanding.

18. Section 22 of *The Municipal Amendment Act, 1901*, amending section 557 of *The Municipal Act* is repealed.

19. Section 577 of *The Municipal Act* is amended by adding the following subsection thereto:

3. For making annual or other grants of money to the owners or trustees of cemeteries situated within the municipality or any other municipality.

20. Clause 4 of section 566 of *The Municipal Act*, as amended by section 35 of *The Municipal Amendment Act, 1899*, and by section 29 of *The Municipal Amendment Act, 1900*, is further amended by striking out all the words after the words "five years," in the fifth line thereof, down to and including the words "latest census," in the eleventh line.

TRANSMISSION OF ELECTRICITY AND STEAM  
OVER AND UNDER STREETS.

21.—*The Municipal Act* is amended by inserting the following section after section 566:

566a. By-laws may be passed by the municipal councils of cities, towns, incorporated villages and townships for the following purposes, that is to say:

(a) For authorizing any person, firm or incorporated company, supplying electricity for power, lighting or heating, to lay down pipes or conduits enclosing wires for the transmission of electricity under streets or public squares, or to carry wires for the transmission of electricity across or along any streets or public squares or to erect poles in streets and public squares where necessary to support such wires, subject to such regulations as the council sees fit to impose.

(b) For authorizing any person, firm or incorporated company supplying steam for heat or power, to lay down pipes or conduits for transmitting steam under streets or public squares, subject to such regulations as the council sees fit to impose.

Provided that nothing contained in this section or in any by-law passed in exercise of the powers hereby conferred, shall be taken or deemed to authorize the council of any municipality or any person, to do any act or to enter into any contract, directly or indirectly, in contravention of subsection 4 of section 566 of this Act, and the clauses lettered a to a9 appended thereto, as enacted by section 35 of *The Municipal Amendment Act, 1899*, and the amendments thereto, or in contravention or violation of the true intent and meaning of any contract heretofore or hereafter entered into by any municipal corporation.

22. Subsection 1 of section 567 of *The Municipal Act*, is repealed, and the second subsection thereof is amended by striking out the word "such," and by inserting, after the word "town" in the first line, the words "having a population of 5,000, or less, as ascertained by the latest census of Canada," and the third subsection thereof is amended by striking out the words "such town" in the first and second lines, and the word "town" in the third line, and substituting, in each place, the words "city, town or village."

23. Subsection 5 of section 569 of *The Municipal Act*, is amended by substituting the words "town or village" for the words "or town" in the nineteenth line thereof, and also in the twenty-ninth line thereof.

BY-LAWS RESPECTING ELECTRIC LIGHT OR WATER-  
WORKS VALIDATED.

24. No by-law of any city, town or village heretofore passed, creating or intending to create, a debt for the erection, purchase, improvement or extension of gas, electric light or water works, and which has received the assent of the electors, or if for improvements or extensions has been approved by the lieutenant-governor in council, shall be quashed or shall be deemed to be invalid or illegal by reason only that the period fixed by the said by-law for the repayment of the debt thereby created exceeds twenty years, provided such period does not exceed thirty years, and to remove doubts it is hereby declared that the proviso of subsection 5 of section 569, has,

since the passage of *The Municipal Amendment Act, 1899*, applied to and included, and shall continue to apply to and include, villages as well as cities and towns.

25. Subsection 5 of section 574 of *The Municipal Act*, enacted by section 19 of *The Municipal Amendment Act, 1898*, is amended by striking out the words "of over 100,000 inhabitants" and by inserting after the word "city," in the second line, the words "or town."

PREVENTING INDECENT POSTERS.

26. Subsection 6 of section 583 of *The Municipal Act*, is amended by inserting after the word "force" in the second line thereof, the following words "and preventing the posting up and distributing, in the said municipality, of posters, pictures or hand-bills, which shall, in the opinion of the police commissioners, the chief of police, the deputy-chief of police, or any officer specially detailed for that purpose by the police commissioners, be indecent.

LICENSING ELECTRIC WORKERS.

27. Section 583 of *The Municipal Act*, is amended by inserting therein, immediately after the paragraph numbered 26, the following:

By the councils of towns and of cities having less than 100,000 inhabitants, and by the board of commissioners of police in cities having 100,000 inhabitants or more:

26a. For examining, licensing and regulating electrical workers.

By the councils of cities and towns:

26b. For fixing the sums to be paid for licenses required under by-laws passed under the preceding clause, 26a.

BONUSING ESTABLISHED INDUSTRIES.

28. Clause e in paragraph number 12 of section 591 of *The Municipal Act*, as amended by section 9 of *The Municipal Amendment Act, 1900*, is repealed and the following substituted therefor:

(e) No by-law shall be passed by the council of any municipality, for granting a bonus to any industry already established elsewhere in the province, or which has been removed to such municipality from another municipality in the province, whether such industry is to be carried on by the same proprietor as in the locality from which it has been, or is to be, removed, or is to be carried on by some other person deriving title or claiming through or under such proprietor, or otherwise, or by such proprietor in partnership with other persons or by a joint stock company, or otherwise.

NOTICE OF ACTION TO BE SERVED ON COUNTIES.

29. Subsection 3 of section 606 of *The Municipal Act*, is amended by inserting after the word "mayor" in the fourth line of the said subsection, the word "warden" and by inserting after the word "township" in the seventh line of the said subsection, the words "or a county."

30. Subsection 4 of section 632 of *The Municipal Act*, is amended by striking out the words "A township or village" in the first line, and inserting the words "any municipality" in lieu thereof.

CONTRACTING AND INCURRING DEBTS FOR PUR-  
CHASE OF ROAD MACHINERY.

31.—Section 637 of *The Municipal Act*, is amended by adding thereto the following paragraphs after the paragraph number 10 in the said section:

10a. For contracting for the purchase, conditionally or otherwise, or for the rental for a term of years, or otherwise, of road-making machinery and appliances for public uses within the municipality, and such contract may provide that payment for such road-making machinery and appliances may be made in instalments extending over a period not exceeding five years.

106. For issuing debentures payable in not more than five years from the date of issue and for applying the proceeds of such debentures to paying for such road-making machinery and appliances, and it shall not be necessary to obtain the assent of the electors to any such by-law.

#### LOCAL IMPROVEMENTS.

32. Section 666 of *The Municipal Act*, as amended by section 41 of *The Municipal Amendment Act, 1899*, is amended by striking out the words "adjoins and who" after the word "property" in the first line of the said amendment.

33. Section 669 of *The Municipal Act*, as amended by section 29 of *The Municipal Amendment Act, 1901*, is amended by striking out the words "and occupants" in the fourth line of the said amendment.

34. Subsection 2 of section 673 of *The Municipal Act*, is amended by inserting after the word "is" in the third line of such subsection, the following words "proposed to be or is," and by inserting between the word "sewer" and the word "has" in the said line, the words "is proposed to be or."

35. Section 677 of *The Municipal Act*, is amended by adding the following as subsection 2:

(2) For the purposes of this section in any city, town or village in which a by-law is in force providing for payment from the general funds of the municipality of not less than forty per cent. of the cost of such sidewalks, such sidewalks may, in addition to the materials mentioned in this section, be constructed of cement or brick.

#### ENLARGEMENT OF POLICE VILLAGES.

36. *The Municipal Act* is amended by adding thereto the following as section 714a:

714a. On the petition of two-thirds of the ratepayers of a police village, and a majority of the ratepayers in the territory proposed to be added, the council or councils of the county or counties in which the police village is situate may, by by-law, enlarge the limits of the police village by adding adjoining lands thereto, and thereafter such adjoining lands so added shall form part of the police village.

#### SUPPLY OF LIGHT AND HEAT IN.

37. Section 741, of *The Municipal Act* is amended by adding thereto the following words: "And may pass by-laws for entering into contracts for the supply of light or heat by any person or company to the police village or the residents therein," and doing all things necessary for such purposes within the limits of the police village.

#### FERRIES.

38. Section 46 of *The Municipal Amendment Act, 1899*, is repealed, and the following substituted therefor:

46. The council of any township, town or village may pass by-laws for the construction, purchase, or leasing of such ferries as may be required to be used on or over any navigable water separating a part of such municipality from any other municipality in the Province of Ontario, and may make an annual grant for the purpose of maintaining such ferries or any one or more of them.

#### BY-LAWS EXEMPTING MANUFACTURERS.

39. Notwithstanding the provisions of Section 11, of the Act passed in the sixty-third year of the reign of Her late Majesty Queen Victoria, and chaptered 33, every municipal council shall, by a two-thirds vote of the members thereof, have the power by by-law in that behalf to extend to the 31st December, 1903, but no longer, the operation of any by-law now in force which provides for exempting any manufacturing establishment or any building for the storage of ice for commercial purposes, or any waterworks or water company, in whole or in part, from taxation, except as to school taxes, and any municipal council may give like exemptions to the same date by a two-thirds vote of the members thereof.

40. This Act shall take effect on, from and after the first day of May, 1902.

#### Incorporation of Towns in Territorial Districts.

No provision was made in the Municipal Act, the Act Respecting the Establishment of Municipal Institutions in Territorial Districts, or elsewhere, except chapter 27 of the Ontario Statutes, 1901, which is repealed by the present Act, for the incorporation of towns in districts. In consequence, whenever such incorporation was desired, an application had to be made for special legislation to provide for the accomplishing of this object. To obviate this necessity, the legislature has enacted the following general Act to apply to all such cases:

His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

#### MODE OF INCORPORATION.

1. The inhabitants of any locality in any of the districts of Muskoka, Parry Sound, Nipissing, Algoma, Manitoulin, Thunder Bay and Rainy River, or partly in one and partly in another of said districts, and whether or not such locality, or any portion thereof, lies within an existing municipal corporation, such locality having an area of not more than seven hundred and fifty acres, and having a population of at least five hundred souls, may be constituted a body corporate in the manner hereinafter provided, to be called "The Corporation of the Town of ———"

2. The Lieutenant-Governor, upon the receipt of a petition signed by at least seventy-five male inhabitants of any such locality, of the age of twenty-one years or over, which petition shall set out the metes and boundaries of the locality, and approximately the number of persons resident therein, and about the area in acres of such locality, may, by order in council, issue a proclamation under the Great Seal of the Province, declaring that from and after a day to be named therein, the said inhabitants shall be constituted a body corporate under the name of "The Corporation of the Town of ———" (naming the same), and such proclamation shall also describe the limits of the town, and shall state the date and place for the nomination of candidates for the first election of the municipal council of the town, and the date and place for holding the said nomination and election, and shall appoint a returning officer to hold the said election, and shall name the time and place for summing up the votes and declaring the result of the election, and the time and place for the first meeting of the council of the town.

#### POWERS OF TOWNS INCORPORATED.

3. The duties, powers and privileges of every town incorporated under this Act, and of the council thereof, shall be similar to the duties, powers and privileges of towns, separated for municipal purposes from counties, and of the councils thereof under *The Municipal Act*, and the powers of such town shall be exercised by the council thereof.

#### COMPOSITION OF COUNCIL.

4. The council of every such town shall consist of a mayor, who shall be the head thereof, and six councillors, to be elected by general vote.

#### GENERAL PROVISIONS AS TO ELECTIONS IN MUNICIPALITIES TO APPLY.

5. Except as otherwise provided in this Act, all provisions of *The Municipal Act* which apply to first nominations and elections and to persons engaged in, or connected with, the holding of the same, and to the qualifications and disqualifications of electors and members of the

council, in new municipalities incorporated or erected under the provisions of the said *Municipal Act*, and to matters precedent, concurrent and subsequent to such nominations and elections, but connected therewith, or incidental thereto; and the provisions of all other general Acts which apply to such first nominations and elections, persons, qualifications, disqualifications and matters, shall, so far as can be, apply to the first nominations and elections, and to persons engaged in, or connected with, the holding of the same, in towns incorporated under this Act, and to the electors therein, and to the councils thereof, and to the members of such council.

#### POWERS OF RETURNING OFFICER.

6. Except as otherwise provided in this Act, the returning officer, named in the proclamation, shall, respecting the first nomination and election of the members of the council of any town incorporated under this Act, and respecting all matters pertaining or incidental thereto, perform all the duties, and be possessed of all the powers and privileges, required of and conferred upon clerks of municipalities by *The Municipal Act* respecting the first nominations and elections, and matters pertaining or incidental thereto, in new municipalities incorporated or erected under the provisions of the said *Municipal Act*; and the said returning officer shall be the clerk of such town until his successor is appointed and sworn in, in the manner provided in *The Municipal Act*.

#### CONDUCT OF SUBSEQUENT ELECTIONS.

7. All municipal elections subsequent to the first, in towns incorporated under this Act, shall, subject as hereinafter mentioned, be held at the times and conducted in the manner provided by *The Municipal Act*, but in no case shall the second election be held within a shorter period than six months from the date of the first election.

#### ADJUSTMENT OF ACCOUNTS WITH EXISTING MUNICIPALITIES.

8. In case any locality, the inhabitants of which are incorporated as a town under this Act, was formerly wholly or partly within the limits of another municipality howsoever incorporated, the said town shall, by virtue of such incorporation, be separated from such other municipality for municipal purposes, and all the provisions of *The Municipal Act* respecting the matters consequent upon the incorporation or erection of new municipalities and the separation of lands from existing municipalities shall, so far as can be, apply to such cases of incorporation as aforesaid under this Act.

#### GENERAL MUNICIPAL LAW TO APPLY.

9. The provisions of *The Municipal Act* relating to matters consequent upon the formation of new corporations, and all the provisions of the said Act, and of all other general Acts applicable to towns incorporated or erected under *The Municipal Act*, and separated for municipal purposes from counties, shall, so far as can be, and except as otherwise provided by this Act, apply to towns incorporated under this Act, and to councils and officers thereof.

#### EXPENSE OF INCORPORATION.

10. The expense incurred in procuring incorporation of a town under this Act, and in all matters whatsoever connected therewith or incidental thereto, shall be borne by the town so incorporated, and paid by it to any party entitled thereto.

11. The Act passed in the 1st year of His Majesty's reign, and chaptered 27, being *An Act to provide for the incorporation of Towns in Territorial Districts* is repealed.

#### The Assessment Amendment Act.

The most important amendment to the Assessment Act, introduced, is one dealing with what is popularly known as the "scrap-iron" assessment of telegraph, tele-

phone and similar companies. It is enacted that the land of such companies must be assessed in the ward in which the head office is located (in municipalities divided into wards), but if the head office is not in such municipality, then the assessment may be in any ward.

The rails, ties, pipes, mains, etc., of such companies are constituted "land" within the meaning of the Assessment Act, and are, when in actual use, to be assessed at their actual cash value as they would be appraised *on a sale to another company possessing similar powers, etc.* The plant, poles and wires used exclusively in running trains or for any other purposes of a steam railway, not for commercial purposes, are exempt from municipal assessment and taxation. The rolling stock, plant and appliances of the companies mentioned in subsection 2 of section 1 of the Act, are exempt from assessment. Provision is also made for the assessment of bridges over international boundary lines, and the selling of lands for taxes in certain townships in the county of York. The Act, in detail, is as follows:

His Majesty by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 18 of *The Assessment Act*, and sections 18a and 18b of the said Act as enacted by section 2 of the Act passed in the first year of His Majesty's reign, chaptered 29, are repealed and the following substituted therefor:

WHERE LAND IS TO BE ASSESSED.

18. Except as hereinafter provided for, land shall be assessed in the municipality in which the same lies, and in case of cities and towns in the ward in which the property lies, and where any business is carried on by a person in a municipality in which he does not reside, or in two or more municipalities, the personal property belonging to such person shall be assessed in the municipality in which such personal property is situated and against the person in possession or charge thereof as well as against the owner.

ASSESSMENT OF CERTAIN COMPANIES.

(2) The land of companies for supplying water, heat, light and power to municipalities and the inhabitants thereof, telephone companies, telegraph companies, and companies operating street railways and electric railways, shall, in municipalities divided into wards, be assessed in the ward where the head office of such company is situated if such head office is situated in such municipality, but if the head office of such company is not in such municipality, then the assessment may be in any ward thereof.

(3) The rails, ties, poles, wires, gas and other pipes, mains, conduits, substructures and superstructures upon the streets, roads, highways, lanes and other public places of the municipality, belonging to such companies shall be "land" within the meaning of *The Assessment Act*, and shall, when and so long as in actual use, be assessed at their actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights and franchises in and from the municipality and subject to similar conditions and burdens, regard being had to all circumstances adversely affecting their value, including the non-user of any of such property, providing that the plant, poles and wires which are used exclusively in running trains or for any other purposes of a steam railway and not for commercial purposes, shall be, as heretofore,

exempt from municipal assessment or taxation.

(4) Save as aforesaid rolling stock, plant and appliances of companies mentioned in sub-section 2 hereof shall not be "land" within the meaning of *The Assessment Act*, and shall not be assessable.

ASSESSMENT OF BRIDGES OVER INTERNATIONAL BOUNDARIES.

(5) In the case of any bridge belonging to or in possession of any person or incorporated company, which crosses any river forming the boundary between the Province of Ontario and any other country or province, which is liable to assessment, the part of such structure within Ontario shall be valued as an integral part of the whole, and on the basis of the valuation of the whole, and at their actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights and franchises, and subject to similar conditions and burdens, but subject to the provisions and basis of assessment set forth in sub-section (3) hereof. Any bridge belonging to or in possession of any person or company between two municipalities in the Province shall also be valued as an integral part of the whole, and on the basis of the valuation of the whole.

(6) Nothing in this Act contained shall pre-empt or affect any action, proceeding or appeal concerning any assessment now pending.

SALE OF LAND FOR TAXES YORK, SCARBORO' AND ETOBICOKE.

2. Sub-section 4, of section 184, of the said Act is repealed, and the following is substituted in lieu thereof:

The treasurers of the townships of York, Scarborough and Etobicoke shall not be obliged to sell for taxes only a portion of any vacant lot originally laid out according to any registered plan, the frontage of which lot liable to be sold for taxes does not exceed fifty feet, but may in all such cases sell the whole of such lot or the whole of that part thereof (as the case may be) in respect to which taxes are in arrears, for the best price that may be offered by the bidders at the 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 to such other person as may be authorized by law to receive the same less ten per cent. of the sale price, and less such charges and expenses as the treasurer may pay or incur in satisfying himself of the right of such owner or other person to receive the same. And it shall be the duty of the person claiming such balance to produce to the treasurer proof of his or her right to recover the same; provided, however, that in the event of redemption the party redeeming shall pay ten per cent. upon the whole amount realized in respect thereof notwithstanding section 200 of *The Assessment Act*.

The Municipal Drainage Amendment Act.

The only amendment of importance to this Act is one enabling the engineer to provide for the assessment of compensation for damages to low lands, by the construction of drainage works, instead of continuing the drain to a sufficient outlet. The clerk is required to notify each owner to be compensated, of the amount of compensation awarded to him.

The Act is as follows:

His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Municipal Drainage Act* is amended by inserting therein the following subsection 8a:

8a. Where, in the opinion of the engineer or surveyor, the cost of continuing the drain-

age work to a point where the discharge of water will do no injury to lands and roads, will exceed the amount of injury likely to be caused to low-lying lands below the termination of the work, he may, instead of continuing the work to such a point, include in his estimate of the cost of the drainage work, a sufficient sum to compensate the owners of such low-lying lands for any injuries they may sustain from the drainage work, and he shall, in his report, determine the amount to be paid to the respective owners of such low-lying lands, in respect of such injuries.

2. Subsection 6 of section 9 of the said Act, is amended by striking out the words "the next preceding subsection" and inserting in lieu thereof the words "this section."

3. Subsec. 7 of the said sec. 9, is amended by adding at the end thereof, the following words "and he shall also, in like manner, notify each of the owners of lands in respect of which the report provides for compensation, of the date of filing the report, the amount awarded to such owner for compensation and the date of the council meeting at which the report will be read and considered."

4. Section 5 of the Act, passed in the first year of His Majesty's reign, chaptered 30, is amended by adding the following as subsection 2 thereof:

(2) But nothing herein shall affect pending litigation in respect to the power of the court or judge to refer the same for trial to the said Referee, and this amendment shall have the same force and effect as if it had been passed with and formed part of the said section 5

Other Amendments.

The Toll-Roads Expropriation Act, 1901, is amended by providing for the expropriation of toll-roads lying wholly in one township, in one or more municipalities in the same county, partly in one or more municipalities of a county and partly in a city or separated town, and partly in one or more municipalities of one county, and partly in one or more municipalities of another county, respectively. If the owners and the municipalities concerned fail to agree upon the amount to be paid in order that the tolls on such roads may be abolished, provision is made for the appointment of arbitrators to settle the matters in dispute between them. After the arbitrators' award has become absolute or settled on appeal, or after an agreement has been arrived at between the municipality or municipalities, as the case may be, and the owners of the road, the municipal council of any municipality is empowered to pass by-laws for borrowing the money required to be paid by such municipality, and for assessing and levying the amount necessary to meet the debentures to be issued thereunder, *without submitting the same for the assent of the electors.* Upon the removal, by the county, of the tolls from any road under the Act, such road, so far as it lies within the county, shall thenceforward be a COUNTY road within the meaning and provisions of the Municipal Act.

The Public Health Act is amended by the introduction of a new section providing that no hospital, sanitorium, institution, or place for the reception, care or treatment of persons suffering from consumption or tuberculosis, shall be established, maintained or kept within the limits of any municipality without the permission of the local board of health of the municipality. In case the local board of health decides not to grant the application to establish such an institution in the municipality, provision is made for an appeal from such decision, to a board of appeal, to be composed of the head of the municipality, the sheriff of the county in which the municipality is located, and the secretary of the Provincial Board of Health. A penalty is imposed for establishing and maintaining such an institution in any municipality without first receiving the permission mentioned.

## Question Drawer.

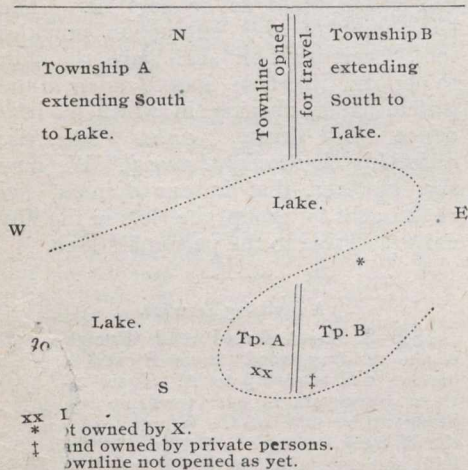
Subscribers are entitled to answers to all Questions submitted, if they pertain to Municipal Matters. It is particularly requested that all facts and circumstances of each case submitted for an opinion should be stated as clearly and explicitly as possible. Unless this request is complied with it is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

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

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

### Obligation of Municipality to Open Road.

172—R.—X owns a lot of land in A township, but there is no approach thereto by land, except through B township, over lands owned by private persons. How can a road be obtained for X? and which township should take the initiative? I enclose diagram showing the position of X's land.



It is optional in any case with a township council whether it passes a by-law pursuant to section 637 of the Municipal Act, opening and establishing a new road or not. It should not do so in this case unless the members are satisfied that the proposed road would be for the general benefit and convenience of the community. The road in question when purchased and opened would, it appears to us, be for the benefit of one person only, viz. the owner of the isolated land, and the council should not make any move in the matter. If X desires a road to his land he will have to acquire by purchase or otherwise the land necessary from the private owners.

### Council May Adopt Use of Voting Machines at Elections.

173—P. M. G.—Has a municipal council power to pass a by-law, enforcing the use of a voting machine?

Section 1 of chapter 37, Ontario Statutes, 1900, provides as follows: "Notwithstanding anything in the Municipal Act, or any amendments thereto, the council of any municipality may by by-law passed by the affirmative vote of not less than two-thirds of the whole council, provide that, thereafter, the use of ballot-boxes and ballot-papers, at municipal elections, shall be discontinued, and may adopt for use at elections any kind of voting machine that complies with the requirements of this Act, and thereupon and thereafter, such voting machines so

adopted may be used for voting, registering and counting votes cast in such municipality and such municipality may, at any time, by a majority vote of the whole council, repeal such by-law."

### Council Should Retain Collector's Bond.

174.—J. W. C.—Our collector returned his roll correct in the right time. His bondsman now asks for his bond. Have the council the right to give it up?

The council has no right to cancel or surrender the collector's bond. As soon as it is signed by the collector and his sureties and delivered to the council, it becomes one of the municipal records and should be retained in the custody of the clerk, for the time being, as such, for all time to come. If the collector has collected, duly accounted for and paid over all monies of the municipality coming into his hands by virtue of his office, returned his roll and otherwise performed his duties as the law requires, the retention of the bond by the municipality can in no way work prejudicially or unjustly to any of the parties concerned.

### Duties of Police Trustees

175.—ENQUIRER.—1. Can the trustees of a police village pass by-laws to regulate the running at large of animals in the village, to regulate the public morals, appoint constables, etc.? If not, how are these matters regulated?

2. Can the trustees legally appoint and pay a secretary to assist them in their labors?

1. Section 52 of the Municipal Amendment Act, 1900, empowers police trustees to pass by-laws for any of the purposes mentioned in section 546 of the Municipal Act, subsection 2 of which relates to the restraining and regulating the running at large and trespassing of any animals, etc. There is no power given such trustees to pass by-laws regulating public morals. The township council may do this pursuant to section 549 of the Municipal Act. Subsection 1 of section 48 of the Municipal Act, 1899, empowers police trustees to appoint constables.

2. The statutes confer no authority on police trustees to appoint a secretary, so we are of opinion that they cannot legally do so.

### 15th December Statement—School-House Not a Township Asset—Settlement on Separation of a Town—Power to Remit Taxes.

176.—T. S.—1. In 304 (6) of Municipal Act, the council of every town, township and village is required to publish a detailed statement up to the 15th day of December. Please give a few lines for example in detail, as a municipal

accountant and I differ about the matter. He maintains that the statement should be got up similar to the headings in government cash-book and no names or date given.

2. Is it necessary that the last fifteen days of the year should be published same year or year following? I maintain that they ought to be published year following at the same time as the statement to January 1st to December 15th or 16th.

3. School section asked township to issue debentures for the erection of a schoolhouse. Trustees were paid over the moneys derived from the sale of debentures and schoolhouse was built. Is it an asset of the township or does it belong to school section? I have all along been under the impression that it belongs to the school section, but this accountant says it is an asset of the township and should be entered as such in financial statement.

4. Please state where to find in the statutes how a settlement is made when a place gets incorporated as a town and separates from township.

5. Has a municipal council power to remit taxes from collector's roll if they don't want to enforce collection?

1. The object of the legislatures in enacting this subsection was, doubtless, to place in the hands of the electors a full and complete statement of the finances of the municipality prior to nomination day, so as to enable them to thoroughly understand the methods pursued by their representatives in transacting their business. The statute says a "detailed" statement must be published by the council within the time and in the manner prescribed. This statement must contain each item of receipts and expenditures with dates of each, the names of the parties who received or paid the money and the purpose for which it was received or paid, in a manner similar to the annual municipal audit. A statement of any other kind would not be a "detailed" statement, and its publication in any other form than the statute requires would defeat the evident intention of the legislature.

2. We agree with your idea. Subsection 6 provides that, "a similar statement in detail respecting the last fifteen days of the PRECEDING year shall be attached thereto."

3. A school-house, when built, is the property of the ratepayers of the school section for whose purposes it was erected, and who contributed the money to build it. It cannot be considered an asset of the township.

4. Your town being located in a district, required the passing of a special Act to incorporate it. We have carefully examined this Act and find that no provision is made therein for the adjustment of accounts between the newly incorporated town and the township, or townships, of which its area was formerly a part. Section 4 of this Act, provides that, "the provisions of the Municipal Act and any Act amending the same, relating to matters consequent upon the formation of new municipal corporations," etc., shall apply to your corporation. Section 13 of the latter Act, provides for the adjustment of such accounts between a village

and the township, or townships, in which it is situate, and section 21, subsection 2, provides for the erection of a village into a town. Section 27 makes provision for the adjustment of accounts between a town of more than 5,000 inhabitants, and the county in which it is located, on its withdrawal from such county. None of these provisions meet your case, nor are there any others in the Municipal Act, or in chapter 225 of the Revised Statutes, 1897, to guide you in the matter. So we are of opinion that your town will have to obtain legislation providing for the settlement you desire.

5. No. Unless the case be one within the provision of subsection 1 of section 74 of the Assessment Act, when the *Court of Revision* for the municipality can remit taxes for the causes therein mentioned. It is the duty of the collector, without interference on the part of his council, to collect and pay over to the treasurer *all taxes* on the collector's roll delivered to him by the clerk, as speedily as possible.

#### Maintenance of Townline.

177—S.—An adjoining township refuses to give an equivalent in either statute labor or money to maintain the road on the boundary line.

1. Can a council grant only what they think fit for the joint maintenance of road on dividing line?
2. Can either township force an equivalent for said maintenance when it requires the work?
3. If not, what steps should be taken to get at an equitable division?
4. Is there any statute relating to such a case? If so, kindly give reference?

1, 2, 3 and 4. The townships between which this road lies, have joint jurisdiction over it, (see section 622 of the Municipal Act) are jointly liable for its maintenance, (see section 620) and are jointly liable for any loss occasioned by accidents occurring thereon. The councils of the two townships should amicably agree upon the amount each is to contribute towards the maintenance of this boundary line, or as to the part of the road each is to maintain and keep in repair, as provided in section 625 of the Act. If they cannot do this, your township should pass a by-law for the maintenance of the townline, and if the council of the other township does not pass a by-law in similar terms within six months after notice of the passing of your township by-law, the duty and liability of each municipality in respect to the road or bridge shall be referred to arbitration under the provisions of the Act.

#### Liability of Railway Company to Change Cattle-Guard.

178—SUBSCRIBER.—The townline between the townships of W and R has been changed. Across this line is a railroad. Owing to the change, one of the cattle-guards is almost in the middle of the road. Can the company owning railroad be compelled by the councils of said townships to remove at its own expense said cattle-guard off said road, it being an obstruction on the highway?

This cattle-guard was, no doubt, placed by the railway company, in its present position in discharge of its obligation to do so, under the Railway Act. If the municipality, for reasons of its own, changed the location of the road-crossing at this point, we are of opinion that the municipality cannot compel the railway company to alter the position of the cattle-guard, but that the municipality must get the railway company to change the location of the cattle guard.

#### Collection of School Taxes in Districts.

179—TRUSTEE.—Can we collect school taxes from mining lands, such lands being in school section (but undeveloped), their being no moveable property to seize, and owners taking no notice of their assessment?

Assuming that this school section is in an organized township in a district, the collector has the same powers in collecting the school-rate, rate-bill, or subscriptions, etc., as provided in the Municipal and Assessment Acts, (see subsection 2 of section 29 of the Public Schools Act, 1901.) Clause 1 of subsection 1 of section 135 of the Assessment Act, empowers a collector, in case a person neglects to pay his taxes for fourteen days after demand, or notice served pursuant to a by-law of the township, to levy the same with costs, by distress upon the goods and chattels belonging to or in the possession of the person who is actually assessed for the premises, and whose name appears upon the collector's roll for the year as liable therefor. But as it appears that there is no personal property which can be seized, we think the remedy for making the school-tax has been exhausted.

#### A Doctor's Account.

180—J. H. C.—We have a case of diphtheria in our village. When the parties first took sick Dr. B was called and pronounced it tonsillitis, but, after five days, decided it was diphtheria and called on the medical health officer Dr. S, who had the house placarded. Dr. B went on attending patients for nearly a month, at which time they were pronounced well and the doctor discharged. Neither the council or their health officer asked him to attend the family or became responsible for payment of his bill, nor did he ask them to. The head of the family is a strong, robust man, a cheesemaker by trade. He was first man in the factory here last year at a salary of \$32 per month, I believe, and has a better offer to run a factory for the year. His family are all strong and healthy. As the doctor dismissed the case he presented the council with an account for over \$40. Under these circumstances are we responsible for the payment of this account? The head of this family has no real estate but we consider him perfectly able to pay the account himself. The doctor's account dates back five days before he notified the health officer and before the house was placarded.

We do not consider the council, or the local board of health, in any way responsible for the payment of the account.

#### Calculation of Statute Labor

181—SUBSCRIBER.—Where a ratepayer is assessed for three farms of 100 acres each at different amounts, it may make a difference of

a day or two statute labor in the different way the lots are grouped. Is it in the hands of the assessor to group as he may think proper?

2. Where two of the lots are on the same road division and the third in another division, should the lots on same division be the ones grouped, or should the assessor leave it to the council to arrange the matter?

1. It is the CLERK'S duty to assign to a ratepayer the number of days' statute labor for which his lands are liable according to the ratio of statute labor in vogue in his municipality. Subsection 2 of section 109 of the Assessment Act, makes no provision as to how the lots are to be grouped. See our answer to Question No. 14, (1902), January issue.

2. The statutes makes no provision as to the grouping of the lots. The clerk can group them as he sees fit. The latter part of the subsection provides that, "every resident shall have the right to perform his whole statute labor in the statute labor division in which his residence is situate, unless otherwise ordered by the municipal council." We may say, however, that in our opinion, the clerk ought to group the lots in the way most favorable to the person assessed.

#### A Deviating Townline.

182—S. M.—A forced road through L 27 is the leading road from P and also only portion of M township to A. There are only three ratepayers in our township that are benefited by said road. Where road crosses the W creek, we have a bridge 150 feet long built and maintained by F. What I want to know is: Is either of the other townships or counties liable for part of the maintenance of this bridge as a part of townline. Between F and M where it crosses the river it is impossible ever to open or bridge. And also townline between P and F where it crosses the river is not opened or bridged and I expect never will be on account of natural obstructions.

In our opinion, the forced road is a road used in lieu of the townline between the township of F and the township of M and therefore the bridge in question must be maintained by the counties of R and C and so much of the road itself as lies between F and M, must be maintained by these two townships. See sections 617 and 621 of the Municipal Act.

#### Pedlar's License.

183—J. E. H.—Can a county council force a storekeeper, who resides in county, and pays taxes for store and property, to take out a license to sell his goods from wagon through the community in which he resides? Under Hawkers and Pedlars, does it refer to a ratepayer in county at all peddling?

2. Can a pedlar or agent of a firm in London peddle his goods in Huron county, there being a license of \$25?

3. Would you pay license if situated as myself?

1. A storekeeper in the county going from house to house, and selling his goods from a wagon, is a pedlar, within the meaning of the county by-law, and should procure a license thereunder, otherwise he will be liable for the penalty it imposes. The by-law applies to ratepayers of the

county as well as outsiders and it should do so. If it did not apply to all alike, it might be quashed for discriminating against one class of persons in favor of another.

2. Whether such a person can peddle goods in your county depends upon the nature of the goods and upon the way in which he disposes of them. In the case of goods of the kind mentioned in clause 4 of the by-law, he cannot sell them or take orders for future delivery without a license, but if the goods are not of the kind mentioned in clause 4, he may take orders for them, delivering the goods subsequently pursuant to such orders.

3. If you are the storekeeper above referred to, and desire to sell your goods from a wagon, travelling from house to house, and wish to avoid having to pay the penalty imposed by the by-law, we would advise you to pay the fee and take out the license.

#### Equalization of Union School Assessment.

184—J. S. E.—We have a union school section made up of parts of two townships and the village. Last year was the year for the assessors to meet and equalize the school-rate, but our assessor overlooked the matter until statutory date for doing it was past, he not being aware that that was the year for having it done. Will three years more have to elapse before the matter can be taken up, or can our assessor notify or summon the other two assessors to meet him in order to perform that duty this year?

No. The fact that the assessment of this union school section was not equalized before the 1st of June last year, as it should have been, does not render now or at any other time after that date inoperative. The machinery of municipal government assumes that certain things are done by certain days in the municipal year, so that other things may, in their order, follow. Municipal officers, therefore, cannot regard provisions as to time with too much strictness. But, if the thing required to be done by a fixed date is not done, it does not follow that it cannot be done afterwards. It is, no doubt, important that it should be done within the time limited, but Pollock, C. B., remarked in the case of *Hunt vs. Hibbs*, (5 H. & N. 126): "It is still more important that it *should be done*, and, therefore, if owing to some uncontrollable circumstances, it is not done on the proper day, it ought to be done on the next or some other."

#### Authority of Disqualified Justice of the Peace.

185—CLERK—We have in our vicinity a man who acts as magistrate who cannot qualify at present, but could and did some years ago. He has lost all his property, and is not to-day worth one cent. He is at present a member of our council, and is determined to officiate as magistrate. Has this man a right to qualify officers of the municipality, such as pathmasters and fenceviewers, and to take affidavits and to sign his name to such as justice of the peace?

Unless he is reeve, this person should not act as a justice of the peace in or for his county, unless he is qualified as such according to the true intent and meaning of chapter 86 of

the Revised Statutes of Ontario, 1897. If he does so act, he shall for every such offence, forfeit the sum of \$100, to be recovered and applied as provided in section 16 of the Act. It has been judicially held, however, that in such cases his acts are not invalid, he being still commissioned a justice of the peace. (*Margate vs. Hannon*, 3 B. & A., 226.) See also section 473 of Municipal Act.

#### A Drain Under the Ditches and Watercourses Act.

186—W. D. M.—Some years ago a drain was constructed under the Ditches and Watercourses Act, (which we will call drain No. 1) an outlet to which was given by the owner of land where there was sufficient fall allowing it to flow on to his property.

Two years ago proceedings were commenced, in the regular way, under the Municipal Drainage Act to construct a drain (called drain No. 2) from where drain No. 1 stopped to the outlet in the Maitland river, the parties who had constructed the first drain being assessed a certain amount for this improved outlet. This second drain is under construction now.

It now happens that the owners of land above the head of drain No. 1 wish to construct a drain (drain No. 3) and empty the water from same into drain No. 1 from whence it will flow into No. 2. The estimated cost of this last drain without figuring anything on outlet will be about \$500.

What we wish to know is,

1. Can the parties on drain No. 3 proceed under section 5 of the Ditches and Watercourses Act, providing the assessment for outlet does not exceed \$500. The total length of the three drains which would then form one continuous drain would be from seven to eight miles.

2. In the event of drains Nos. 1 and 2 being of sufficient capacity to accommodate the increased amount of water being brought into it by this last drain, would the owners on drain No. 3 be liable for assessment for outlet?

1. If drain No. 3 will not, when constructed, pass through or into more than seven original township lots, and will not cost over \$1,000, or if it will pass through or into more than seven original township lots, and the council of the municipality has passed a resolution pursuant to a petition of a majority of the owners of all lands to be affected by the ditch, authorizing the extension of the drain through or into any other lots, proceedings may be taken to construct the drain under the provisions of the Ditches and Watercourses Act. The amount that the contributories to the construction of drain No. 3 would be assessed for for outlet into drain No. 2, or the total length of the three drains does not affect the question in any way.

2. Yes. And they should be so assessed.

#### Sale of Horse Impounded.

187—RATEPAYER.—1. A resident of this municipality distrained and retained in his possession a young horse that came on his premises Jan. 31st, giving notice to clerk of municipality Feb. 7th. The clerk then posted notice of same, as per section 10, chapter 272, R. S. O., 1897. As the animal has not been claimed yet, the regular notice having been published in two county papers, when will the clerk be required to post notices again, and on what date will it be legal to have the sale?

2. How many days prior to sale will the notices posted by the clerk require to be posted in the three public places, that is, does it mean

(section 13) three days after the two months are up, or that time before the two months expired?

3. Sometime in winter of 1901 some person or persons unknown upset with a load of small timber or poles and left them lying on the road (one of our main travelled roads) and have not returned for them yet. Last year's pathmaster moved them over to the edge of the road and they still remain there, liable to cause damage if driven upon. What action should the municipality take to cause the poles to be removed? Could they be advertised by posters and sold? If so, what would be done with the proceeds?

1. The only notices the CLERK is required by the Act to post up are those mentioned in section 10 of the Act (R. S. O., 1897, chap 272). Having done this his duties in this regard ceases. All subsequent notices will have to be prepared and posted up by the party who distrained the horse and retained it in his possession. The sale cannot take place until after the expiration of three days after the expiration of two months after the animal has been taken up. See sections 13 and 14.

2. The notices of sale should be posted up, as required by section 14, by the party who distrained the horse for three days prior to the sale, AFTER the expiration of two months from the time the horse was taken up. The notices of sale should not be posted up before the expiration of the two months, as this course would not be a compliance with the provisions of section 13.

3. Your council should pass a by-law pursuant to subsections 3, 4 and 5 of the Municipal Act providing for the removal of these poles by the pathmaster for the road-division. Since the person or persons who placed them there is or are unknown, they cannot be removed at the expense of such persons as provided in subsection 4. There is no provision made for the advertising and sale of material left on a highway, under the circumstances in this case.

#### Confiscation of Bread.

188—T. A. M.—By this mail I send you a copy of our town by-law. See section 174, page 36. You will observe loaves are to be 1, 2 and 4 pounds, except fancy bread. The question is, can an outside baker send in bread stamped 1½ lbs. by calling it home-made bread, regardless of our by-law? Acting under the by-law, we confiscated sixteen loaves to-day. Are we acting within our power?

The expression, "fancy bread," used in section 174 of your by-law is a very indefinite one. The by-law should show what was intended to be meant by the word "fancy." If it means bread made of any other ingredients or in any other shape than those usually and ordinarily used and employed by bakers generally, or otherwise different from bread made and sold ordinarily by bakers, and the "home-made" bread seized is such, it should not have been confiscated, but as to this we cannot give a definite opinion, not having the facts before us. Of course your by-law applies to outside bakers of bread and vendors of the same within your town, in the same manner and to the same extent as to local bakers.

Duties of Collector and Treasurer as to Disposal of Township Moneys—Treasurer's Books—Payment of School Moneys.

189 F.—We have no chartered bank in our municipality. Can we legally pass a by-law instructing our collector of rates to deposit all taxes received by him in a chartered bank in an adjoining municipality? See R. S. O. 1897, chap. 228, section 19, sub-section 1.

2. We have passed by-law instructing our treasurer to deposit the monies of the municipality in a chartered bank named by us. Do we require to notify our treasurer in writing of the passing of said by-law, or is verbal notice sufficient?

3. Is the treasurer of a municipality obliged to keep the monies of the municipality in a bank where it may be examined by the auditors even if there is no by-law to that effect?

4. What penalty, if any, are municipal councils liable to if their treasurer fails to use the books prescribed by statute for the keeping of municipal accounts?

5. Should the council of a municipality enquire and see whether or not their treasurer uses the books for keeping the municipal accounts directed by statute to be used?

6. Should the treasurer of a municipality pay to the treasurers of the different school sections all their school monies not later than December 15th each year?

1. No. Section 19 of chapter 228, R. S. O., 1897, does not authorize the council of a municipality to pass a by-law requiring moneys payable to the municipality to be paid into a chartered bank outside of the municipality.

2. Verbal notice of the passing of such by-law is sufficient, but a written notice is always more satisfactory and easy of proof.

3. Yes. See section 291 of the Municipal Act, (subsection 5) which reads as follows: "The treasurer shall open an account, in the name of the municipality, in such of the chartered banks of Canada or at such other place of deposit as may be approved by the council, and shall deposit to the credit of such account all moneys received by him."

4. \$100 for every month it is in default. See subsection 1 of section 7 of chapter 228, R. S. O., 1887, subject to the provisions of subsection 2.

5. Yes. Especially since the statute renders the municipality liable for the treasurer's default in this particular.

6. Yes. See subsection 1 of section 71 of the Public Schools Act, 1901.

Conduct of Business of Local Board of Health.

190—F. G.—Will you please oblige me by telling me if two or three members of the board of health have any right to hold a meeting to pass their own personal account without informing the other members when there is no hurry to do so?

2. Also has the municipal council the right to verify the unjust expenses?

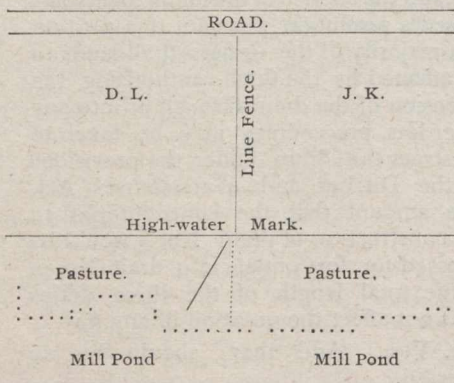
1. The business transacted at a meeting of your local board of health at which only two members of the board are present, would be illegal, as two members do not constitute a quorum of the board. See section 59 of the Public

Health Act (R. S. O., 1897, chapter 248). If all the members of the board were duly notified of the meeting and three members were present at the meeting at which the business was done, and the subject matter of the business was within the authority of the board, the proceedings would be legal and valid. It is not stated how, or for what purpose, these expenses were incurred. If they were legitimately incurred for doing the lawful work of the board we see no reason why they should not be paid.

2. The statute gives the council no authority in this matter. Section 57 of the Act provides that "the treasurer of the municipality shall forthwith, upon demand, pay out of the moneys of the municipality in his hands, the amount of any order given by the members of the local board, or any two of them, for services performed under their direction by virtue of this Act."

Fence Can be Placed in Proper Position.

191—SUBSCRIBER.—In the diagram below there is shown a line fence between the fields of D. L. and J. K., and about sixteen years ago there used to be a fence along the high-water mark. About that time the fence was removed and the line fence continued out to the water's edge, not where it should have been, on the dotted lines in a straight line with the other fence, but as there was a convenient stump a little further down the stream the wire-fence was attached to it. The stump moved a little farther down the stream, until at last about one-half an acre was taken by J. K. from D. L. and enclosed in J. K.'s pasture. Finally, a number of years ago, the stump went down stream altogether but the fence is rebuilt every spring just where the stump was before it finally went down stream. It might be mentioned that the ice nearly every spring knocks the fence down on the pasture lands and it has been rebuilt by J. K. Can D. L. compel the fence to be put back to the straight line where it should have been, and, if so, what steps should he take?



We are of opinion that D. L. can have this fence placed on the proper line, as it has apparently never remained in the same place a sufficient length of time to enable J. H. to acquire any right against D. L. under the Statutes of Limitations.

Drainage in Unincorporated Village.

192—W. A. B.—In this municipality is an unincorporated village situate beside a river, and the surface of the land is considerably lower in some places a distance back from the river bank, which causes the surface water to collect and flood the lots and also the side streets and

the cellars. The residents have applied to the council and to the local board of health for relief. Neither are willing to take action until they are advised as to their responsibility. Who is responsible for the expense, and can the residents claim any relief more than the necessary drainage to remove the surface water? There is no system of drainage other than along the roadsides.

If the owners of the lands in the unincorporated village desire to rid themselves of the water that is occasioning them injury and annoyance, they have their remedy under the Drainage Act, R. S. O., 1897, chapter 226, if the council sees fit to assist them, or the Ditches and Water-courses Act, chapter 285, R. S. O., 1897. The council is not, however, bound to initiate any proceedings to help them.

Assessment of Tenants of Railway Company—Agreement with Company Commuting Taxes.

193—W. H.—In our municipality there are several families living in houses belonging to the railway company (three and sometimes four in the station buildings) who have never been assessed, as they claim exemption on the ground that the railway company pays taxes on their property. Would it be lawful to assess them as tenants or occupants?

2. Some years ago the council then in office, made an agreement with the company's solicitor to have the company's property placed at a certain valuation. Had they power to do so?

3. For the past two years the company have tried to have their assessment lowered. Would that affect the agreement previously entered into with the municipal council?

1. It is the duty of the assessor to assess these persons as tenants of the lands or buildings they respectively occupy, and to bracket their names with that of the owner, the railway company, as required by section 24 of the Assessment Act.

2. We are of the opinion that your council has no power to enter into an agreement of this kind. Section 5 of the Assessment Act, provides that the real estate of a railway company shall be considered as lands of a resident, and section 28, of the Act, provides the method of assessing ALL property REAL and personal (except mining lands) namely, "at their actual cash value, as they would be appraised in payment of a just debt from a solvent debtor." The delivery, by the company, of the statement mentioned in section 31 of the Act, does not affect the assessor's duty to assess the property of the company as directed by section 28, without any interference on the part of the council.

3. No. But we do not think that the agreement is binding.

Councillors Interested in Motion Should Not Vote.

194—A. H.—Can a town council grant a rebate on assessment of town property, when the majority of council are shareholders in the property?

The members of the council, who are shareholders in the company, being interested parties, have no legal right to vote on a motion to reduce the assessment of the company or grant them a rebate of their taxes. In the case of re



Baird and the village of Almonte (41, U. C. R., 415) where four out of five members of a village council, being shareholders in an incorporated company, voted to submit to the electors of the village a by-law granting a bonus to the company, and after the vote, the by-law was passed by a council in which three out of five members were shareholders in the company, the by-law was set aside. And in re Vashon and the township of East Hawkesbury, (30 C. P., 194) a by-law passed by the concurrent votes of three out of five members of a township council, was set aside, one of the three councillors having an interest in the matter apart from that of the public.

Division of Union Municipality Into School Sections—  
Chairman of Local Board of Health and  
Committee of Council.

195—I. F.—The township municipality of C is composed of the townships of B, D, S and R, organized under chap. 225, R. S. O. 1897, is divided into school sections as C No. 1, C No. 2, the sections having seals accordingly. The public school inspector has instructed the trustees to have their seals changed to D No. 1, D No. 2, S No. 1, S No. 2, according to the township in which the school is situated. The municipal authorities claim that these school sections were organized under authority and by virtue of the by-laws of the township of C, and that their schools are not union schools except the section takes in part of an adjoining township municipality or organized territory, and that this view is upheld by section 2, clause 3 of chap. 292, R. S. O. 1897, also section 2, subsection 14, chap. 223. Which party is right?

2. When the local board of health is sitting, or a committee of which the reeve is one, is he entitled to the chair by any other right than that of courtesy?

1. We are of opinion that your construction of these clauses of the Statutes is correct. We presume that the council of your municipality (C) formed of the townships of B, D, S and R, divided the municipality into school sections as provided by section 12 of the Public Schools Act, 1901, (formerly section 11 of chapter 292, R. S. O., 1897,) and these school sections are properly called and known as school section No. 1, etc., of the township of C. (See section 10 of the Act.) We do not think the inspector has any authority to change the names and numbers of these school sections, as intimated, or to insist on that being done by the council.

2. No. Any member of the local board of health or of a committee may be chosen or elected its chairman by the other members.

When Dog is Assessable.

196—D. A. S.—The owner of a five month's old collie pup, when asked by the assessor to give a statement of dogs owned or kept by him, refused to sign the enclosed slip, giving as a reason, that a pup was not a dog until full grown or a year old. Kindly say at what age does a pup become assessable property?

A pup is a dog and becomes liable to assessment as such as soon as it is born. The statutes do not fix any time when a pup is not to be considered a dog and assessable as such.

Arrears of Taxes in Districts—Examination of Books of  
Officers by Ratepayers—A Deficient Levy—Council's  
Power to Purchase Cemetery—General School  
Levy—Tenders for Building School-House—  
Time for Payment of Taxes.

197—ARREARS OF TAXES. — 1. Would you kindly explain the proper method of placing arrears of taxes on land of the following description in districts: A locates a lot, puts no improvements on said lot, is assessed. After one year and thirty days B comes along, and cancels A's claim in the local land office. B finds no taxes against this lot in local land office or registry office. B supposes he is obtaining a free-grant homestead; is improving his lot. Now it is claimed by township council that at the end of three years they can sell a portion of said land to pay arrears of taxes. Claim it is only necessary to register arrears of taxes in treasurer's books.

2. Have one or more taxpayers the privilege in a township municipality in districts, by law, to call upon the clerk and treasurer during office hours to examine said books?

3. A municipal council strikes a rate for municipal purpose sufficient to meet their liabilities. A portion of the taxes remain uncollected, thus creating a deficiency. May the council the following year place this deficiency in their estimate to meet this indebtedness, thus making a taxpayer pay twice?

4. Have a municipal council in districts power to purchase a cemetery? If not, please give proper steps to be taken.

5. Does the \$150 to be raised by municipal council for each and every school section apply to township municipalities in districts? If so, please explain how each section obtains its just share.

6. Is a tender asked by trustees of school section, calling for erection of school house, having specification, but no plans, specified in said tender, legal?

7. What length of time may council extend the payment of taxes in districts? Please state rate of interest that may be imposed?

1. If in saying that B cancels A's location, you mean that B purchased and took over A's interest in the land, then the interest of B in the land, which was formerly A's, can be sold to realize the amount of the arrears of taxes as provided in the Assessment Act, to the extent mentioned in section 188 of the Act; but if, owing to A's default or its surrender by him, the lands had become invested in the Crown at the time B located them, we are of opinion that these arrears are not now properly chargeable against the land, nor could the land, or any part of it, or any interest in it, be sold under the provisions of the Assessment Act to realize the amount of these arrears. B is not in default for any taxes on the land nor would he claim interest through A, the original locatee. B, whose interest in the land could have been properly sold, now has none as it became merged in that of the Crown on the surrender.

2. Any ratepayer may, to the extent mentioned in section 284 of the Municipal Act, inspect the books, papers, etc., of the municipality in the custody of the clerk. The statutes do not contain a similar provision as to books, documents, etc., in the custody of the TREASURER. The council and its auditors have the right to inspect the treasurer's cash-book at all times, but the privilege is not extended to ratepayers generally. In

municipalities in districts, arrears of taxes are to be collected and managed in the same way as the like arrears due to municipalities in counties, etc. (See section 53 of chapter 225, R. S. O., 1877.) Section 163 of the Assessment Act, provides that: "The treasurer shall, on demand, give to the owner of any land charged with arrears of taxes, a written statement of the arrears at that date, etc."

3. The council should endeavor to collect these taxes, but if they are uncollectable by any of the means provided by law, the lawful debts of the municipality will have to be paid, and the council for the following year will have to make provision in their estimates for the levying and collecting of this deficiency. We do not see that this would have the effect of making any ratepayer pay his taxes twice. There is a general asset in unpaid taxes due on hand. The estimates for following year should not refer to deficiency in any special manner.

4. No. Sections 32 and 39 of chapter 225, R. S. O., 1897, enumerate the sections of the Municipal Act that are applicable to municipalities in districts, and section 577 of the latter Act, which confers on the councils of townships power to pass by-laws for accepting or purchasing land for public cemeteries, etc., is not amongst them.

5. Section 70 of the Public Schools Act, 1901, applies to ALL townships in Ontario whether in districts or otherwise. The council of the township is required to levy \$150 at least, for every public school which has been kept open the entire year, exclusive of vacation, and the proportionate part of the \$150 mentioned in this section, when it has been kept open for six months or over. An additional sum of \$100 shall be levied and collected in a similar manner for every assistant teacher, etc.

6. By subsection 4 of section 65 of the Public Schools Act, 1901, it is the duty of the trustees of a school section to BUILD, repair and furnish, and keep in order the SCHOOL-HOUSES, furniture, fences and all other school property. If the trustees, in this instance, do not see fit to mention the plans and specifications in their advertisement for tenders, we see nothing illegal in their not so doing. It is not at all probable that a builder would tender for the erection of the building without first knowing what kind of a building he would be called upon to erect, and to gain this information he would have to consult the trustees or their architect as to the plans and specifications.

7. The collector is required by subsection 1 of section 144, of the Assessment Act, to have all the taxes on his roll collected and to return it to the treasurer of his municipality not later than the first day of February in the year following that in which he received it. In case he does not complete his duties prior to that date, section 145 empowers the council to authorize either him or some other person to continue the collection of the taxes,

but this does not absolve the collector to return his roll not later than the first of February. No interest can be imposed or collected upon the unpaid taxes in the meantime unless the council has passed a by-law pursuant to section 60 of the Assessment Act as enacted by section 4 of the Assessment Amendment Act, 1899. This must be passed before the collection of the taxes is commenced and notice given to each person of the percentage to be added for non-payment.

**Clerk Has No Casting Vote on By-Law—Qualification of Ratepayers.**

198 H. E.—1. Have I, as clerk, the casting vote when the vote is on a by-law, the same as at municipal elections?

2. A ratepayer is on the assessment roll as tenant, and was placed on the voters' list as owner by an error of the printer, and now has become owner this year. Can he vote?

3. Can a person as tenant on the voters' list, and now owner, vote?

4. Can an alien vote if he is on the voters' list?

1. No. Section 635 of the Municipal Act, provides that, "Where the assent of the electors, or of the ratepayers, or of a proportion of them, is necessary to the validity of a by-law, the clerk or other officer shall NOT be entitled to a casting vote."

2. The contents of the voters' list for your municipality, prepared pursuant to the provisions of the Ontario Voters' List Act, have nothing to do with the list of voters to be used at the voting on a by-law. The latter is a special list of persons appearing by the then last revised assessment roll of the municipality, to be entitled, under the provisions of sections 353 and 354 of the Act, to vote on the by-law, to be prepared by the clerk pursuant to section 348 of the Act. Unless this person's name appears on the last revised assessment roll of your municipality, as owner, he cannot be placed on the list of voters to be prepared by you as such, and unless he appears as a tenant on such roll, within the meaning of section 354 of the Act, he cannot be placed on the list of voters to be used at the vote on the by-law at all and therefore could not vote.

3. If the person is assessed as a tenant within the meaning of section 354 of this Act on the last revised assessment roll of your municipality, he should be placed upon the list to be used at the voting on the by-law, but not otherwise. The fact of his now being an owner makes no difference, as he is not assessed as such on your last revised assessment roll.

4. No. See the first clause of the oaths contained in sections 356, 357 and 358 of the Municipal Act. In making out the list of voters, however, to be used, his name should be entered on it if he appears by the assessment roll to be otherwise qualified.

**Adjustment of School Section Liabilities—Small-Pox Expenses—Clerk's Duty as to Furnishing Newspaper Copy.**

199 - G. C. S.—1. In this municipality there were formerly six school sections. Last year he council divided the municipality into seven

school sections, thereby changing the boundaries of nearly all the old school sections. One of the old school sections has raised money by debenture to build a new school house some years ago, which debentures will not be finally paid off until twenty years after the first issue. Some property was taken out of this section and put into another, which will also have to build a new school. No objection was filed against the taking out of above property. (a) Must the debenture rate still be struck on this property until the debt is paid? (b) Will said property also have to help build school in the new section?

2. In cases of small-pox, what part of the expense is the municipality compelled to bear?

3. Is it in any way a part of the duty of the clerk of a municipality to furnish the local paper with a copy of proceedings of council meetings for publication?

1. (a) Yes. Subsection 3 of section 74 of the Public Schools Act, 1901, provides that "notwithstanding any alteration which may be made in the boundaries of any school section, the taxable property situated in the school section at the time when such loan is affected shall continue to be liable for the rate which may be levied by the township council for the repayment of the loan."

(b) Yes, but all rights and claims consequent on the alteration of the boundaries of the several school sections in the township should have been adjusted pursuant to section 43 of the Act, so that the payment of their proportionate share of the cost of building the new school-house would not work an injustice to those whose lands were still responsible for payment of a proportionate share of the former loan.

2. The general rule is that the party in default shall bear the expense of doing what is required of him by the board of health under the provisions of the Public Health Act if he is able to do so. If such party is unable, by reason of poverty, to pay or bear the expense of carrying out the lawful mandates of the local board of health the council of the municipality, through the local board of health, will have to discharge the liability.

3. No. Unless the council specially stipulate that this shall be one of his duties when it employs him.

**An Illegal Provision—A By-Law as to Fences and Fenceviewers.**

200—A. B.—Would a municipal council be within their jurisdiction to include the following provision (among others) in a municipal by-law: "Every person, who wilfully disturbs or interrupts any assembly of persons met for religious worship, or for moral, social or benevolent purposes, by rude or indecent behavior, or by making a noise, either within the place of meeting or so near it as to disturb the order or solemnity of the meeting, shall, upon conviction before a justice of the peace, incur a penalty of not more than twenty-five dollars and costs for each and every such offence, and in default of payment may be committed to the common jail for a period not exceeding twenty-one days."

2. Does subsection 3 of section 545, R. S. O., chapter 223, confer the right upon municipal councils to enact a by-law or by-laws in lieu of the Line Fences Act?

By making provision for calling on fenceviewers to determine the extent and description of division fence to be constructed.

By providing for the enforcing of the award of the fenceviewers.

By making provision for the recovery of the amount of cost.

By making provision for the recovery of cost of fence and costs in case of default to comply with the award of the fenceviewers.

By recovering any or all of the above-mentioned costs by distress or by recovery against the lands to be collected as other taxes.

1. A municipal council has no authority either under the Municipal Act or otherwise to enact a provision of this kind.

2. This subsection provides that townships may pass by-laws "for regulating the height, extent, and description of lawful division fences; and for determining how the cost thereof shall be apportioned; and for directing that any amount so apportioned shall be recovered in the same manner as penalties not otherwise provided for may be recovered under this Act." As to the mode provided for enforcing "penalties not otherwise provided for," see section 704 of the Act. A by-law of the municipality lawfully passed pursuant to the provisions of this subsection, will supersede the "Line Fences Act" to the extent of its provisions. A by-law of this kind cannot legally provide for the collection of the costs from the lands of the party in default in the same manner as other taxes.

**Loan for Laying Sidewalks in Police Village.**

201—A. R.—1. Police village wishes to put down \$1,000 worth of sidewalk. They ask the township council to issue debentures for this amount, spread over a space of ten years. Can the township council do so legally, the council holding sufficient of the police village taxes in their hands to meet the yearly payments?

2. Police village having power to pass by-laws for the purpose of building sidewalks, can they issue debentures themselves to cover cost of same spread over a term of years?

1. The council may raise the amount by the issue of debentures pursuant to section 664 and following sections of the Municipal Act. Provision must be made for the payment of these debentures by the levying of an annual rate, according to the frontage thereof, upon the real property immediately benefited by the construction of the sidewalks. The council has no authority to hold the general taxes due the trustees of the police village, for the purpose of paying these debentures as they mature.

2. No.

**A Non Resident Tenant's Qualification—Township Not Bound to Register Drainage By-Law.**

202—WELLWISHER.—I think you have made a mistake in Question Drawers 165 and 8 of 167, page 51. I have always considered that the clerk has no right to put a non-resident T or F unless the assessor gives him F or T and M F., in part 1, but enter him in part 2. Section 15, chapter 33, O. S., 1900, page 113 amends the Registration Act as to drainage by-laws.

We adhere to our answer to Question No. 165 (1902). A non resident freeholder and tenant are not in the same position as regards their qualification to vote at municipal elections. A freeholder

may vote, whether he is a resident of the municipality at the time of the election or not (see section 86 of the Municipal Act, subsection 1, firstly), but a tenant who is not a resident at the time of the election, and for one month prior thereto, has no right to vote at all at municipal elections. The clerk, therefore, has no authority to place the name of the latter in part two of the voters' list, as this part of the list contains the names of those who are entitled to vote at municipal elections ONLY. His name should be placed in part one of the list as there is a possibility of his becoming a resident of the municipality a month or more prior to the date of the election, and he could thus qualify as a voter. If the tenant does not thus acquire the right to vote, no harm has been done. As to clause 8 of question 167 (1902), the section you quote makes section 398 of the Municipal Act, applicable to townships as well as cities, towns and villages.

**Township Liable for Injuries on Sidewalk in Unincorporated Village.**

**203—SUBSCRIBER.**—1. A sidewalk has been built in an unincorporated village in this township by public subscription and free grants work. Said sidewalk is getting out of repair. Is the township liable for injuries sustained by any person by reason of it being out of repair?

2. Would it make the township more liable if the pathmaster spends statute labor money and work to repair it?

3. Would the council assume the sidewalk by giving a grant to repair it?

1, 2 and 3. Your municipality is in the same position as regards the sidewalks, as were the defendants in the recently decided case of Madill vs. the Township of Caledon (3 Ont. Law Rep., p. 166). In this case it was held that a township municipality was liable, in damages for an injury arising through the non-repair of a sidewalk on a highway within its limits, notwithstanding the fact that the sidewalk was built by voluntary subscription and statute labor, and although the municipality never assumed any control over it, nor was any public money or statute labor expended on it with the knowledge of the council, where the latter was aware of the existence of the sidewalk and there has been opportunity and time to repair it.

**Share of Taxes to Be Allowed Police Villages.**

**204—E. R.**—1. The ratepayers of police village, through the police trustees, presented a petition to council of municipality to grant the petitioners their taxes, exclusive of school and county rates, to do as they saw fit with the money in villages. Is this legal or has council power to grant the police trustees money in this way? If not, you will oblige by answering, as we do not want to get into trouble. Some of the councillors contend that we have power to grant the petitioners the request in the above way.

Section 740 of the Municipal Act, provides that, "the rate levied for police village purposes, by the council of the township in which the police village is situated, upon the property liable to assessment in such village, shall be in lieu

of such proportion of the township rate now levied for the same or like purposes, within such village, as the trustees and the council may, by agreement, provide." If the council see fit to pay over to the trustees, for the purposes of the police village, all the taxes levied therein, for general township purposes, it has a perfect right to do so.

**Township School Levy.**

**205—D. L.**—Our township has been in the habit of raising, by a special township rate, the sum of \$150 for every public school. In the statutes of Ontario, 1901, chapter 39, section 70 (1) page 140, it is stated that the council shall raise "the sum of \$150 at least for every public school," but we do not read of any limit being set at which we must stop. Would the editor of THE WORLD say if our council would be justified in raising \$250 instead of \$150 by special township rate, or would we have authority under the above statute to levy all the money required by special township rate instead of "at least \$150" by special township rate and the balance by a local rate on the ratepayers of each school section as they may require a larger or smaller amount as we have been doing?

It is doubtful whether a council can, under section 70 of the Public Schools Act, levy more than \$150 for each school which has been kept open the whole year, exclusive of vacations. In the case of Regina vs. Smith, 16 O. R., 454, the Queen's Bench Divisional Court held that the words "not less than \$50" and "not less than \$100" in the Canada Temperance Act, should be construed as "\$50 and no less" and "\$100 and no less." In using the words "at least," in section 70 of the Public Schools Act, we are inclined to think that the legislature intended to make it clear that \$150 must be raised in each year, rather than to fix the minimum amount.

**Assessment in Villages.**

**206—C. A. C.**—I am assessor of this town and we are taxed very high to meet the requirements of the village. The small properties around town are taxed within a small margin of their actual value, and we have only three persons whose salary is above \$700, but we have a large number who earn large amounts on trades, offices and professions, including doctors, lawyers and private bankers, who go scot free up to date. Now, I wish to more evenly raise this assessment if I can by taxing on income from these sources if it is lawful. I will give you an example of the position to figure out for me.

Dr. A had a drug store.....	\$ 900 00
Income from profession.....	2,000 00
Interest on \$10,000, at 5%.....	500 00
From rentals, village property.....	456 00
From farm rentals.....	240 00
Profits on last year's business in drug store.....	900 00
	\$4,996 00

Can I assess him on the above income, and is it legal?

The following statements will show the extent to which real property and incomes, mentioned in your question, are assessable. The section numbers refer to that portion of the Assessment Act authorizing you to enter the values in the roll.

Drug store assessable.....	\$900
See section 28.	
Income from profession.....	\$2,000
Section 35.	
Income from \$10,000.....	500
Section 32.	
Village rents exempt.....	
Section 7 (27).	
Farm rents exempt.....	
Section 7 (27).	
Drug business income.....	900
Section 35.	
Total income.....	3,400
Income exemption.....	700
Section 7 (26a).	
Total assessable income.....	\$2,700 2,700
Section 35.	
Total assessment.....	\$3,600

**Authority for Payment of Township Moneys.**

**207—X. Y. Z.**—Council passed a resolution that counties might use certain material, on condition that said counties complete a certain grade, the larger part of which, if not all, they were required by law to erect. Reeve next year agreed to give over \$100 in addition to the material in question. He reported the arrangement to council but they took no official action, and it seems that neither the reeve nor council knew of the resolution of former council. When work was completed, reeve drew an order on treasurer for amount, and in the audit it appears in his commission account although he was not commissioner where the work was done.

1. Who should have drawn the order?

2. Is the transaction legal?

3. If not legal, to what extent are parties responsible for money thus paid?

1. This order should not have been issued or drawn by anyone until the council had, by resolution, authorized its issue. It could then be prepared, signed by the officer or officers, whom the council authorizes to sign checks or orders generally, and handed to the party entitled to receive it.

2. No, as we understand the payment was not authorized by the council.

3. The treasurer should not have paid any money on the order of the reeve without first satisfying himself that the council had authorized the payment by by-law or resolution, and, in the absence of either, a by-law or resolution of the council authorizing its payment, we think he is liable to the municipality for the amount. See section 290 of the Municipal Act.

**Councillor Can Be Appointed Inspector of Work.**

**208—X. Y. Z.**—This corporation intends building a retaining wall of masonry, and one of the members of the council is a practical stone mason. Could council appoint councillor as inspector of this work?

There can be no objection to the appointment of this councillor to oversee or superintend the doing of this work. Clause (a) of subsection 1 of section 537, of the Municipal Act, provides that "Nothing in this Act shall prevent any member of a corporation from acting as commissioner, superintendent or overseer, over any road or work undertaken and carried on in part, or in whole, at the expense of the municipality; and it shall be lawful for the municipality to pay such member of the corporation acting as such commissioner, superintendent or overseer."

**By-Law Cannot Be Repealed by Resolution—The Assessment Roll Must Govern.**

**209**—N. P.—1 Can a municipal council, by a resolution only, repeal and set aside this year a by-law commuting statute law passed in 1901?

2. In April 1901 A, the assessor, assessed B, but through a mistake A forgot to enter on the slip the amount of B's assessment. The slip with blank amount was left with B, but the latter did not appeal. This year B comes before the council and claims to have been over-assessed. Has the council the right to make any deduction on B's assessment of 1901, or taxes?

1. No.

2. No. See section 72 of the Assessment Act, and our answer to Question No. 211 in this issue.

**Drainage of Surface Water.**

**210**—P. E. G.—A lives on his farm, which lies east of the concession road, which is separated from said farm by a watercourse running along said road, which road runs from north to south. The spring waters gather round A's buildings, seriously impeding his egression. The watercourse, before mentioned, is completely blocked with snow and is of no use for the time being. A cuts an outlet through a big snow and ice bank which runs along the road between it and the big ditch, and the water runs on across the road and spreads upon B's premises which lie west of said road in front of A's farm. Now there is no ditch or watercourse between said road and B's farm.

1. Has A the right to cut such outlet for getting thus rid of the water?

2. So far B has suffered no damage from that water, but, in the event of him suffering any, could A be held responsible?

3. Can the proceedings laid down in the Ditches and Watercourses Act be applied in this case?

1. A has no legal right, by cutting through a bank, or other artificial means, to conduct water off his lands on to those of B.

2. Yes, and could be restrained from so offending in the future.

3. If the surplus water cannot be conducted from A's land without the construction of drainage works, the provisions of the Ditches and Watercourses Act may be invoked.

**Assessment Roll Must Govern.**

**211**—J. C. C.—It has just come to the knowledge of the council that in spring of 1901 a ratepayer was assessed on his assessment notice for \$500, but by some blunder the assessor put it on the roll as \$600, on which latter amount he paid taxes. He now asks the council to refund the tax on the excess of \$100.

It looks as if morally he is entitled to it, but can council legally refund it?

Section 72 of the Assessment Act, provides that, "the roll, as finally passed by the court, and certified by the clerk as passed, shall, except in so far as the same may be further amended on appeal to the judge of the county court, be valid, and bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll, or any defect, ERROR or MISSTATEMENT in the NOTICE required by section 51 of the Act, or the omission to deliver or transmit such notice. In

view of this section, the amount mentioned in the assessment roll must form the basis for the man's taxation, and the council has no legal authority to grant any refund of his taxes.

**Qualification of Reeve—Conduct of Election—Not Part Payment of Taxes—Treasurer's Bond—Bridge on Stage Road.**

**212**—C. B.—1. If a pathmaster is elected reeve, can he be unseated?

2. Can a voter put up notices on polling-booth door, "Please vote for A. B. for reeve?" or can he be punished for doing so?

3. A non-resident, whose tax-bill is for taxes on land and for ditching, sent a post-office order for land-tax and the collector sent him word that unless the whole amount was sent he would return the order. He cashed the order and returned the money. Could the cashing of the order be considered accepting part payment?

4. Our council fixes the paid officers' salaries, then advertises for applications. In question 133, March number, you say that is wrong. We reappointed the treasurer; we appointed him by by-law and the by-law was not repealed when the application was asked for. Is the treasurer's bond still good?

5. On a mail-stage road, a bridge requires rebuilding. To stop the road gives the stage two miles and a half more travel. The stage driver claims the right of going through a farm and fording the river at a risk, and making the council liable for damages to farm or otherwise. Is the council obliged to furnish a temporary road and run all risks or can he be made to go around the two and one-half miles until the bridge is built?

1. No, not simply because he is a pathmaster.

2. There is no legal objection to the proceeding.

3. No, if he returned the amount of the order to the person who sent it.

4. We are of the opinion that, under the circumstances, it is necessary that the re-appointed treasurer should give a new bond as it might be held that the advertising for officers, which would include the treasurer, coupled with his re-appointment, operated in the same manner as if a new appointment had been made. The point is debatable but there is sufficient doubt about it to make it wise for the council to insist upon a new bond.

6. We are of opinion that all the municipality is bound to do in this matter is to build the bridge as expeditiously as possible, in the meantime taking all proper and necessary precautions to warn the public of the dangerous character of the spot where the bridge is being constructed.

**Time Within Which Action Against Municipality Should Be Brought**

**213**—G. S.—See subsection 3 of section 606 of the Municipal Act.

1. Should an animal get hurt in a ditch or snow-bank, from the effect of which it may die in three or four weeks or, for that matter, in one week from the date of the accident, would the corporation (township) be held liable for the value of the animal, provided the owner does not give the notice within thirty days from the date of the accident, to the day of mailing the notice or to the day the township official receives it?

2. Should no such notice be given, but notice given within thirty days of its death, would corporation be liable?

1 and 2. He cannot succeed in an action against the municipality unless notice in writing of the accident and the cause thereof, has been served upon or mailed through the post-office to the reeve or other head of the corporation, or to the clerk of the municipality within thirty days AFTER THE HAPPENING OF THE ACCIDENT. If the notice is mailed, thirty days must be computed with reference to the date of mailing and not from the time of its receipt, and such thirty days must be computed from the date of the accident and not from the death of the animal.

**Duties of Clerk—Establishing a Division Line.**

**214**—F. L. T.—1. I was appointed by the following resolution:

R. M. S.—J. G.—That F. L. T. be engaged as clerk for the year 1902 at a salary of \$45 per year, and that his duties at that salary include all services required of him as clerk of the council and all duties required of him by statute.—Carried.

I thought it was only for municipal council work and for the year 1902 only. At the first meeting of the council I perceived the mischievous flaw in the resolution. Other aims are at the horizon. Does such a resolution necessarily include the work of clerking for the magistrate, or anything connected with such a court, and also the work of refiguring the assessment rate for each ratepayer for last year? All the rates being wrong for 1901, then, subtracting from and adding to (as the case may be) the tax of each individual, and then, transferring the over-pay or arrears (as the case may be) opposite the name of each ratepayer in the collector's roll for this year 1902?

2. Two farms are separated by a blind line of which the real location has not been determined by a surveyor. But one of these farmers cuts hay on his neighbor's meadow, which can easily be determined by witnesses to be eight to ten chains beyond the blind line. Can this be settled in court with witness alone, without the intervention of a surveyor?

1. Clerking for a magistrate is not a duty or service to be performed for the council, and the township clerk is under no obligation to do the work, nor is it a duty imposed upon or required by statute of the clerk of a municipality by virtue of his office. If a justice of the peace or magistrate desires the clerk of the municipality to act as his personal clerk, he should pay for the work he performs. We do not understand the exact nature of the service the council is requiring you to perform in connection with the assessment and collector's rolls for the last year, but if the alterations and adjustments mentioned can be legally made, we think the work comes within the range of the language used in the resolution appointing you, and that the council can require you to do it without extra pay.

2. In order to prove to the satisfaction of a court or judge that one of these parties is cutting or has cut hay upon his neighbor's land it will be necessary to definitely locate the dividing line between them. If the original posts or monuments have disappeared and there is no person who can prove where they stood it will be necessary to call on a provincial

land surveyor to locate the line in accordance with the rules laid down in the Land Surveyors' Act.

A Drainage Case.

215—R. M.—About thirty years ago a drain was constructed by the government, in this township. A few years after the village of N was incorporated and part of said government drain No. 6 was included in their municipality, leaving the original drain situated in the township in two parts. A few years after construction, a petition was presented to the township council, requesting that said drain be put in good order. The then township council instructed the engineer to report on said drain, which was done and a new assessment made of the lands benefitted, I think with the concurrence of the municipality of N. After a few years more another petition was again presented to the township council, requesting that what is known as government drain No. 6 be put in proper repair. The council instructed their engineer to report upon said drain, which was done. He reported said drain out of order, and as the petition was from parties at the head of said drain, he reported that it required cleaning out and in some places deepening and widening from the head of said drain until about eighty rods in the municipality of N, where said drain crosses the right of way of the G. T. R. railway at a culvert which has not been lowered since the construction of said drain, and the engineer reported that if said culvert was not lowered the water backed up said drain to the injury of the owners of the lands adjoining the municipality of N. The municipality of N, by their council and owners, did not want said drain cleaned out, nor yet the railway culvert lowered. The township engineer reported that drain No. 6 be cleaned out to the railway culvert, and assessed the lands and roads of this township to pay the total cost of said repairs to No. 6 drain, which was done under the Ontario Drainage Act. No agreement was ever entered into by this municipality or the municipality of N in regard to lowering said culvert as required by section 85, subsection 2. Now A, a resident of the municipality of N, notified the council of this township, through his solicitor, last October, that he required the municipality to extend said drain further to a suitable outlet, and also that he held this township liable for damages to his land which adjoins the railway lands after said drain passes through said railway culvert which the engineer reported as damming up said drain to a certain extent. Now the questions are:

1. Is this council compelled to extend said drain further than said engineer's report requires?
2. Is this township liable for damages to A for his alleged damage to his property?
3. Does not section 70, subsection 1 and 2, Ontario Drainage Act, give the council of N full power to maintain said drain?
4. Has this township council power to extend said work through the municipality of N when there is no petition or complaint from any owners of this township?
5. As a tenant of N, would it not be his proper course to petition the council of N?
6. When such work as deepening a railway culvert requires to be done and the owners liable refuse to file their consent in writing with clerk of the municipality as required by section 85, sub-section 2, Ontario Drainage Act, how is said work to be done?

1. Compliance with the engineer's report may not be a sufficient answer to an application to the court to compel the council to maintain the drain in question. If the drain, when repaired or altered or extended according to the engineer's report, does not carry off all the water flowing into it, and by reason thereof,

injury is caused to property, the municipality will, nevertheless, be liable.

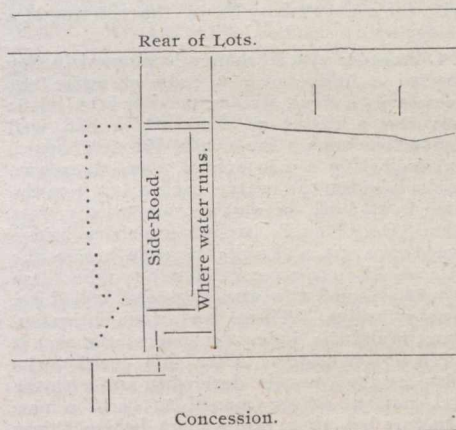
2. If A can prove that his property suffered damage by reason of the neglect of the township of M to keep that part of the drain in repair while it was its duty to keep it in repair, the township is liable in damages.

3. Section 70 simply apportions the maintenance of a drain between or among different municipalities. Section 75, however, gives the council of any municipality, whose duty it is to maintain the drain, authority to initiate proceedings for the better maintenance of the drain.

4. Yes.
5. We do not think so.
6. It cannot be done without the consent of the majority of the owners, so as to make them liable for any part of the cost of such work.

Water Should Not be Taken Out of Its Natural Course.

216—M. H.—The surface water of two lots was directed out of its natural course about twenty years past, and was made to run down in the ditch on the side of the road, and said ditch is now becoming so deep and wide as to be dangerous to the travelling public. Could the township engineer make an award so as to put the water across the road, it being the natural course? Would it make any difference that the water has run so long in the road ditch? In diagram the dotted line is the natural course.



This water should not have been conducted out of its natural course by the excavation of a runway on the roadside, and the action of the council, or person or persons who were responsible for making it, was illegal. The drain, since it has now become dangerous, should be filled up, and the parties interested or concerned, left to their remedy under the Ditches and Watercourses Act, R. S. O., 1897, chapter 285. The engineer, regularly appointed for the purpose, pursuant to subsection 1 of section 4 of the Act, may make an award providing for the conducting of the water along what he considers its natural and proper course, provided and after all the preliminary proceedings, prescribed by the Act, have first been taken by the party initiating proceedings. The length of time the water has run in its present course (the ditch along the roadside) does not affect the question at all.

Pay of Assessor for Equalizing Union School Section—Duties of Fenceviewers.

217—SUBSCRIBER.—1. Is the assessor of a township entitled to any extra pay for equalizing union school sections? If so, where does his pay come from? The statute does not seem clear on this point.

2. Have fenceviewers any power to order, by their award, a new wire fence to be made between lands of occupied owners without giving six months' notice as provided by section 15, chapter 284, Revised Statutes Ontario, where a crooked rail-fence now stands? Neither owner has given the other owner any notice of their intention of taking down such crooked rail-fence, neither have the fenceviewers made any allowance for such old fence.

In order to make my last question a little plainer:

The owner of one lot notified the owner or occupant of another lot that the fenceviewers would be there on a certain day. They came, made their award for a new wire and post fence where a crooked rail-fence formed the boundary line between them. The fenceviewers did not mention in their award anything about the old fence. After the time for appeal was up, the party wanting the new fence attempted to take down and remove part of the old fence and the opposite party had him arrested for trespass and stealing. The case is not settled yet. When the fenceviewers presented their award to the council, council referred the matter back to them and at the same meeting put three new ones in their place, council not thinking the award any good as it did not specify who the owner or occupant of any lot was.

1. According to the view of the Education Department the assessor is entitled to pay for doing this work, and payment should be made him by the union school section. The following is a letter from the Deputy Minister of Education, on the subject:

Dear Sir:—I am directed by the Minister of Education, to state, in reply to your letter, that the work of the assessor becomes that of referees or arbitrators when engaged in equalizing the union school section's proportions, and their payment should be from the funds of the union section.

Your obedient servant,  
JOHN MILLER,  
Dep. Minister.

Toronto, 20th Feb., 1896.

See also, our article on "assessors' pay for equalizing union school section assessments, on page 160 of the WORLD for 1901 (October issue), and the report of a case involving this point, decided against the township of Douro, in the third column, on page 178 (November issue).

2. It is in the discretion of the fenceviewers as to what kind of a fence they award, to be made by the parties to a dispute. Subsection 1 of section 7 of the Line Fences Act, R. S. O., 1897, chapter 284, provides that their award "shall specify the locality, quantity, DESCRIPTION and the lowest price of the fence it orders to be made," and subsection 2 that, "in making the award, the fenceviewers shall regard the nature of the fences in use in the locality, the pecuniary circumstances of the persons between whom they arbitrate, and, generally, the suitability of the fence ordered to the wants of each party." Clause (a) of subsection 1 of section 15 of the Act, providing for

the giving of six months' notice, does not apply to a case where an award has been made by fenceviewers under this Act, but clauses (b) and (c) do. From what is stated, however, the award seems to be considered bad, on other grounds. As to this, we cannot give an opinion, not having a copy of the award or a full statement of the facts before us.

**Duty of Assessor—Prevention of Driving on Sidewalks.**

**218—VILLAGER.**—1. Please state in your next issue if assessor is compelled to go on owner's property to assess. Owner has a vicious dog. Assessor at next neighbor's house assessed his property. Owner met assessor a few days after on the road and complained that he had not come to his house. Assessor gave his reason concerning the dog and offered, if he had done anything incorrect, to make it right then. Neighbor refused and insisted the assessor must come to his house. Is he compelled to do so?

2. A village has a sidewalk made by the people with private work supplemented by aid from the council. When the spring break-up comes, some teamsters leave road and drive over it, cutting it to pieces and spoiling it. These people claim the right to do so, principally because the council made appropriations towards repairing the road in this way. Can it be stopped, and how?

1. The only remedy which the person assessed has is to appeal to the court of revision, if he is dissatisfied with assessment of his property.

2. This practice can be stopped if the council pass a by-law pursuant to section 560 of the Municipal Act.

**Duty of Treasurer—Removal of Shade Trees—Damages for Removal of Fences in Winter.**

**219—TREASURER.**—1. Does the reeve's order relieve the treasurer from responsibility? in other words, is the treasurer bound to pay the amount of any and every order issued by the reeve, whether same has been passed by council or not?

2. Can council order shade trees in road opposite my premises and on my side of said road, cut down, without my permission?

3. Have council any right to pay damages to parties who have allowed their fences to be thrown down and the public to cross their fields during the winter? or should pathmasters keep roads open?

1. No. Section 290 of the Municipal Act, provides that the treasurer "shall pay out the moneys belonging to the corporation, to such persons and in such manner as the laws of the province and the lawful by-laws or resolutions of the council of the municipal corporation whose officer he is, direct." The treasurer has no right to pay township moneys on the order or orders of the reeve alone, unless there is a resolution of the council directing it.

2. The council can cause these shade trees to be removed, by passing a by-law pursuant to the provisions of section 574 of the Municipal Act, and subject to the terms and conditions of this section.

3. If these parties have voluntarily consented to the removal of their fences and to allow the public to travel through their fields, they cannot now recover compensation or damages from the

municipality. If the council of your municipality passed a by-law appointing pathmasters, pursuant to subsection 3 of subsection 537 of the Municipal Act, they should have kept the road allowance open in the manner provided in this subsection.

**What is a Bridge?—Length of—Liability of Municipalities for Building and Repairing Bridges and Approaches.**

**220—G. A. A.**—The statutes say that county councils shall erect and maintain bridges over rivers, streams, ponds or lakes.

1. What is a bridge?

2. What does bridge *over* mean?

Here, for example, is a pond twenty feet deep, which is 400 feet from bank. The county council decides to build a bridge but they say as it is practically dead water a very short bridge or possibly a culvert will do. They build a bridge eight feet long and place it at one bank, then they grade up earthworks about sixteen feet high for 100 feet more, making in all 110 feet. This they call bridge and approach, which they say is all the statutes require them to do. The remaining portion, 290 feet of the "approach" must be built by the local municipality. The local municipality contends that a bridge over means from bank to bank of whatever material the county wishes to build, of course, and also contends that the spirit as well as the wording of the Act has been violated. Instead of the county helping the local municipality they are now inflicting a hardship on it in asking it to construct 290 feet, while the county only erects 110 feet, and if this is law the local municipality would prefer not to have a bridge at all.

3. Has the speed of water anything to do with the county's duty as to the erecting of a bridge over a pond or lake?

4. Another case is where a local municipality erected a bridge over a body of water not necessarily a river, stream, pond or lake but it was over a ravine or creek which had well defined banks near the mouth, 198 feet apart, but the bridge had to extend from those two banks because the water backed up from the river to a depth of eighteen or twenty feet deep. Only for this backwater a short bridge over the ravine and a slight grade across the flats would do to accommodate the public. One county assumed this structure and called it a county bridge. There was some litigation about it and the judge decided in brief that it was a county bridge. After this decision the other county councils decided to join with the first named county council to build a new structure but they said a short bridge thirty feet long would do. They jointly build a thirty foot span near one bank and 100 feet "approach," making in all 130 feet, leaving about 70 feet for the local municipality.

In view of the decision, saying that was a county bridge, and in view of the fact that they assumed the bridge by proceeding to rebuild, and in view of the fact that the statutes, sections 613 and 616 say that county councils shall have exclusive jurisdiction over bridges assumed by them, etc., how is it that said councils did not erect a bridge or passage all the way over the pond or backwater from bank to bank instead of leaving about 70 feet for the local municipality?

5. If they had power to tear down the old structure 198 feet long, did they not have equal authority to rebuild as per section 616?

6. Is there anything in the statutes where it says the local municipality shall build or erect approaches?

I can only find "keep up" and "maintain," and that seems to apply to the passing of a bridge from the authority of one council to another. In such a case 100 feet at each end of the bridge goes with it and, in such a case, these portions of the roadway are called "approaches."

1. The question as to whether an artificial structure over a river, stream or creek, is a bridge or culvert depends on the circumstances of each case. In the case of Township of North Dorchester vs. County of Middlesex (16, O. R., p. 659), the question was whether the bridges over Doty's Creek, Kettle Creek, and Caddy's Creek, each of which is a stream crossing a boundary line between two township municipalities, were "bridges over rivers" within the meaning of section 535 of the Municipal Act, R. S. O., 1897, chapter 184, now section 617 of chapter 223, R. S. O., 1897. At Doty's Creek the span of the bridge was 67 feet; at Kettle Creek, 31 feet 6 inches and at Caddy's Creek, 9 feet. It was held that the bridges over Doty's and Kettle Creeks were "bridges over rivers" within the meaning and intention of the statutes and that the duty of erecting and maintaining them rested on the county council, but that the bridge over Caddy's Creek was not such a bridge.

2. In measuring the width of a stream to determine whether it should be bridged by the local municipality or the county, the fact that at certain periods of the year, after heavy rains and during freshets, the waters of rivers and streams are much swollen, and raised to a great height, and a bridge, therefore, which is designed to be the means of connecting the parts of a main highway, leading through a county, which are separated by a river, must necessarily be so constructed as to be above the waters of the rivers in such periods, and the width of the rivers at such periods must, therefore, be taken into consideration in every case in which a question arises as to whether the local or county municipality should bridge such river.

3. Yes.

4. If the bridge built by the counties is sufficient within the principle laid down in the answer to Question No. 2, they have done all that the law requires them to do. As we understand the facts of the case, however, we doubt very much if the county councils have complied with the law in what they have done in this case. It seems to us that as the court held that the water in this case was a stream, lake or pond which the counties should bridge, the counties could not cut down their liabilities by erecting a structure spanning part of the water and then fill up the balance and call it a part of the approaches.

5. Any answer we may give to this question will not, we fear, help you, because there is a wide difference between what the county may voluntarily do and what it is compelled to do by law.

6. Yes. See section 605 of the Municipal Act. We do not construe this section as you do. But for this section we do not think a county would be bound to build any approaches, but this section requires it to build the necessary approaches to the extent of 100 feet.

Your idea is that the county must build the necessary approaches in their entirety and that the local municipalities are only bound to maintain them after they are no longer beyond the 100 feet, but with you we cannot agree.

#### Collection of Arrears of Taxes.

221—W. R. M.—A lot of 100 acres was advertised in 1897 to be sold for arrears of taxes, and it was sold at adjourned sale on January 27th, 1898. Now there are arrears of taxes against the said lot for the years 1897, 1898, 1899, 1900 and 1901. Can these taxes now be legally collected if the party owning said land refuses to pay them? Can the land be sold for the taxes at next tax sale, and if they cannot all be collected, for what years can they be collected? A party has just bought the land and he seems to say that the taxes for all these years cannot be collected.

If the different municipal officers have performed all the duties required of them, by the Assessment Act, in respect of these arrears of taxes and the lands were "unoccupied" during the years for which they accrued, the arrears, for the years named, can be realized by sale of the premises in accordance with the provisions of the Assessment Act.

#### Municipality's Liability for Defect in Highway.

222—W. H. B.—1. If parties building, dig holes on the side of the public highway in township, and the council know nothing about it, and a farmer turns his horses into his yard to water and they break into the road and one of them falls into one of the holes dug on side of road and is nearly killed, and left unfit for work, can the owner of horse come on the township for damages, or should he come on the parties who dug the holes, as there are four or five. These holes were dug to take out building sand, I understand. This case came before our council yesterday and we decided that he should come on the other parties, as we were not responsible to him.

2. On a concession in our township there is a very steep bank down to river, and the water going down the ditch on side of road to river. The freshet every spring washes out a quantity of dirt on this bank and when water gets scarce on the farms they drive the cattle down this steep bank to get water. One farmer, especially, notified us yesterday that if we did not make this place safe for him before July and anything happened to his stock by falling into this washout he would come on the township for damages. There is no bridge over the river here and water is very deep. We told him he could not bluff the council in that way. These are the facts as near as I can tell. Can we prevent him turning his cattle on to the road to get water, as the river runs through his farm at back, and he could build himself a lane to the river?

1. Your council should take steps to prevent the excavation of these holes on the highways, otherwise there is a constant risk of actions for damages being brought against the municipality by parties sustaining injury by reason of their existence. We are of opinion that your council is not liable, in damages, to the owner of the horse injured, as it had escaped from its enclosure and was running at large, unattended, when the accident happened.

2. The council cannot prevent the turning of his cattle out into the highway by this man, but if he does so, knowing

of the existence of the dangerous locality, and being morally certain that his cattle will seek it, and thereby sustain injury, if they are injured, the municipality will not be liable to the owner, in damages, for the injury sustained. The council can pass a by-law prohibiting cattle from running at large. See section 564 of the Municipal Act, subsection 2.

#### No Statute Labor in Incorporated Village.

223—A. E. S.—Can statute labor be levied and collected in an incorporated village? As far as I can find, from reading the statutes, there does not appear to be any provisions regarding villages, similar to that contained in section 102 of the Assessment Act, respecting townships. The only provision I see, affecting villages, is \$1 from male inhabitants twenty-one to sixty years, not otherwise assessed, or whose taxes do not amount to \$2. This village has been in the habit of collecting statute labor on a sliding scale, similar to the provisions of section 102, but it seems to me that any ratepayer might lawfully refuse to pay the sum so added for statute labor.

Section 102 of the Assessment Act, applies to townships only. The course hitherto pursued by your village, in this regard, is, therefore, illegal, and any ratepayer is justified in refusing to perform the statute labor or to pay the commutation tax charged against his lands. The only provision as to statute labor in villages, is contained in sections 97, 98 and 99 of the Act. Section 107 makes provision for the enforcement of the payment of commuted statute labor in villages.

#### Changing Boundaries of Union School Section.

224—T. R. K. S.—There is a union school section, composed of parts of townships O and N, with the school building in the village of S, on the N side. Now the trustees of said union section and a number of ratepayers in said union section and other adjoining school section have petitioned the council of O to enlarge the boundaries of the union section by taking in parts of two other sections in the township of O. Now, can the council of O change such boundaries, or would they have to appoint an arbitrator in accordance with section 46, School Act, 1901?

The council of O cannot change the boundaries of the union school section in question. The change, if any, must be effected by arbitrators appointed in the manner provided by section 46 of the Act.

#### Exemption from Statute Labor—of Town Offices from Taxation—Interest Should Not be Charged School Board by Town.

225—J. H. K.—1. This township, some years ago, granted exemption from taxation to a saw-mill established here. During the time they have performed the usual road work which the law requires them to do. This year, however, they have not done any road-work, and contend that the exemption from taxation also exempts them from road-work, and I shall be glad to know if this is correct?

2. The clerk and treasurer of this town are each paid a certain salary, no allowance being made for office rent, lighting and fuel. At the present time, the council chambers, the clerk's office and the treasurer's office are all in one block of buildings belonging to a private individual, the town paying rent for the council chambers, and the clerk and treasurer both

paying rent for their respective suites of offices. The bank, which has a branch in the town, is now erecting a very handsome structure, the two upper flats of which will be occupied as follows: First flat, clerk's offices and treasurer's offices; second flat, council chambers. But in making lease with bank, the clerk and treasurer both agreed to pay a certain rent without taxes, it being contended in our court of revision in former years that property occupied by town officials was not assessable. Our assessor, however, states that he intends to assess the bank for the whole building, and if he does the bank will consequently have to increase the rent. Kindly say if the portion of this property, occupied by council and officials, is liable to taxation?

3. This town advances the school board money, as required from time to time, amounting in all to about \$5,000 during the year, and, as the treasurer of the town, I have heretofore charged them bank interest on amounts so advanced, as the town does not get this money until the taxes are collected in December, and consequently have to pay the bank interest for the money so borrowed. This year, however, the school-board refuses to pay this interest, contending that the town is bound to furnish them with whatever money they require, without interest. Kindly say if this is correct?

1. Unless the by-law, exempting the saw-mill from taxation, also contains a specific exemption as to statute labor, the owners are liable for the performance of the statute labor properly chargeable against this property, or for payment of the commutation therefor. It is doubtful, however, whether a council has the power to exempt any particular property or individual from the performance of statute labor or the payment of commutation, as no authority of this kind is conferred by the statutes.

2. It has been held, under subsection 1 of section 7 of the Assessment Act, that property whether freehold or leasehold, in the use or occupation of the Crown or of any person or persons in his or their official capacity as servants of the Crown, is not assessable (*Shaw v. Shaw*, 12 U. C. C., P. 456), but the language of this subsection and that of subsection 7 is not the same. The former refers to "all property vested in or held by Her Majesty, etc." and the latter to "the property belonging to any municipality, etc." The premises occupied by the clerk and treasurer in this instance do not belong to the municipality but to the banking corporation, and are therefore properly assessable to the latter.

3. We agree with the contention of the school board. Subsection 9 of section 65 of the Public Schools Act, 1901, provides that it is the duty of the trustees "to submit to the municipal council on or before the first day of August or at such time as may be required by the municipal council, an estimate of the expenses of the schools under their charge for the current year." Assuming that the trustees have complied with this provision, subsection 1 of section 71 provides that the council shall levy and collect upon the taxable property, etc., such sums as may be required by the trustees for school purposes, "and shall pay the same to the treasurer of the public school board from time to time, as may be required by the board for teachers' salaries and other

expenses." If the council has to borrow money for this purpose it has no authority to charge the school board with the interest it has to pay on the loan.

#### A Lost By-Law.

226—R. J. B.—A by-law, dividing the municipality into school sections, has been lost. The sections are formed, and three new schools have been built. One school section now objects, although the by-law was passed in 1900 and came into force January 1st, 1901. The by-law is not registered. Kindly let us know, through the columns of your valuable paper, what we can do to replace it?

If there is a copy of the by-law which some person can swear was compared by him with such by-law, and that the same is a true copy of such by-law, that will be sufficient proof of the by-law, assuming that there is also proof that the by-law itself was duly passed and under the corporate seal of the corporation, or the person who compared it can swear what it contained, that will be sufficient proof. Satisfactory proof of the loss of the original by-law, and that proper search for it has been made and that it cannot be found, must be first given before evidence of what it contained can be given. If the by law cannot be found and proof of its contents cannot be made, the only course left is to pass a new by-law.

#### Penalty for Refusing to Perform Statute Labor, and for Overseer Neglecting to Perform His Duty.

227—SUBSCRIBER—1. Please inform me the amount of penalty for any person refusing to perform statute labor during the sleighing season in shovelling snow?

2. Also what penalty for an overseer neglecting or refusing to look after such work?

1. The only remedy provided in such a case is that contained in section 110 of the Assessment Act.

2. Section 537, of the Municipal Act, provides for the appointment of overseers, and in order to constitute a person an overseer, a by-law must be passed appointing him such overseer, and in order to impose a penalty upon him for neglecting or refusing to perform his duties as such overseer, another by-law must be passed under the authority of section 702 of the Municipal Act.

#### Neglect of Police Village to Elect Trustees.

228—CLERK.—A village in this township was some years ago made into a police village by by-law of the county council. Trustees were elected for a few years, and then, through lack of interest or carelessness, the organization was dropped, and no trustees have been elected for several years. How can the ratepayers proceed to reorganize or elect new trustees? It is not even known who the last trustees were.

We think it will be necessary to have the law amended to meet the difficulty in this case, and that you must wait until that can be done.

#### Water Rates Cannot be Collected by Frontage Tax.

229—T. G. W.—The council being about to revise its waterworks by-law and schedule of rates, it has been suggested that a frontage-tax be imposed as well as water-rates, and that the whole of the frontage-tax should be rebated to

water-users. Do you know of any municipalities where such a method is in force? It would be very effectual as regards vacant lands and unoccupied houses. It is desired to get all residents to use the water, and the rebate of the whole of the frontage-tax would certainly be an inducement thereto. The securing of this end without the use of force would be appreciated.

What is proposed to be done cannot be done legally.

#### Advertising of Municipal Securities.

Gustave Simon, bond editor, *The Financier*, New York, in *Printer's Ink*:

At the recent election many municipalities voted in favor of issuing bonds for improvements of all kinds, and efforts will soon be made by the officials to dispose of the securities to the best and highest bidders. It seems very strange that points in the United States claiming to be thoroughly up to date in every respect sometimes fail in obtaining satisfactory results with their bond issues.

Advertising to-day stands ahead of all systems used to give publicity. Whether it be a soap concern, a new perfume, or a hatter, it is an important matter to be considered so long as it does its work for the advertiser. In various instances, however, municipalities fail to comprehend the value of printer's ink. The usual legal procedure of a suburban village is to place a bond advertisement in its local newspaper, evidently expecting the farmers in the vicinity to file a bid on an issue of securities of which they know absolutely nothing. If the same village would bring their notice of sale before the bankers, bond dealers and others generally interested, through the insertion of its call for bids in a reliable banking journal, results would follow that were gratifying to the officials.

It is difficult to make a country official see the value of publishing a bond notice in a reputable financial paper.

To further the interests of a village, town, or even city, any journal of merit will advise as to the market value of a security, and will even construct a sample advertisement if they so desire. Occasionally a town does advertise in a weekly banking organ, but the notice is so rudely prepared that the main details are ignored. Another great fault with advertising municipalities is failure to state the financial condition of the town. This will cause those interested in the offering to somewhat doubt the credit of the city, and will make inquiries regarding this factor, but if this were inserted in the official call it would save the banker unnecessary trouble.

An excellent specimen of a bond advertisement is given herewith, which embodies every detail of importance to the intending bidder.

#### BONDS FOR SALE.

ATLANTA, GA. \$418,000 3½ PER CENT.  
30 YEAR BONDS.

Sealed proposals will be received at the office of the Mayor of Atlanta, Ga., until 12 o'clock m., Tuesday, Dec. 3, 1901, for \$418,000 City of

Atlanta, Ga., 30-year 3½ per cent. Gold coupon bonds, of \$1,000 each, due Dec. 31, 1931, interest payable July and January, in New York and Atlanta. Bids may be for the whole or part of said bonds. Bidders to enclose with bid certified check for five per cent. of par value of the amount bid for; checks to be made payable to the order of Thos. J. Peeples, City Treasurer. Bidders will be required to receive and pay for bonds allotted to them on Dec. 31, 1901. The right is reserved to reject any or all bids. LIVINGSTONE MIMS, Mayor. WM. C. RAWSON, Chairman Finance Committee.

For further information, address J. H. GOLD-SMITH, City Comptroller.

An advertisement of a bond sale inserted in at least three banking journals, even if the outlay is \$50, would insure the receipt of bids at least five per cent. over the average offerings expected.

The writer has solicited bond advertisements from the various municipal officers, and in many instances found errors in the reading, which would have lost the towns many bids. The date of the sales is even inserted incorrectly. Thus, it is part of the business of a financial journal to correct any errors appearing in a bond advertisement, and to notify the officials of such correction.

Goldwin Smith, in a letter to *The Telegram*, refers to municipal affairs in Toronto, and the necessity for better men as follows: "Since I settled in Canada, thirty years ago, our progress has certainly been downwards. What is the moral? The moral is the necessity of a complete change of organization. Nothing less apparently will suffice. It is possible that for the election of aldermen a change might, as many think, be an improvement. But no modification of the present system which can be devised will give you, either for mayor or aldermen, a different class of men. The system of popular and periodical election may be right in politics. Applied to the administration of cities it has everywhere broken down. The business of great cities calls for a skilled, stable, systematic and really responsible administration. In this flux of ephemeral rulers you can no more have real responsibility than you can have skill, stability or system. The people gain by the present system nothing but the phantom of electoral power. None really suffer from inefficient government more than the working class. The money irresponsibly wasted on such things as the Don improvement, the block pavement and the city hall might, if expended by a responsible and far-seeing government, have added to the well-being and attractions of the city, and the franchises would have been owned by the city instead of being alienated to private corporations. More might also have been done for the beauty of our city, whose residential attractions are her richest dower. It will be difficult, no doubt, to bring about the necessary change. It will be impossible unless our leading men will recognize their responsibilities and do their best for the city. But public opinion is moving, and persevering effort may prevail.