

THE MUNICIPAL WORLD

PUBLISHED MONTHLY IN THE INTERESTS OF EVERY DEPARTMENT OF THE MUNICIPAL INSTITUTIONS OF ONTARIO.

Volume 13. Number 12.

ST. THOMAS, ONTARIO, DECEMBER, 1903.

Whole Number 156

CONTENTS

	PAGE
Editorial Notes	210
Appointment and Dismissal of Municipal Officers	210
Nominations and Nomination Proceedings	211
ENGINEERING DEPARTMENT—	
Bridge Floors	215
Maryland Road Specifications	212
Statute Labor	214
The City of Hamilton	212
The Cost of a Telephone Service	214
QUESTION DRAWER—	
575 Liability of Council for Burial of Dead Body Found in the Municipality	
576 Duties of Pathmasters—Liability for Default	
577 Completion of Drain Should be Enforced by Parties Interested	
578 Proceedings Necessary to Obtain Outlet	
579 Apportionment of Interest on Investment Amongst Public Schools	
580 Assessment Roll, as Finally Revised, final	
581 Conduct of First Election in New Township in District—Qualification of Voters	
582 Sale of Land for Taxes in Unorganized Districts	
583 Closing and Conveyance of Streets on Registered Plan—Amendment of Plan	
584 Church Property Not Exempt from Local Improvement Taxes—Compensation for Injury to Property by Raising Sidewalk	
585 Statute Labor to be Calculated on Assessed Value of Property	
586 By-Law for Raising Money to Build Bridges May be Submitted to Electors on Day of Municipal Election	
587 Vote Necessary to Carry Resolution to Submit Local Option By-Law—Such By-Law May be Submitted on Day of Municipal Elections	
588 Cattle Not Allowed to Run at Large Within Half a Mile of Railway—Contents of Tax Notice	
589 Remuneration of Reeve and Councillors of Village	
590 Clearing of Obstructions from Streets—Obligation of Council	
591 Ownership of Road—Closing	
592 Enforcement of Payment of Taxes by Railway Co.	
593 Law as to Traction Engines—Cutting of Noxious Weeds—Expropriation of Gravel	
594 Appointment of Assessors—Mistake in Collection of Fenceviewer's Fees	
595 Powers of County Council to Assume Roads in Local Municipalities	
596 Impounding Owner's Hogs Doing Damage in Field Leased on Shares	
597 Use of Highways by Telephone Company—Owner of Sheep Killed on Highway Entitled to No Compensation	
598 Petition Preliminary to Granting Bonus to Electric Railway	
599 Township Councils in Districts Cannot Pass By-Laws for Licensing Peddlars—Assessor Cannot Apportion Statute Labor	
600 Definition of County Road—County Grant for Improvement of Road in Local Municipality	
601 Payment of Expenses of Conveying Lunatic to Asylum—Liability of Council to Build Approach to Farm	

Calendar for December, 1903.

- DEC. 1. Chairman of Board of Health to report to the Council on or before this date.—Public Health Act, schedule B, section 3.
Last day for appointment of School Auditors by Public and Separate School Trustees.—Public Schools Act, section 22, (1); Separate Schools Act, section 28, (5).
Municipal Clerk to transmit to County Inspector statement showing whether or not any County rate for Public School purposes has been placed upon the Collector's Roll against any Separate School supporter.—Public Schools Act, section 72 (1); Separate Schools Act, section 52.
Last day for Councils to hear and determine appeals where persons added to Collector's Roll by Clerk of Municipality.—Assessment Act, section 166.
5. Make returns of contagious diseases to Registrar-General.—R. S. O., 1897, chapter 44, section 11, sub-section 4.
8. Last day for Public and Separate School Trustees to fix places for nomination of Trustees.—Public Schools Act, section 60 (2); Separate Schools Act, section 31 (5).
Returning Officers to be named by Resolution of the Public School Board (before second Wednesday in December).—Public Schools Act, section 60 (2).
9. County Model School examinations begin.
14. Last day for payment of taxes by voters in local municipalities passing by-laws for that purpose.—Municipal Act, section 535.
Last day for collectors to return their rolls and turn over proceeds, unless later time appointed by Council.—Assessment Act, section 144.
Local assessment to be paid Separate School Trustees.—Separate Schools Act, section 58.
Nomination Day, where fixed by by-law of County Council.—Section 125, Municipal Act.
15. Municipal Council to pay Secretary-Treasurer Public School Boards all sums levied and collected in township.—Public Schools Act, section 71 (1).
County Councils to pay Treasurer High School.—High Schools Act, section 33.
Councils of towns, villages, townships hold meeting.—Municipal Act, section 304 (6).
Rolls to be finally revised by Judge when assessments taken between 1st July and 30th of September.—Assessment Act, section 58 (1).
Pass all accounts for subscriptions, due THE MUNICIPAL WORLD, and order election supplies, etc.
20. Last day for Treasurer to send Clerk list of all who have not paid their taxes.—Municipal Act, section 292.
22. Public and Separate Schools close.—Public Schools Act, section 96 (1); Separate Schools Act, section 81 (1).
High Schools close first term.—High Schools Act, section 45.
Last day for publishing Notices of Nomination.—Section 127, Municipal Act.
24. Last day for posting up Annual Statement of Assets and Liabilities in Townships, Towns and Villages.—Municipal Act, section 304, (7).
Last day for notice of first meeting of Trustees in New School Sections to be posted up by the Township Clerk.—Public Schools Act, section 12 (5).
25. CHRISTMAS DAY.
High School Treasurer to receive all moneys collected for permanent improvements.—High Schools Act, section 39 (1).
By-law for disestablishment of Township Boards takes effect.—P. S. Act, s. 31 (1).
New schools and alteration of school boundaries go into operation or take effect.—Public Schools Act, section 25 (2); section 41 (3); section 42 (3); section 46 (10).
—S. S. Act, section 4.
28. Nomination Day.
30. Annual Public and Separate School meeting.—Public Schools Act, section 14; section 60 (1); Separate Schools Act, section 27 (1); section 31 (1).
31. Road Commissioners cease to hold office.—Assessment Act, section 120.
License Commissioners cease to hold office.—Liquor License Act, section 3.
Protestant Separate School Trustees to transmit to County Inspector names and attendance during the last preceding six months.—Separate Schools Act, sec. 12.
Trustees' report to Truant Officers due.—Truancy Act, section 11.
Auditors' report of cities, towns and incorporated villages, to be published by Trustees.—Public Schools Act, section 65 (11).
Persons liable to municipality on mortgage to state balance due thereon to head of municipality.—R. S. O., 1897, chapter 228, section 22.
- JAN. 1. A HAPPY NEW YEAR TO ALL.
Renew Subscriptions to THE MUNICIPAL WORLD for 1904.

602 Procedure in Voting on Local Option By-Law		Councillors	
603 Taxation of Church Property—Wire Fence Bonus—Judge's Duties at Drainage Court of Revision		606 Collection of School Taxes in Unorganized Territory	
604 Council Not Bound to Build New Road—Restoration of Road Washed Away by Lake		607 By-Law for Sale or Purchase of Township Hall Does Not Require Assent of Electors	
605 Liability for Damages to Traction Engine—Personal Responsibility of		608 Assessment for Cleaning Drainage Outlet	
		609 Same Person Can be Assessor and Collector of a Municipality	
		610 Collection of Taxes	

The Municipal World

PUBLISHED MONTHLY

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

K. W. MCKAY, EDITOR.

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

TERMS.—\$1.00 per annum. Single copy, 10c.; Six copies, \$5.00, payable in advance.

EXPIRATION OF SUBSCRIPTION.—This paper will be discontinued at expiration of term paid for, of which subscribers will receive notice.

CHANGE OF ADDRESS.—Subscribers who may change their address, should give prompt notice of same, and in doing so, give both old and new address.

COMMUNICATIONS.—Contributions of interest to Municipal Officers are cordially invited.

HOW TO REMIT.—Cash should be sent by registered letter. Draft, express or money orders may be sent at our risk.

OFFICES—334 Talbot Street, St. Thomas. Phone 189. Address all communications to

THE MUNICIPAL WORLD, LIMITED.
Box 1321, St. Thomas, Ont.

ST. THOMAS, DECEMBER 1, 1903.

If the number on your address label is 156 your subscription ends with this issue.

We will be pleased to receive renewals of subscriptions from all, and from those who may be retiring, a recommendation to their successors.

* * *

Mr. George E. Smeaton has been appointed clerk of the Town of Sandwich to succeed Mr. C. H. Ashdown, deceased.

* * *

Mr. James Ross has been appointed clerk of the Village of Waterford and the Township of Townsend to succeed Mr. Samuel Cunningham, deceased.

* * *

During the year we have published answers to 1298 questions submitted by our subscribers. This is a decided increase over any previous year. The character of the questions has also improved.

* * *

No other publication does as much for its subscribers as we are doing. Appreciation of our efforts can best be expressed by patronizing the supply department, which is most complete in every particular.

* * *

On Oct. 31st last the ratepayers of the village of Bolton carried a by-law by a vote of 76 to 9 to raise \$5,000 by the issue of debentures to pay for the construction of bridges, abutments, cement concrete sidewalks, and for the repair of highways.

Appointment and Dismissal of Municipal Officers.

One of the important duties devolving on a municipal council, and which it is often called upon to discharge at its first meeting, is the appointment or dismissal of the executive officers of the municipality. Judging from the questions submitted to us bearing on this subject, we are led to the conclusion that considerable doubt exists as to whether such officers as the clerk and treasurer should be appointed for a time certain, or indefinitely, and if appointed in the former way, whether the council has power to dismiss the officer at its pleasure, as is provided by section 321 of the Consolidated Municipal Act, 1903. We therefore deem it timely and advisable to give a synopsis of the law on the subject as it exists at present. The older cases, relating to this matter, hold that a council cannot dismiss an officer appointed for a year or other time certain, in the absence of sufficient cause, without rendering the municipality liable for damages.

In *Broughton vs. Brantford*, 19 U. C. C. P., p. 434, a municipal officer was held entitled to damages for wrongful dismissal. He was dismissed in the month of September. Hagarty, J., at page 437, said: "Assuming then that plaintiff, in 1867, continued an officer of the corporation appointed under their seal, and that his office was such as was usually the subject of a yearly hiring, could he be dismissed during the year at the defendants' pleasure? My impression is, that unless he held the appointment at the yearly salary under the corporation seal, he could be so dismissed, and that his claims would be limited to compensation for services actually rendered. As I consider that plaintiff remained up to the date of his dismissal the defendants' officer under their corporate seal, I think he is entitled to compensation for a wrong dismissal, in like manner as if employed by an individual."

Again, in the case of *Davis vs. Montreal*, 27 S. C. R., p. 539, it was held, under a statute substantially the same as the above provision, that when the engagement has been made indefinitely as to duration the council has power to dismiss summarily and

without previous notice, upon payment only of the amount of salary accrued to such officer up to the date of such dismissal. The language used indicates that such power does not exist in the case of a definite engagement, and we think that a contract with municipal officers, engaging them for a year, is a definite engagement.

The subsequent case of *Vernon vs. The Corporation of Smith's Falls*, decided by the Chancery Divisional Court (21 O. R. 331), decides this point in the contrary direction, and may be taken as the latest interpretation of the law bearing on the question. In this case, the plaintiff was appointed by the defendants' council, chief constable for the municipality, under section 445 of the Municipal Act (now section 493) which section provides that such a council shall make such an appointment and that the person so appointed "shall hold office during the pleasure of the council." It was held that this officer could only hold office during the pleasure of the council, and this, *although he may have been appointed for one year by a by-law passed by the council*. In this connection the following remarks of the late Mr. Chief Justice Armour, in reference to section 279 (now section 321) of the Municipal Act, in the case of *Willson vs. York* (46 U. C. R. 299) are worthy of observation: "The effect of this is, that all such officers hold their offices during the pleasure of the council and may be removed by the council at any time, without any notice of such intended removal, and without any cause being shown for such removal, and without the council thereby incurring any liability to such officers for such removal. There is no hardship in this, for such officers accept their offices upon these terms; and were it otherwise, councils might be greatly embarrassed in the transaction of their public duties by the forwardness of an officer, whom they would have no means of immediately removing without subjecting themselves to the liability of an action."

The month of December is usually one of the busiest for municipal officers and councillors, the former have to prepare for the election and the latter to secure election. This always increases the demand for legal and other special information. Subscribers should take advantage of the "Question Drawer" in preparing for the canvas or Nomination Day. THE WORLD office will be kept open evenings from December 28th to January 2nd, so that all who may desire to communicate with us by telegraph or telephone at the reduced rates, may do so and receive prompt attention.

NOMINATIONS

The provisions of the Municipal Act divide the municipalities into nine classes for nomination purposes. The following tabular statement will show when and where nomination meetings for 1903 should be held, and the municipal officers to be nominated.

STATEMENT

MUNICIPALITY.	DATE.	MAYOR.	WHERE.	ALDERMEN.	WHERE.
I. CITIES..... Sections 118 and 119.	28 December.....	10 a. m. to 11 a. m.....	At City Hall..	12 noon to 1 p. m., or if by-law passed under section 120, 7.30 p. m. to 8.30 p. m.	At City Hall or place in each ward fixed by by-law.
II. CITIES..... Having a population of 100,000 or more.....	28 December, or if by-law passed by the council, before 15th of Nov. under s. 119a on 21st December.	10 a. m. to 11 a. m.....	At City Hall..	12 noon to 1 p. m., or if by-law passed under sec. 120, 7.30 p. m. to 8.30 p. m.	At City Hall or place in each ward fixed by by-law.
III. TOWNS Divided into wards; population over 5,000..... Sections 118 and 119.	28 December.....	10 a. m. to 11 a. m., or if by-law passed under section 120, 7.30 p. m. to 8.30 p. m.	At Town Hall	(Councillors.) 12 noon to 1 p. m., or if by-law passed under section 120, from 7.30 to 8.30 p. m.	At Town Hall or place in each ward.
IV. TOWNS Not divided into wards; population over 5,000..... Sections 118 and 119.	28 December.....	Same.....	At Town Hall	Same.....	At Town Hall.....
V. TOWNS Divided into wards; population 5,000 and under.... Sections 118, 119 and 71a.	28 December.....	10 a. m. to 11 a. m., or if by-law passed under section 120, 7.30 p. m., to 8.30 p. m.	At Town Hall	Same.....	At Town Hall or place in each ward.
VI. TOWNS Not divided into wards; population 5,000 and under Sections 118, 119 and 71a.	28 December.....	Same.....	At Town Hall	Same.....	At Town Hall.....
VII. VILLAGES Sections 119 and 120.	28 December.....	12 noon to 1 p. m., or if by-law passed under section 120, 7.30 p. m. to 8.30 p. m.	At Town Hall or at such place as may be fixed by by-law.	Same.....	At Town Hall or at such place as may be fixed by by-law.
VIII. TOWNSHIPS Sections 119, 122 and 123.	On 28 December, or if by-law passed by county council under section 125 on 14 December.	12 noon to 1 p. m., or if by-law passed under section 122, 1 to 2 p. m. (County Councillor.)	At Town Hall or place fixed by by-law under section 123	12 noon to 1 p. m., or if by-law passed under section 122, 1 to 2 p. m.	At Town Hall or place fixed by by-law under section 123.
IX. COUNTIES Section 133.	21 December.....	1 p. m. to 2 p. m.....	At place in each district fixed by Nom. Officer, sec. 132, (1) (a) and sec. 7, c. 23 61 Vic.		

Nomination Proceedings.

NOTICE.

It is the duty of the clerk or other returning officer to give at least six days' notice of nomination meeting. For county council nomination two weeks' notice is necessary. Notice may be given by advertisement in newspapers or printed posters.

NOMINATIONS, SECTION 128.

The persons nominated to fill each office shall be proposed and seconded (*seriatim*) and every such nomination shall be in writing, and state the full name, place of residence, and occupation of the candidate, and shall be signed by his proposer and seconder and be filed with the returning officer or the chairman within one hour from the time of opening the meeting.

The change in the law requiring nominations to be in writing came into force on the first of January, 1899. Nomination forms should be provided for use at the nomination meetings.

The tabular statement shows the municipal

officers to be nominated at the meetings. In towns where ward elections have been abolished, either by by-law or the amendments of the Act of 1898, the number of councillors has been reduced.

RESIGNATIONS

may be handed to the returning officer at nomination meeting, or on the following day, at any time before nine o'clock p. m. Except in the case of county council nominations, when resignations may be filed at any time during the following day.

At the nomination meeting candidates proposed may resign verbally, but after the nomination meeting all resignations must be in writing, signed and attested by a witness, and delivered to the clerk or returning officer within the time mentioned. When resignations are not received in time or in proper form, a clerk has no alternative but to hold the election.

To overcome the effect of the decision in re E. J. Parke, Police Magistrate of the City of London, (30 O. R. 498), section 8 of chapter 29 of the Ontario Statutes, 1902, was passed.

It provides as follows: "Sub-section 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 the meeting."

A nominating or returning officer should not refuse to accept a nomination paper for the reason that he has a personal knowledge of the fact that the person nominated thereby is not a legally qualified candidate; the responsibility of deciding this question should be left to the courts. The Municipal Act does not make it the duty of such officer to read each nomination paper to the assembled electors, either when handed to him or at the close of the nomination meeting. He may do this, however, as a matter of courtesy. At the close of the nomination meeting he should announce the names of the candidates placed in nomination. The nominator and seconder of a candidate should both be present at the nomination meeting, and should be electors of the municipality. It is not necessary that a person nominated should be present.

Engineering Department

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

Maryland Road Specifications.

Printed specifications for the construction of macadam and telford roads were prepared a few months ago by the Maryland Geological Survey, under the direction of Mr. Harry F. Reid, chief of the highway division, and Mr. A. N. Johnson, highway engineer. Extracts from these specifications, giving the essential features, follow :

MACADAM CONSTRUCTION.

There are to be three classes of macadam construction, known as A, B and C respectively. Each course shall consist of three courses of broken stone. For the first course the thickness, after rolling, is to be 4, 5 and 6 inches for the three classes respectively, and for the second course 2, 3 and 4 inches. The quantity of the screenings for the third course is to be such as will just cover the second course. The natural earth roadbed is to be prepared and rolled until firm and hard. If sandy or other soil be encountered which will not compact readily under the roller, a small amount of clay, or other means satisfactory to the engineer, shall be used until a firm surface is obtained. The portion of the roadbed prepared for the broken stone is to be below the sides by an amount equal to the thickness of the first course of stone, so as to prevent the stone spreading at the sides.

The first course is to consist of sound stone broken to sizes varying from three to two inches. No piece to have a piece a diameter greater than three inches. This is to be known as "No 1" size. The broken stone is to be spread upon the roadbed with shovels from piles alongside the road or from a dumping board, or directly from wagons especially constructed for this purpose and approved by the engineer; but in no case shall the broken stone be dumped directly upon the roadbed. After the broken stone for the first course has been spread to a uniform thickness, and has a proper cross-section, it is to be rolled with a steam roller, weighing not less than 10 tons, until it is compacted. Should any difficulty be experienced while rolling in having the stone readily compact, sprinkling with water or lightly spreading with sand or other material shall be employed. The rolling must begin at the sides and work toward the center, thoroughly covering this space with the rear wheel of the roller. Should any unevennesses or depressions appear, during or after

the rolling of the first course, they are to be remedied immediately with broken stone and re-rolled until a firm, even surface is obtained.

The second course is to be the same width as the first. It is to consist of stone broken to sizes varying from one inch to two inches, no piece to have a greater diameter than two inches. This will be known as "No. 2" size. The second course is to be rolled in the same manner as the first.

The third course is to consist of trap rock screenings varying in size from dust to one-inch pieces. Other material than trap rock screenings may be used if approved by the engineer. The screenings are to be spread dry with shovels from piles alongside the road, or from dumping boards. After the screenings are spread they are to be sprinkled with water from a properly constructed sprinkling cart, and then rolled with a steam roller, weighing not less than 10 tons. The amount of water necessary is to be determined by the engineer. The rolling is to begin at the sides and to continue until the surface is hard and smooth, and shows no perceptible tracks from vehicles passing over it. If, after rolling the screenings, the No. 2 stone appears at the surface, additional screenings shall be used in such places. The rolling and watering shall continue until the water flushes to the surface. The rolling is to extend over the whole width of the road, including the shoulders.

TELFORD CONSTRUCTION.

This is to be used wherever directed by the engineer or provided for in the plans. The roadbed is to be made in the manner specified for macadam construction. The first course of the telford construction is to consist of sound stone with sharp corners broken to the following dimensions : Depth, from 5 to 8 inches ; width, from 3 to 6 inches ; and length, not exceeding 16 inches. The pieces of stone are to be set by hand on edge and laid close together lengthwise across the road, resting on the broadest edge. Protruding corners are to be broken off and the interstices filled with small pieces. After the stone for the first course has been laid and brought to a proper cross-section, the spaces filled with spalls and made as compact a layer as possible, it is to be rolled with a steam roller weighing not less than 10 tons. The interstices must not be filled with earth. The thickness of the first course is to be eight inches when

finished. After the first course has been made as herein described, earth shoulders are to be constructed along each side of the road. The second course of the telford construction is to be the same width as the first and made in the same manner and of similar materials as specified for the second course of the macadam construction. The thickness of the second course after thorough rolling is to be four inches. The third course of the telford construction is to be made in the same manner, and of similar materials as specified for the third course of the macadam construction.

In resurfacing old broken stone roads the material for the first course may be obtained either by loosening the existing stone foundation, until sufficient material is obtained to give a proper shape, or broken stone may be used, or both, as may be necessary. The broken stone to be used for this purpose is to consist of pieces having no dimension greater than three inches, and may be any sound rock, approved by the engineer, that seems most available. It may be broken either by hand or in a crusher. The first course is to be nowhere less than five inches thick. After the first course has been made, earth shoulders are to be constructed as before, and against these shoulders the broken stone for the second course is to be spread. The second course of the resurfacing is to be made in the same manner and of similar materials as specified for the second course of macadam construction, and is to be nowhere less than three inches thick after thorough rolling. The third course is also to be made in the same way as that of the macadam construction.

The City of Hamilton.

A correspondent of the Municipal Journal and Engineer says : The city of Hamilton, Ontario, has been called "The Birmingham of Canada." It had its beginning early in the last century. According to a local historian, the municipality was organized shortly after the close of the American Revolution, and its first citizens were composed of refugees from the United States, who preferred to remain under the British flag, and gave up their lands and homes to migrate to Canada. Because of their loyalty, two hundred acres of land in this rich province were granted free to every one of these "united empire loyalists."

SETTLED BY REFUGEES FROM THE UNITED STATES.

Among other settlers, there came into the province in 1813, in this vicinity, one George Hamilton, who, taking a longer look into the future

than his neighbors, presently laid out his fine farm in village lots, and so not only founded a fortune, but immortalized himself, for the town that grew up thought it could not do better than take his name.

From this small beginning it has grown to be the fifth city in the Dominion, with a population of 52,634, according to the census of Canada in 1901. It is an ambitious city, and takes first rank, from the commercial and industrial standpoint, among Canadian cities. For this reason, it has some right to be called the "Birmingham of the Dominion."

Within the memory of men still living Hamilton has been transformed from forest wilds into a modern city. Its manufacturing interests have multiplied during the last decade, and it now justly claims to be the "hub" of electrical power in Canada. The power required to operate its street railways, for the illumination of streets and houses, and for the operation of manufactories, is obtained at Decew's Falls, where the Beaver River flows over the Niagara escarpment, and when the power-houses now being constructed at Niagara Falls are completed, Hamilton will be the first of the large cities of Canada to enjoy their advantages.

Hamilton is a well-governed city. It is under the control of a mayor and twenty-one aldermen elected annually. The present mayor, Mr. Wellington J. Morden, had already given to the city twelve years of faithful and efficient service as an alderman when he was chosen to fill the higher office. The city is fortunate in securing the services of one, who, by his long training, is so eminently qualified to bear the responsibilities of the position of mayor.

The growth of the city has been very gratifying. In the year 1874, the value of the total assessable property was \$13,850,000, and the taxation thereon was \$263,150. Ten years later the total assessable value of the property aggregated \$18,318,000 and the taxes were \$348,148. At the close of another decade, the assessable value of property amounted to \$24,691,000. At the present time the population is estimated at 54,035, the assessable property is valued at \$26,910,000, and the taxes amount to \$539,266.

WELL-PAVED STREETS.

There are two hundred and two miles of streets within the city limits, most of which have been improved. The work of laying many of the pavements, and their maintenance is performed under what is known as the "day labor system." The city engineer has charge of this department,

but he is practically subordinate to the councilmanic committee, as the council determines who shall be employed by the city, and whether the work shall be performed by contract or under the "day labor system," and also fixes the standard of wages.

The waterworks are under the supervision of the board of public works. The source of supply is Lake Ontario, and the intake is located far enough out from the shore to prevent contamination by sewage. It is pumped into large settling reservoirs, which are located in Reservoir Park, on the side of the mountain, at an elevation of two hundred feet above the level of the center of the city, which gives the adequate pressure for both fire protection and domestic service. The water supply is considered of the purest, and excellent in quality. The capacity of the pumping works is 13,000,000 gallons per day. There are ninety-nine miles of water mains in the system of distribution. While meters have been used on manufacturing plants, they have not been employed on domestic and general public services, consequently it has been recently discovered that there has been a large amount of water wasted. The more general use of meters on domestic services has been strongly advocated. The pumping capacity would allow two hundred and forty gallons per day to each inhabitant, which is three times the amount that should be used, for eighty gallons per capita is a very liberal allowance, even in a manufacturing city, for a well-managed water department. There are many cities in New England, which have as many manufacturing industries, that use much less than eighty gallons per capita per day, and some of them not more than half that amount.

The civic authorities of Hamilton cannot do better than invest a reasonable amount in meters annually, and install them at the city's expense, the same to be rented to the consumer at an annual rental of \$2, with a minimum charge of \$6 per year, including the rental for water service, and not to exceed twenty cents per thousand gallons for water used in excess of the minimum charge. Of course, a much lower rate should be made for manufacturing purposes and to large consumers. This would reduce the operating expenses of the plant and remove to a more distant day the necessity for enlarging the pumping capacity.

A FINE SEWAGE DISPOSAL PLANT.

The city has made a fair beginning in the installation of a sanitary sewer system, more than sixty miles of

sewers having been laid. It has one unique feature, namely, a sewage disposal plant. In this particular it affords an example that might well be followed by Toronto, Montreal, Winnipeg and other Canadian cities. American cities, as well, might profit by Hamilton's example. Instead of permitting its sewage to pollute the waters of the beautiful bay near by, the sewage is first conveyed to the disposal works, situated on the bay shore, where it is chemically treated and all solid and objectionable matter removed before it is allowed to flow into the bay. This sewage disposal plant cost the city about \$85,000, and has been in operation three or four years.

Like many American cities, Hamilton has a good system of markets. The general market is said to be the largest and best in the Dominion. It has an area of about two acres, and is located at the rear of the City Hall. In addition to a fine building three hundred feet long, it has ample room for the wagons of the farmers who bring in their produce from the surrounding country. Special locations are assigned for meats and game, vegetables, grains, hay, fruit and flowers. Tuesdays, Thursdays and Saturdays are known as "market days" in Hamilton.

The city is well supplied with parks, the Dundurn Castle and Park being the largest of the nine parks, which cover an aggregate area of ninety-six acres. There is an enthusiastic civic improvement organization, whose members co-operate with the city officials in keeping the parks, streets, school-grounds and other public places in a reasonable condition of order and cleanliness. It has performed notable work among the public school children.

The municipality is well lighted with gas and electric lamps. It is lighted by a private company, whose franchise expires in 1948, at which time the city may assume ownership, provided it gives six months' notice prior to the expiration of the franchise term, the value of the plant at that time to be determined by arbitration. The operation of this private plant, however, is hedged about by conditions which place it practically under the control of the city, so that it can protect itself from exorbitant charges. At the present time it pays \$80 per year per arc lamp of 2,000 candle power. The company pays taxes on a realty valuation of \$170,000. It also pays \$1 per year for every electric light pole erected within the city limits, and in various other ways contributes to the revenue of the city.

LOW RATES CHARGED FOR TELEPHONES.

The other public service corporations, such as street railway, telephone and telegraph companies, give good service, but those which have secured their franchise privileges during the past five years have profited less at the expense of the city. While the Bell Telephone Company was recently granted an exclusive franchise for a period of five years, and certain other privileges, the city exacts the payment of \$2,900 per year, besides taxes on the company's property. In addition, the company maintains, at its own expense, the poles and wires used in connection with the Police Patrol System at present in use, or as it may be extended, the city to supply the new wire and poles that may be required for such maintenance and repairs. The company also permits the city to use, free of charge, for the city's fire alarm wires, the top cross-arm on every pole now standing, or which may be hereafter put up or replaced by the company. The city has looked out for the interests of the patrons of the telephone line by requiring the installation of the best line equipment, instruments, etc., all of which must be completed and in operation on and from the first day of January, 1904. The rates for telephone service have also been fixed by the city, and the company is not allowed to charge more than \$45 per year for unlimited service for business 'phones, no more than \$30 per year for unlimited service for house 'phones, and proportionately low rates for party lines. There are a few cities of the size of Hamilton in the United States that enjoy the privileges of such low telephone rates.

All things considered, there is no better governed city in the Dominion of Canada than this "Ambitious City" of the Province of Ontario. Its streets, which are wide, straight, regular and comparatively well paved, are flanked by rows of beautiful shade trees. Its public buildings, charitable institutions, industries, parks and school system are of the best and would be a credit to many larger cities.

The Cost of a Telephone Service.

With regard to the cost of a telephone plant, the following estimates, taken from a careful comparison of estimates by others and from actual experience, are submitted:

An exchange of 500 to 600 subscribers, metallic circuit, aerial cable and bare iron wire, about \$65 to \$80 per instrument installed, including central office equipment.

An exchange of 2,000 numbers,

metallic circuit, partly underground cable, aerial cable and bare iron wire, \$100 to \$125 per instrument installed, including central office equipment.

An exchange of 5,000 numbers, metallic circuit, underground cable in the business section of the city, aerial cable and bare iron wire, about \$185 to \$225 per instrument installed, including central office equipment, the larger or smaller cost depending upon the local conditions.

In neither case are included long distance, toll or farmers' lines.

From this it will be seen that, as the plant enlarges, the cost increases somewhat out of proportion, and this is due to the longer distance from the central office, larger area covered and the greater cost of equipment and installation.

In a large exchange, the cost for repairs and re-equipment will be out of proportion to a small exchange, because the instruments and central office equipment are used more, are not so carefully handled, and outside construction is more liable to injury in a city than in a small town. The decrease in cost in a large exchange over a small one is per connection or per message, which is less, but the cost for service per instrument is greater because of the larger number of subscribers, and therefore of the average daily connections.

Going one step further, it is estimated that the cost for operating exchanges of the capacity indicated would be about as follows:

A 600 subscriber exchange, the cost for maintenance will be about \$3 per subscriber, and the expense will amount to about \$6 per subscriber line, making a total average of \$9 per subscriber line, per annum.

For an exchange of 2,000 subscribers installed, the maintenance will approximate \$5 per subscriber line and the other expenses about \$7, making a total of \$12 average cost per subscriber line, per annum.

For an exchange of 5,000 subscribers installed, the maintenance will be about \$7 per subscriber line and the other expenses about \$8, making a total of \$15 per subscriber line, per annum.

This does not include interest on the invested capital or depreciation. The depreciation, according to the American practice, is about 7½ per cent., but experts in England estimate the depreciation at only from 5 to 6 per cent. It is probable that 5 per cent. of the cost of a plant, at compound interest of not less than 5 per cent., kept as a sinking fund year by year, would fully cover depreciation in a well equipped system.

It is self-evident that the cost for maintenance will be less for a new plant for the first few years, than later; and the estimates given are intended for an average covering a number of years.

No one will question that good equipment is of prime importance, and will prove most economical in keeping down both the cost for maintenance and expenses.

Statute Labor.

This is the season of the year when the true condition of roads becomes apparent. In the summer all roads, except very sandy ones, are at their best,—unless their best happens to be when they are hidden under a good depth of snow. "Since our roads cannot be paved with asphalt or vitrified brick, like city streets, we must expect them to be impassable at times,"—this is the contented thought with which a good many are inclined to console themselves. Others, of a still more contented frame of mind will say, "Well, the roads are better than our grandfathers had, and I think they'll do us very well." And from another band of hope we hear, "After all, it is easier to stay at home for a while in the fall and spring, than it is to make good roads." No doubt there are Arkansaw Travellers to remark, "In the summer when the roads are good we don't need to fix them, and in the fall when they are bad, we can't fix them." And from a long line of "soldiers" we hear, "You can't make roads without money. Give us the money, and we'll make the roads."

All kinds and classes of people with as many different ideas and ideals have to be considered in the matter of making roads. For this reason road-making, in order to be carried on efficiently, has to be reduced to one system, and that system must treat all men alike. The statute labor system does not treat all men alike. Some are compelled to pay the full commutation tax of one dollar a day, while others give little or nothing in labor or money. At the same time the work done on the roads is very apt to be of a kind parallel to the method of paying the tax. An occasional stretch of road is properly treated, but the vast majority of roads do not show the best results for the money and labor expended on them.

More than one hundred townships have, in one way or another, done away with statute labor, and, after a fair trial of a proper system, there is but one matter of regret—that they did not make the change sooner. The roads show marked evidence of improvement and the people are better satisfied.

There have been rare cases in which townships have returned to statute labor, not because statute labor is good, but because the councils failed to put a better system in its place; or having selected a better system neglected to carry it out properly. There is a vastly better system than the statute labor system, but the best system in the world is destroyed if it is stupidly, carelessly or neglectfully handled.

What is commonly known as the "commutation system" has passed beyond the experimental stage, and to adopt it is now, beyond argument, the proper course for townships to pursue. It has formerly been customary to submit the matter to vote at the municipal elections. There was no legal ground for this step prior to the enactment of section 105 of chapter 18, Ontario Statutes, 1903, nor can it now be considered advisable. The majority of voters, while understanding the statute labor system, do not know what is proposed in its place, and it is folly to ask them to express an opinion at the polls, regarding a matter they know so little about. The little they do know is apt to be just enough to create a misunderstanding and to cause opposition. The only right method is for township councils to take the matter into their own hands, in the only legal manner, pass the necessary by-laws, appoint the necessary road overseers, and then see that the road-work during the following season is done in such a way as to overcome all opposition.

Bridge Floors.

Many municipalities, townships, counties, and towns, are turning their attention to the use of cement concrete for flooring bridges, and it is extremely important that municipal councils should be advised in connection with this practice, and the necessity of engaging some one who has had some little experience in doing such work to take charge of at least the first bridge.

Councillors are slow to be attracted by the wisdom of using durable and substantial material in the construction of municipal works. The reason for this is largely that the cost is generally greater than that of temporary work, and they fear the difficulty of finances.

It is not until municipal councillors are convinced that local materials for such work are becoming scarce, are of an inferior quality, and exceedingly expensive, do they really put forth an effort to educate the electors to the use of more costly, but more serviceable plans.

A few years ago there was a strong agitation for the use of cement con-

crete for building sewer pipes for small culverts and sluices, all kinds of contentions were urged against the adoption of this material, but gradually the changed conditions, and cost of perishable materials compelled the use of concrete with the result that to-day, it is the exception rather than the rule to find that cement concrete is not being used for sluices and culverts, the pipes being manufactured within the municipality.

One of the greatest difficulties in securing the general adoption of concrete for culvert purposes was, that to reduce the cost, inferior cement was used and inexpensive workmen employed, so that defective pipes were manufactured and their failing, consequently rendered their adoption more difficult, and even to-day many men profess to be able to make such pipes without having ever mixed a batch of concrete in which cement was used, or had even seen a circular pipe built. But where a local man makes profession, the councillors are inclined to employ him rather than to import a man.

Some of the finest samples of cement concrete flooring are to be found in Western Ontario, where many bridges from 40 to 400 feet in length have been floored in this way. To say that the work is difficult or intricate is misrepresentation, but on the contrary it is the simplest kind of process, but the process, like many others, just requires that the person in charge should know exactly how it should be done.

Bigger works have been undertaken than flooring a bridge with cement, and bigger works requiring less skill have been carried to successful completion, but the flooring of a bridge with concrete is a little job, that if not properly performed, will cause much annoyance, much dissatisfaction, and much troublesome cost. It is one of those things that if at all worth doing, is worth doing well, and if not done particularly well, should be left undone. It is not an expensive thing for a council, when undertaking the first job to procure the services of one who has been engaged on some of these floors, and the little cost of the services of the experienced man will be well repaid by the instructions which he will give to the local men, as to how their future work should be done.

Let us not speculate with these works of modern thought, but let us strive to get for our people the best that can possibly be produced for the money, and let us not strive to do things about which we know nothing, casting a reflection upon our own workmanship, creating trouble for councillors and squandering

much of the people's money, besides condemning, practically, a material which should be universally used in connection, especially with all bridge structures of a permanent character.

An application to the office of the Commissioner of Highways at the Parliament Buildings, Toronto, will always secure the recommendation of a man experienced in this work, and who for a liberal charge will go to any part of the Province to direct the first bridge. The constant decrease in the quality of the planks supplied, and its constantly increasing value, the more frequent traffic upon our roads and bridges occasioned the frequent renewal of these floors, compelled us in the interests of economy to look to concrete to replace the plank.

Not only is it in the selecting of clean and suitable materials, but in the selecting of cement, the measuring of the proportions, the proper watering and mixing, is experience required. But this cement must be reinforced by expanded metal or other such material and in the handling of this and the uniting of it with the concrete, is a little trick which an experienced man must learn before he can guarantee successful results.

The rate-payers of Renfrew last month voted against the purchase of the local company's water power and electric plant. The sum of \$88,390 was named in the by-law.

The town council of Perth has procured a valuation of the Perth Electric Light Company's plant with a view to submitting a by-law for the purchase of the water power and electric equipment. The company has agreed to accept \$10,800.

The council of Kingston has instructed the city solicitor to prepare a by-law abolishing the ward system, and electing aldermen by general vote.

The ratepayers of Almonte have voted \$5,000 for the improvement of the electric light plant.

The Kakabeka Land and Electric Co. has offered to deliver 5000 h. p. at Fort William for \$18 per horse power, within two years.

It is said that the Cataract Power Co. with works at DeCew Falls, are able to develop 65,000 h. p., and that the company propose to furnish Galt, Berlin and Waterloo with electric energy at \$20 per h. p. per year, running twenty-four hours a day, the power to be delivered within six months.

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.

Liability of Council for Burial of Dead Body Found in the Municipality.

575—C. A. W.—Re question No. 512 in October number, this body was claimed and one dollar paid to the undertaker to apply on funeral expenses. Would that alter the case of the township being liable?

We do not consider the township liable under the circumstances above stated.

Duties of Pathmasters—Liability for Default

576—E. S.—Council appointed A pathmaster. A did not notify the ratepayers to do their statute labor. A did not refuse to act as pathmaster, but allowed three or four ratepayers to do their statute labor where they wished to do it. A returned roll with statute labor marked undone, except the three or four who had done theirs.

1. Can the ratepayers be compelled to pay the statute labor?

2. Is the pathmaster liable for the amount of the statute labor?

3. Is the pathmaster liable to a fine for not properly performing his duty?

1. We do not think the pathmaster had any authority to return persons as defaulters if he did not give them notice to perform their statute labor. (See section 110 of the Assessment Act.)

2. No.

3. Not unless the council has passed a by-law under the authority of section 702 of the Consolidated Municipal Act, 1903, imposing a fine upon pathmasters for the non-performance of the duties of their office.

Completion of Drain Should be Enforced by Parties Interested.

577—SUBSCRIBER.—A land owner, under the Ditches and Watercourses Act, makes a requisition for the township engineer to give him an outlet for surplus water. The engineer attended and made an award, commencing at the east end of his land and running a ditch along his side of the road, the north side, the parties on the east side of the road making the ditch. These could all drain into the said drain. The municipality made a portion of the ditch. The award was made on 1st July, 1902, and the time given to make the ditch was extended till the 1st November. The parties all made the ditch excepting one party, he commencing the work on one end of his, and has done nothing on it since. The engineer has never inspected the ditch, nor has he been notified to do so. These parties making the ditch left the clay in a position that it cannot be travelled upon. Who is in fault?

1. Should the engineer have inspected the work without further notice, or should the

party who got the engineer to make the award have notified him to inspect the work?

2. Could these parties be compelled to place the clay that came out of the drain in a position for travel, that is, to level it down on the centre of the road, as this piece of road is rendered unfit for travel on account of the way the clay has been left ever since?

3. Does the lapse of time since the work should have been done render the award null and void, or can it be sustained as yet by the engineer? This party who did comparatively none of the work complains that he need not do anything more, as the time has expired that the work should have been done.

4. The party who got the award made was careless about bringing the engineer, as his own portion of the ditch would not stand inspection. Should the council have passed a motion to have the engineer come and inspect the ditch, as the council wants to improve the road and put it in shape to have it gravelled this season or winter?

5. Provided a road is already gravelled, can parties who have an award ditch to maintain alongside of said road draw their clay out of ditch and put it on the centre of road on top of the gravel and injure the road?

6. Could the parties who want this road force the council by making a complaint or by a petition to the council to have the council put this road in a reasonable state of repair for public travel, as it is their leading road to market and is badly needed, that is, the road where this award ditch is not completed?

1. This award was made after section 26 of the Statute Law Amendment Act, 1902, came into force (17th March, 1902,) so that the provisions of this section apply. It provides that "sub-section 1 of section 28 of the Ditches and Watercourses Act as amended by section 3 of the Act passed in the 62nd year of the reign of Her late Majesty Queen Victoria, chaptered 28, is further amended by striking out all the words therein from the commencement of the said sub-section down to and including the word 'interested' in the fourth line thereof, and inserting in lieu thereof the words: 'The engineer at the expiration of the time limited by the award for the completion of the ditch shall inspect the same.'" The engineer should therefore have inspected the drain at the expiration of the time limited by the award for the completion of the drain whether required to do so by any of the parties interested, or not.

2. This should be, and probably is, provided for in the award. Not having seen it, we cannot express an opinion as to this.

3. The lapse of time does not affect the validity of the award, and the engineer can be required at any time to see that the drain is completed in accordance with its terms.

4. It is not stated whether the municipality is a party to the award or not. If it is not, it has no power to require the engineer to make an inspection of the drain, and if it is, it has the same rights in this regard as a private individual.

5. No. The award should contain provisions that would prevent this.

6. The municipality would be held responsible for any accident that might happen by reason of the non-repair of this highway, and should see that it is put in a condition of safety without delay. The persons who placed the obstructions complained of on the highway should be notified pursuant to a by-law passed in accordance with sub-section 4 of section 557 of the Consolidated Municipal Act, 1903, to remove the obstructions placed thereon within the time mentioned in this sub-section, and if they refuse or neglect to do so, the council can provide in the by-law for their removal at the expense of the persons who placed them there.

Proceedings Necessary to Obtain Outlet.

578—A. M.—One part of our Main street is very low, having no natural outlet for surface water. The river is about 200 yards from said street, the land between street and river being higher than street. Can village force an outlet, or in other words, can the party owning said land stop council from putting pipe drain through said property to the river?

The council may take proceedings under the provisions of the Ditches and Watercourses Act (chapter 285, R. S. O., 1897,) for the purpose of obtaining an outlet for this surface water. (See the definition of the word "owner" in section 3 of the Act.) If this is done, and an award made under the Act, none of the owners of lands through which the drain passes can prevent the construction of the drain, in accordance with the terms of the award, by the municipality or any other party interested. But according to our view of this Act, the surface water must be carried away along the natural course, and should not be taken out of its natural course just because a short cut may be obtained through a high piece of land.

Apportionment of Interest on Investments Amongst Public Schools.

579—C. F.—The municipal council has for years apportioned by resolution the interest of Municipal Loan Fund equally to the schools in the township.

1. Is the council obliged to apportion this or any moneys according to the salary paid the teacher, the attendance of pupils, or can they not divide it as they see fit?

2. Should this money be apportioned by by-law?

1. We assume that reference is made to surplus moneys derived from the "Ontario Municipalities Fund" invested by the municipal council in accordance with the provisions of section 423 of the Municipal Act. Section 424a of the Act provides that "the municipal corporation of every township shall have power to apportion by *by-law* among the public school sections in the township the principal or interest of any investments held by the corporation for public school purposes according to the salaries paid to the teachers engaged by the respective school sections during the past year, or according to the average attendance of pupils at each school section during the same period or according to the assessed value of the property in the section, or by an equal division among the sections." (See also sub-section 4 of section 71 of the Public Schools Act, 1901.) It will be observed that it is optional with the council as to whether it apportions the interest on an investment of this kind among the school sections in the municipality in any of the ways prescribed by the above section as it may deem best or not.

2. In case the council exercises its option to apportion this interest amongst the school sections in the municipality, it must do so *by-law*.

Assessment Roll, as Finally Revised, Final.

580—N. H. Y.—1. The assessment notice left with a party is for a less amount than appears on the assessment roll. The party knows nothing of it until the collector calls for the taxes. What redress has the assessed party, he not having an opportunity of appeal against the assessment?

2. What is the proper way to deal with this case?

1. We are of opinion that the assessed party has now no redress. 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, error or misstatement in the notice required by section 51 of this Act, or the omission to deliver or transmit such notice." It is the legal privilege of every ratepayer to examine the assessment roll when filed with the clerk by the assessor, and if the ratepayer failed to avail himself of this privilege and neglected to appeal against his assessment he cannot successfully prosecute any complaint at this late day.

2. As far as the council is concerned, it should do nothing in the matter.

Conduct of First Election in New Township in District—Qualification of Voters.

581—A. D. H.—Please give full information how to conduct the first election in an unorganized township. What is the qualification for the first voters. Give full instructions.

The proceedings to be taken in holding the first election in a newly organized municipality in the unorganized districts of Ontario will be found fully set forth in section 5 and the following sections of chapter 225, R. S. O., 1897.

It is provided by section 7 of the Act that "the persons qualified to vote at the election shall be male British subjects of the full age of twenty-one years, being householders resident in the locality proposed to be organized into a municipality."

Sale of Land for Taxes in Unorganized Districts.

582—J. F. D.—1. We sold land at a tax sale this fall. The first sale was on Sept. 3rd and was advertised in a local paper, and the adjourned sale was on Sept. 10th and was not advertised any more than the clerk said at first sale that the adjourned sale would take place on the 10th. Would land sold at that sale be legally sold, and if not, would we be responsible?

2. He did not offer for sale the properties in rotation and did not offer to sell parts of lots. Are we held responsible?

1. This municipality being located in one of the unorganized districts of Ontario, section 53 of chapter 225, R. S. O., 1897, is applicable. This section provides that "subject to the provisions of sections 56 to 59 (which apply to Muskoka and Parry Sound only) arrears of taxes due to any municipality in any of the said districts shall be collected and managed in the same way as like arrears due to municipalities in counties; and the TREASURER and REEVE of such municipality shall perform the like duties in the collection and management of arrears of taxes as in counties are performed by the Treasurers and Wardens thereof, etc." It will therefore be observed that the clerk of any of these municipalities has nothing to do with the conduct of sales for arrears of taxes, and we cannot understand his acting in the case under review. The Treasurer and Reeve should transact business of this kind. If the tax sale is adjourned by reason of an absence of bidders, it does not appear to be necessary to advertise the adjourned sale (see section 183 of the Assessment Act), but if the object of the adjournment is to enable the Treasurer and municipality to take advantage of the provisions of section 184 of the Act, the adjourned sale should be advertised as provided in sub-section 1 of the latter section. It has been held in the cases of *Cotter v. Sutherland* (18 U. C. C. P., 357,) and *Connor v. Douglas*

(15 Grant, 456,) that irregularities in the advertisement do not void a tax sale.

2. If this sale was not conducted in accordance with the provisions of the Assessment Act in that regard, the sales may be set aside by the owners of property sold on proceedings being taken for the purpose, but we do not see that the municipality incurs any responsibility in the matter.

Closing and Conveyance of Streets on Registered Plan—Amendment of Plan.

583—W. F.—Years ago, twenty or more, the owner of a large block of land within the town limits registered a plan showing this land laid out in town lots with allowances for streets running through. A few lots have been sold around the outer edge, and the street allowances have been opened sufficient for the accommodation of the lots sold. The bulk of the land is still en bloc, and the street allowances have never been opened, but remain enclosed and used by the owner for his own purposes. The corporation has never taken any steps to claim these unopened street allowances or to open them, and there is nothing to show that they were dedicated for streets beyond the registered plan. The corporation does not want them, and they are not, and probably never will be required for public use. Now the owner desires to sell the remainder of the land in one block, but he thinks that there being a registered plan showing street allowances, it is necessary for the council to pass a by-law under the provisions of section 632 of the Municipal Act closing these street allowances that have never been opened, in order that he may be able to perfect his title to the land covered by them. He has asked council to pass such a by-law. If this is necessary, council is willing to pass the by-law if it has any right or power to do so, the applicant paying the expense.

1. Will you please state what is the position of the municipality in relation to these unopened street allowances, and whether council has any right or authority to interfere?

2. Could the owner of the land register a new plan showing the land divided differently from the present registered plan, or not divided at all, and without street allowances, and would this not be the proper method for him to adopt?

3. If the owner sold the land in block without changing the registered plan or council passing the by-law asked for, how would the title be affected by these unopened street allowances shown on the registered plan?

1. We are of opinion that the council has no authority to interfere in the matter. It cannot pass by-laws for closing streets, which have never been opened or become public highways.

2. Not unless he first obtains from the High Court or a Judge thereof, or from the Judge of the County Court of the county in which the lands lie, on application duly made for the purpose, an order providing for the amendment or alteration of the plan as desired pursuant to the provisions of section 110 of the Registry Act (R. S. O., 1897, Chap. 136.)

3. The purchaser of the lands thus

sold would not acquire a title to the road allowances laid out on the plan or the right to their use and possession. Where building lots have been sold according to a plan, the part of the property laid off as roads cannot afterwards be diverted to other purposes. (*Rossin v. Walker*, 6 Chy. 619,) but such sale does not bind the vendor to make such roads. (*Cheney v. Cameron*, 6 Chy. 623.)

Church Property Not Exempt From Local Improvement Taxes—Compensation for Injury to Property by Raising Sidewalk.

584—H. M. H.—1. Are church properties exempt from taxes, that is local improvement taxes?

2. In building a granolithic sidewalk, the engineer built the walk on a level, which caused the walk to be raised in front of some property from three to four feet. Can the property owner refuse to pay the local improvement tax, he claiming his property is injured?

3. Who is responsible for this, the engineer who is appointed by council to superintend the construction or the council?

1. No. Sub-section 2 of section 1 chapter 21, Ontario Statutes, 1903, amends paragraph 3 of section 7 of the Assessment Act by striking out all the words therein after the words "burying ground" in the second line, and section 5 of chapter 21 adds the following section to the Assessment Act: "7b. The exemptions provided for by section 7 of this Act shall be subject to the provisions of *The Municipal Act* with respect to the assessment of property for local improvements."

2. These owners have no legal right to refuse payment of the tax imposed for the construction of the sidewalk, but they may be entitled to compensation from the municipality for the injury, if any, done their respective premises by the raising of the grade of the walk, under the authority of such cases as *Adams v. City of Toronto* (12 O. R. 243); *Ayers v. Town of Windsor* (14 O. R. 682); *Pratt v. City of Stratford* (14 O. R. 260), etc.

3. Presumably this work was undertaken at the instance and in the interests of the residents, and done under the supervision of a competent engineer, and, in the absence of negligence, in the performance of the work, there is no responsibility on the part of anyone, except the municipality, for the compensation mentioned in our reply to question No. 2.

Statute Labor to be Calculated on Assessed Value of Property.

585—SUBSCRIBER.—By section 1 (sub-section 8) of the Assessment Act, R. S. O., 1897, property includes both real and personal property. Section 102 (sub-section 1) gives the ratio of statute labor on the property assessed.

1. Is personal property liable for statute labor?

2. In levying statute labor should the amount of personal property be deducted from total assessment?

1. The word "property," when used in the Assessment Act, includes both real and personal property, as provided by clause 8 of section 1 of the Act, and in calculating the number of days' statute labor to be performed by any ratepayer in the municipality, according to the ratio in vogue therein, the assessed value of his personalty as well as his real estate, should be taken into consideration.

2. No.

By-Law for Raising Money to Build Bridges May be Submitted to Electors on Day of Municipal Election.

586—X. Y. Z.—Our municipal council is thinking of issuing fifteen or twenty-year debentures for the purpose of raising a fund to be expended in building and erecting steel bridges, concrete culverts, etc. A by-law for such a purpose would, we understand, have to be submitted to the electors, and if so,

1. Could such a by-law be voted upon on the day of the municipal elections?

2. Kindly give us such information as will aid us, and also what you think of our proposed by-law?

1. Yes, and on the grounds of economy and convenience we think it advisable to have the by-law voted on on that day. The same deputy-returning officers could look after both elections, and the council would be more apt to obtain a more general expression of the opinion of the electors.

2. The procedure to be followed in taking a vote on a by-law will be found in section 338 and following sections of the Consolidated Municipal Act, 1903. The voters' list to be used must be one especially prepared by the clerk in accordance with section 348 of the Act. We are of opinion that the intention to raise money for this purpose is a commendable one, as all funds devoted to the construction of permanent improvements in a municipality are moneys well spent.

Vote Necessary to Carry Resolution to Submit Local Option By-Law—Such By-Law May be Submitted on Day of Municipal Elections.

587—W. J. B.—The municipal council of A was duly elected and took the oath of office and qualification in January, 1903. The council meets regularly on the first Monday of every month. Members all present at all meetings up to July inclusive. Before the August meeting one of the members of the council was under the care of physicians and unable to attend August, September, October meetings of council, and about the 27th October this councillor was removed from his home for treatment. On November 2nd regular meeting of council took place, when a petition largely signed by ratepayers was presented to council asking them to submit a local option by-law prohibiting the sale of spirituous liquors in the municipality at the municipal election in January, 1904.

1. From the fact that the council has been incomplete in number (one councillor having become mentally deranged after the July

session, and removed from home for treatment about 27th October), can the remaining members legally submit the local option by-law to the electors as they have been petitioned to do?

2. Can and will it be legal to take the vote on the by-law on same dates and by same deputy-returning officers as act at municipal election?

1. After the afflicted councillor had failed to be present at the meetings of the council for three months, the council should forthwith have declared his seat vacant and ordered a new election in accordance with the provisions of section 207 of the Consolidated Municipal Act, 1903. Notwithstanding the failure of the council to do this, if three of the members of the council (which is, or should be, composed of five members,) vote in favor of a resolution providing for the submission of the local option by-law to the electors in accordance with section 141 of the Liquor License Act (Chap. 245, R. S. O., 1897), it will be legally carried. (See section 269 of the Mun. Act.)

2. Yes.

Cattle Not Allowed to Run at Large Within Half a Mile of Railway—Contents of Tax Notice.

588—H. E.—1. The Grand Trunk Railway runs through the township of O. The council passed a by-law allowing cattle to run at large. Is there any law forbidding them running at large within one-half mile of the railway?

2. Our tax collector's bills are printed as follows: "Take notice that taxes are required to be paid on or before the 15th day of December, 1903, otherwise five per centum in addition must be paid." On the bottom of the slip it reads "5% added after Dec. 15th, 1903." Is there any difference in five per cent. or five per centum, or should both lines read alike?

1. Yes. See section 98 of chapter 109 of the Consolidated Statutes of Canada, 1886, and section 103 of chapter 207, R. S. O., 1897.

2. There is no difference between the meaning of these two expressions.

Remuneration of Reeve and Councillors of Village.

589—G. H. L.—Are the councillors and reeve of a municipality such as this (a village) entitled to pay by passing a resolution to grant themselves an amount like 50c. for each councillor and \$1.00 for the reeve, that is for each sitting?

Section 280 of the Consolidated Municipal Act, 1903, provides that "the HEAD of the council of any county, city, town or VILLAGE may be paid such annual sum or other remuneration as the council of the municipality may determine," but this does not authorize the council of a VILLAGE to remunerate the councillors. Sub-section 1 of section 538 of the Act empowers councils of *counties* and *townships* to pass by-laws for remunerating their members, and sub-section 2 contains similar provisions applicable to certain CITIES. Clause (a) of sub-

section 1 of section 537 of the Act authorizes *any municipality* to pay any member of the corporation for acting as a *commissioner, superintendent or overseer* over any road or work undertaken and carried on, in part or in whole, at the expense of the municipality.

Clearing of Obstructions from Streets—Obligation of Council.

590—S. F. S.—There are certain streets in our village which have not been open for a number of years, although they were open at one time. Mr. A, who has land adjoining said streets, fenced them in, ploughed them up, and is farming them in a general way. A couple of ratepayers requested council to open said streets. The council ordered him to open them, giving him ample time to get his crop off, etc. He did not do so. Both parties were notified to attend council meeting. They attended. After considerable discussion Mr. A signed an agreement to open said streets by certain time, giving him one year from former order; he has not done so and is trying to get out of it.

1. What are the proper steps for council to take in order to make Mr. A open said streets?

2. Is a council obliged to open streets if insisted on by ratepayers? Said streets are not needed for general use, although if open they might be used more or less.

1 and 2. If these streets were at any time established or dedicated and opened as public highways, they became vested as such in the municipality, and neither Mr. A nor anyone else had any right or authority to fence them in, or otherwise deal with them in such a way as to preclude the public from using them. If these streets were public highways at the time A fenced them in, (and as to this we cannot say, not having any information on the question), the council may pass a by-law for the removal of the obstructions by A pursuant to sub-section 3 of section 557 of the Consolidated Municipal Act, 1903, at the expense of A, if he makes default in removing them, after having received five days' notice to do so. (See sub-section 4.) In any event, the council is not bound to open these streets. It is optional with them whether they do so or not, and they should not do so, unless the convenience of the general public demands it. The council should not open these streets simply for the accommodation of one or two ratepayers.

Ownership of Road—Closing.

591—P.—See question 540 in November number of WORLD. The owners of road marked "Bay Road" on the plan in answer to 540 are not the parties who originally dedicated the road to the township without receiving any compensation therefor. That being the case, some claim the council cannot legally close said road.

1. Are they right?

2. In case the road can be legally closed, can it be handed over to the parties now

owning the lots through which it runs without a reasonable compensation being exacted?

1. If this road was dedicated to the public for use as a public highway, it has ever since such dedication been vested in and under the jurisdiction of the municipality in which it is located, and cannot now be the property of any private owner. If, as a matter of fact, it is the property of any private owner or owners, the council of the municipality has nothing to do with it.

2. A municipal council has no power to execute a deed of gift of a road allowance or part of it to a private owner. The nearest approach to such authority is to be found in sub-section 1 of section 641 of the Consolidated Municipal Act, 1903, but even in this case, the municipality receives compensation for the road allowance or portion of it conveyed, by reason of the grantee having previously laid out a road in lieu of that conveyed to him, without having received any compensation from the municipality for having done so.

Enforcement of payment of Taxes by Railway Co.

592—G. A. J.—May the rolling stock of a railroad company or any personal property of the same be seized or sold for taxes?

Yes, if found within the county in which the local municipality to which the taxes are due and payable is located.

Law as to Traction Engines—Cutting of Noxious Weeds—Expropriation of Gravel.

593—W. E. J.—1. What is the law regarding traction engines and the municipality's responsibility as to bridges, etc.?

2. A ratepayer applies to the council to have his neighbor cut his noxious weeds, etc. Is the council responsible?

3. The owner of a gravel pit which has been used by the municipality for several years refuses to allow it to be used any more. Can its use be enforced and how?

1. Section 43 of chapter 7 of the Ontario Statutes, 1903, provides that sub-sections 1 and 2 of section 10 of chapter 242, R. S. O., 1897, shall not apply to engines used for threshing purposes or for machinery in construction of roadways. This means that a municipality must build and keep its culverts and bridges in a reasonably safe condition for traction engines used for threshing purposes, or for machinery in the construction of roadways passing over them. The owners of all other traction engines must see to the safety of a bridge or culvert before passing over it, and, if necessary, strengthen it to the extent required.

2. It is not stated whether the council has passed a by-law pursuant to sub-section 2 of section 3 of chapter 279, R. S. O., 1897, appointing an inspector to enforce the provisions of

the Act. It is optional with the council whether they pass such a by-law or not, unless they are petitioned by fifty or more ratepayers of the municipality to do so, in which event its passing by the council is compulsory. The duties of the inspector appointed by such a by-law will be found in section 4 and following sections of the Act. The council is not bound to take any action in the matter on the application of a single ratepayer.

3. Yes, in the manner provided by sub-section 10 of section 640 of the Consolidated Municipal Act, 1903.

Appointment of Assessors—Mistake in Collection of Fenceviewer's Fees.

594—J. W.—Has a township council power to appoint two assessors to work jointly, that is, where a township is not divided into wards, to appoint two to do the work of one?

2. One of the parties in a disputed line fence says that the township clerk made a mistake and entered the award for fenceviewer's fees against an outsider; the right party has paid his taxes. How can the mistake be rectified?

3. Has the council to issue an order to fenceviewers for amount of their fees?

4. Is it necessary to pass by by-law in the council the amount of order?

1. No. Section 295 of the Consolidated Municipal Act, 1903, empowers a council to appoint as many assessors as it may think necessary, but this means that a council may subdivide a municipality into certain districts and assign to each assessor a certain district, and it is the duty of each assessor to assess property in the manner provided by the Assessment Act. The appointment of one or more man, or men, to make the rounds with an assessor, and dictate to him how he should assess property is a novel and wholly unauthorized mode of procedure.

2. We do not see how this matter can now be adjusted. The amount cannot now be placed on the collector's roll for 1903 against the lands properly chargeable therewith. Nor is there any authority for placing it on the roll for 1904 against these lands, and in the meantime they might have changed hands. The amount cannot be collected in a civil action from the owner who ought to pay it, as the other methods provided for enforcing payment have not been exhausted. (See section 142 of the Assessment Act.)

3. Yes. (See sub-section 2 of section 12 of the Line Fences Act, R. S. O., 1897, chapter 284.)

4. A resolution passed by a majority of the council is sufficient for this purpose.

Powers of County Council to Assume Roads in Local Municipalities.

595—SUBSCRIBER.—W township council are proceeding under section 617a of the Con-

solidated Municipal Act, 1903, to have some of the long bridges across the Grand River declared county bridges. The county council threaten to assume all bridges in the county over a certain length (length undecided.)

A. Can the county council assume or acquire any bridge in the county regardless of length or location, without the consent of the township council or town council, as the case may be?

B. Can section 693 of the Consolidated Municipal Act, 1903, be construed to mean that the county council may assume or acquire any road or bridge in the county, not contemplating to make any improvements on them?

A. and B. We do not think the construction suggested can be placed on section 693 of the Act, as it would clash with the provisions of section 613. The latter section requires the assent of the local municipality, in order that the county council may assume a road or bridge lying within any township or village. We are therefore of opinion that section 693 cannot be divided so as to give the council power to assume a road or bridge in the local municipality without having any intention of improving it.

Impounding Owner's Hogs Doing Damage in Field Leased on Shares.

596—SUBSCRIBER.—A certain man in our township took a field by verbal agreement to put in corn for a certain share. After the corn was partly husked the owner's hogs got in the corn, and the party who put the corn in took the hogs to pound and put in damages. The poundkeeper took the hogs in, but failed to take security. The damages were disputed by the owner, and he demanded the hogs, as the person putting them in had no authority to put them in, as the Poundkeepers Act did not apply to a person's own farm. So then they got the fenceviewers on as provided by the Act and they reported no damage, but still the poundkeeper refused to give them up till his fees and the fenceviewers were paid, which was paid, and now the owner is suing the poundkeeper for the amount paid him. Who is right, and does the Act apply in this case or is it a Division Court case?

We are of opinion that this is not a case to which the Act Respecting Pounds (R. S. O., 1897, chapter 272,) applies. The remedy of the lessee of the field against the owner of the land for any damages he may have sustained through the trespassing of the owner's hogs, should be sought in the civil courts, in the Division Court for the locality, if the amount claimed is not more than \$60.

Use of Highways by Telephone Company—Owner of Sheep Killed on Highway Entitled to No Compensation.

597—A. S.—1. We have in our township an Independent Telephone Company composed of farmers principally. They never asked permission of council to erect poles or wire on highway, but engaged another company to build the line for them. Now I would like to know if township council has power to demand bonds to insure itself against accidents from said company?

2. If so, how much would be a reasonable amount for the five miles? It has a single wire.

3. There is a by-law paying owners two-thirds value of sheep killed by dogs. If an owner has sheep running in a field adjacent to highway with the gate open so they can go on said highway at leisure. Can he collect two-thirds value of ewe and lambs killed on highway, said sheep being in field in the afternoon before damage was done, some sheep being found next morning after on road and some in field?

1. It is not stated how this company was incorporated or by what authority, or whether its charter or special act of incorporation authorizes it to use the public highways in any way for the erection of its poles and wires. If no such authority is granted the company, by lawful authority, for this purpose it has no right to thus use the highways in the township. We are of opinion that the township council has no authority to grant the company this power, or to make any agreement with it with that end in view, as sub-section 4 of section 559 of the Consolidated Municipal Act, 1903, applies to councils of cities, towns and villages only.

2. Our answer to question number one renders it unnecessary to reply to this.

3. The owner is entitled to no compensation for the sheep or lambs killed while running at large upon the highway. (See section 20 of chapter 271, R. S. O., 1897.)

Petition Preliminary to Granting Bonus to Electric Railway.

598—ENQUIRER.—An incorporated town is asked to bonus an electric railway. Is it necessary that a petition signed by a certain number of freeholders should be presented to the council before council pass by-law? If so, how many?

Yes. Sub-section 1 of section 699 of the Consolidated Municipal Act, 1903, provides that "one-fourth in number of the persons shown by the last revised assessment roll to be the owners of the real property comprised in a township, city, town or village, or any portion of any such municipality, to be defined in the petition hereinafter referred to, and who according to such assessment roll represent at least one-third of the value of such property, may petition the council to aid any street railway, etc." Sub-section 2 of this section empowers the council, after the receipt of such petition, and after the assent of the electors has been obtained in the manner provided by section 338 and following sections of the Act, to pass the by-law for the granting of such aid. It is to be observed that it is optional with the council whether it passes this by-law after the receipt of the petition mentioned or not.

Township Councils in Districts Cannot Pass By-Laws for Licensing Peddlars—Assessor Cannot Apportion Statute Labor.

599—PARRY SOUND.—1. Can original townships in Parry Sound District pass by-laws and charge peddlars and hawkers licenses?

2. If A owns property in three or four school sections, in two separate municipal divisions in the township, can the assessor legally group them together and then assign each school section the number of days of statute labor?

1. Sub-section 14 of section 583 of the Consolidated Municipal Act, 1903, empowers the councils of counties and towns, and of cities having less than 100,000 inhabitants, and the Board of Commissioners of Police in cities having 100,000 inhabitants or more, to pass by-laws for licensing, regulating and governing hawkers and peddlars, etc. Section 32 of chapter 225, R. S. O., 1897, enumerates the sections of the Municipal Act, under the authority of which the councils of townships in the unorganized districts of Ontario may pass by-laws. It will be observed that sub-section 14 of section 583 is not among them. We are therefore of opinion that the council of a township in the District of Parry Sound has no power to pass a by-law of this nature.

2. No. It is no part of the duty of an assessor to say or indicate where any ratepayer is to perform his statute labor.

Definition of County Road—County Grant for Improvement of Road in Local Municipality.

600—B. A.—In answer to question 550 November issue, you state that unless the local road in respect of which the county grant was made, was a new road or one running into a county road, the grant was illegal.

1. What is a county road?
2. The minor municipalities in our county maintain all the roads and keep them in repair and are responsible for any damage caused by their neglect to keep them in repair, and it was not a new road. Was the county grant legal?

3. If it was illegal would not the county be responsible if any injury was caused by their action in touching a road not under their jurisdiction?

1. Any road in a local municipality which has been assumed by by-law of the county council under the authority of either section 613 or 693 of the Consolidated Municipal Act, 1903, or a road lying wholly or partly between two counties, over which latter road the adjoining counties have joint jurisdiction under section 622 of the Act.

2. If the highway in the local municipality does not run into a county road, as defined in our answer to question number one, the county grant to improve it was illegal. (See sub-section 6 of section 658.)

3. Not to third parties sustaining injury by reason of the road being out of repair, but the county would be

responsible to the local municipality for any injury done to this highway and could be restrained by injunction from further interfering with it.

Payment of Expenses of Conveying Lunatic to Asylum—Liability of Council to Build Approach to Farm.

601—M. C. A.—1. Township council was obliged to employ constable to convey lunatic to Asylum, and he (constable) found it necessary to get an assistant and has since rendered his account, in which he charges railway fare, expenses for meals, street car fares, cab hire, and also mileage of 10c. per mile both for himself and assistant. Are all those charges legal, or if not what portions are council legally obliged to pay?

2. Council had drain dug on road allowance opposite A's property some years ago. Since then A has made lane to road and is obliged to cross said ditch. Can A compel council to build him a culvert to allow him an outlet on to road? (It is not the custom in our township to build such culverts.)

1. We assume that the lunatic referred to was a destitute insane person, whose examination and removal to the asylum at the expense of the municipality was required by section 11 of chapter 317, R. S. O., 1897. If this is so, sub-section 2 of the above section requires the municipality to pay the NECESSARY expenses incurred in conveying the insane person to the Asylum. All the items mentioned would seem to be the necessary disbursements of the constable and his assistant, while performing this duty, except the charge for mileage, and should be paid by the municipality. If the charge for mileage in the aggregate would amount only to a fair remuneration to his assistant for his time, the amount should be paid. We may add that the schedule appended to chapter 101, R. S. O., 1897, allows a constable mileage at the rate of 10 cents per mile, exclusive of disbursements necessarily expended in his conveyance, for taking a prisoner to gaol, and it occurs to us that removing a lunatic to an Asylum is just as responsible and a more difficult task, and by analogy the same rate should be allowed to him. We may add that the local municipality is entitled to be reimbursed the amount expended as above by the county, under the authority of the latter part of sub-section 2 of section 11 of chapter 317, R. S. O., 1897.

2. No. And it would make no difference if it had been customary for the council of the township to construct culverts under similar circumstances in the past. If, however, in making a drain the council had destroyed or injured an approach already constructed to A's property, he would be entitled to be compensated for the injury done him.

Procedure in Voting on Local Option By-Law.

602—W. J. B.—1. In the vote on Local Option is simply a majority of voters voting on the by-law sufficient to pass the by-law, and not a proportionate vote as in bonus by-laws?

2. Are the voters qualified to vote on Local Option by-law the same as are entitled to vote for municipal councillors?

3. Would a petition to municipal council asking them to submit a Local Option by-law to the people (which had been signed largely in churches on Sabbath day) be illegal, from the fact of receiving signatures on Sabbath day?

1. A majority of the electors who vote on a by-law of this kind is sufficient to carry it. Sections 366 and 366a of the Consolidated Municipal Act, 1903, apply only to votes on by-laws providing for the granting of the bonuses therein mentioned.

2. Yes. Section 354 of the Consolidated Municipal Act, 1903, applies only to voting on any by-law for contracting a debt. By sub-section 1 of section 141 of the Liquor License Act (R. S. O., 1897, chapter 245,) a by-law of this kind is required to be approved of by the "electors of the municipality."

3. Yes, but the signing and presentation of a petition to the council is not a requisite preliminary to the submission of this by-law to the electors.

Taxation of Church Property—Wire Fence Bonus—Judge's Duties at Drainage Court of Revision.

603—J. E. H.—1. What taxes are church property and parsonage and manse properties subject to?

2. Is there such a thing in statutes as six feet of ground allowed in front of a place where wire fence is put up, as a bonus?

3. A Drainage By-Law is passed subject to Court of Revision and also Judge's Court of Revision, where another municipality was taken in also. The judge made an extra levy on No. 2 municipality and they refused to pay, and right enough I believe. How can this portion be now collected?

1. Sub-Section 3 of Section 7 of the Assessment Act exempts from assessment and taxation, "Every place of worship and land used in connection therewith." Section 7b of the Assessment Act, enacted by Section 5 of the Assessment Amendment Act, 1903, renders the above property liable to taxation for local improvements. Parsonage and manse properties are liable to assessment and taxation in the same manner, and to the same extent as any other real estate in the Province.

2. No.

3. We are of opinion that the Judge exceeded his authority under the Municipal Drainage Act in requiring the servient municipality to pay any sum for the construction of the drainage works in addition to that mentioned in the engineer's report, adopted by the initiating municipality. We presume that the latter municipality has finally

passed the by-law for the construction of the drainage works, levying the cost of construction against the lands and roads benefited, and we do not see how the additional sum directed by the Judge to be paid by the servient municipality can now be collected. The latter municipality is not bound to pay it, and there is no way of now assessing it against the lands and roads benefited in the initiating municipality.

Council Not Bound to Build New Road—Restoration of Road Washed Away by Lake.

604—C. J. S.—1. In our township there is a piece of road on the lake shore where the sand is quite deep, but it has always been so; it is blow sand. The road is not dangerous. One man living on the lake by that road wants the council to build a road back from the lake shore, and in doing so they will get into a creek, and it would cost a lot of money to build the road. What is your opinion of it? Is the council compelled to build the road? There are only about two or three farmers who would use it and they can go around it by going a couple of miles further. They have threatened a law suit if it is not fixed, and the council told them to go on with it if they cannot wait until the council is ready to do it. We are of opinion that we do not need to spend two or three thousand dollars just to accommodate one or two men.

2. What is your opinion of a lake shore road? If the road washes away, does the council have to buy the land or does the owner of the land have to give the land free and the council pay for moving the fence?

1. We agree with you. A municipal council is not bound to open and establish a road simply to accommodate one or two ratepayers, and should not do this, unless the convenience of the general public demands it. In the case of *Hislop v. Township of McGillivray* (17 S. C. R., 479,) it was held that the courts of Ontario have no jurisdiction to compel a municipality, at the suit of a private individual, to open even an original road allowance, and make it fit for public travel.

2. If a highway is encroached upon by the waters of the lake so as to cause a complete destruction of it, we think the liability of the municipality to keep it in repair ceases.

Liability for Damages to Traction Engine—Personal Responsibility of Councillors.

605—P. S.—A party owning a traction engine and threshing machine with wind-stacker attached (which makes the weight of a machine very heavy on the hind wheels) is going from one farm place to another on the public highway. The traction engine passed over the culvert safely, the front wheels of machine went over safely also, but when the hind wheels struck the plank cover of culvert they shoved the planks off, letting the hind wheels down in opening, causing the smashing of a barley horner, which is attached to machine in front of hind wheels. The planks were not spiked down, but other ways the culvert was in good state of repair.

1. Can owner of the machine recover damages from the municipality?

2. If a party failed in notifying reeve or clerk requesting damages for accident in 30

days, and the council having paid the damages, could any ratepayer sue the council for having paid illegally?

1. The fact that the planks covering this culvert were not spiked down, or otherwise securely held in position, is evidence of negligence on the part of the municipal corporation, and since the injury complained of by the owner of the threshing machine was admittedly caused by the loose condition of the plank covering of the culvert, the corporation would be held liable for the amount of the damages he sustained.

2. No.

Collection of School Taxes in Unorganized Territory.

606—U. P.—The Government offers their land for sale here in 160-acre lots at 50c. per acre, one-half down at time of sale, but later on they saw fit to modify their terms, accepting a deposit as low as five dollars. Would venture to say at the present time that two-thirds of the land are held here on deposit. The Crown Lands agent here states that taxes cannot be collected on Crown lands, as it is still considered Crown lands until the half payment is made. The Public Schools Act makes provision for organizing school sections on application from five heads of families. The public school inspector draws up a formation of a school section. Two-thirds of section may be in (most cases are) lots held on deposit, some residents and other non-residents. A Board of Trustees is elected; they appoint their assessor to make a levy. He makes an assessment, delivers his notices, then the trustees appoint a collector to collect the rates. The collector finds, on trying to collect the taxes, a number of those lots have changed hands, the party assessed perhaps has left the country, cannot collect any thing of theirs. The collector finds another in possession. He tries to get the taxes from him, but he refuses to pay on the grounds that he was not assessed for the land and holds that he is not liable.

1. Can taxes be recorded in the office of the Crown Lands Agent for school taxes in unorganized districts against lots mentioned?

2. If the Crown Land Agent refuses to record taxes in his office, on the grounds that taxes against the lands mentioned, is still Government land held merely by settlement deposit, what can be done in the matter?

3. In case of first election organizing into a municipality, have non-residents of the township a vote?

4. Is it legal to hold an open vote?

1. No.

2. Nothing.

3. No.

4. Yes. (See section 11 of chapter 225, R. S. O., 1897.)

By-Law for Sale or Purchase of Township Hall Does Not Require Assent of Electors.

607—S. M.—Our council is contemplating the disposal of the township hall and the purchasing of a building in another place which would answer the purpose very well, the building being for sale at a reasonable price. I am of the opinion that the council has not the power to do this without the sanction of the ratepayers. That is, to either buy a hall or choose a site and build one. Kindly give your opinion of same.

The assent of the electors of the municipality is not a requisite prelim-

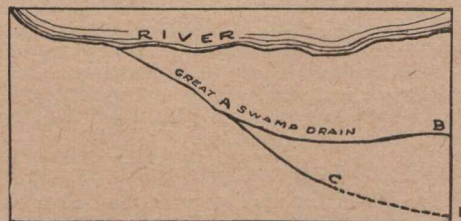
inary to the passing by the council of a by-law of this kind. (See sub-section 1 of section 534 of the Consolidated Municipal Act, 1903.) In the case of Re Hawke and the Township of Wellesley (13 U. C. R., 636,) it was held that a township council may dispose of a town hall and the site upon which it stands when they consider that a new town hall in another situation would be more convenient for the public. Of course, if the money required to buy the new site and build the new hall, is not to be repaid within the year in which it is expended, a by-law providing for the raising of the necessary funds will have to be submitted to and receive the assent of the duly qualified electors of the municipality before its final passing by the council. (See section 389 of the Consolidated Municipal Act, 1903.)

Assessment for Cleaning Drainage Outlet.

608—D. D.—That part of the drain, indicated by a continuous line, was constructed in 1874 under the provisions of the Ontario Drainage Act. That part which is indicated by a dotted line, was constructed in 1880 under the provisions of the same Act. Since its construction the drain has been repaired a number of times, but always in sections; thus from the point A to the river the drain was repaired in 1890; from A to B was repaired in 1892; from C to D repaired in 1890 and again in 1901.

The surveyor has recently made an examination of that part of the drain from C to the river and proposes to assess also those owners from A to B and from C to D, as he claims that by the present repairing they will have an improved outlet. Length of drain from D to the river is about five miles.

1. Will it be legal for him to do this?



If as a result of his examination the engineer is of opinion that the property owners from A to B and from C to D will be benefited by the repairing of the outlet of this drain from A to the river, we are of opinion that he can assess these owners for what he considers their fair proportion of the cost of making the repairs.

Same Person Can be Assessor and Collector of a Municipality.

609—S. M.—In the year 1902 I acted as assessor and also as collector for the incorporated village of B. This year I am again acting in the same capacity of assessor and collector, having been re-appointed by the council.

Some of the ratepayers of the village claim that I cannot legally hold both offices.

I have both your Assessor's Guide and Collector's Guide. I cannot find in them anything very definite on the point. I have also read the Municipal Act and found nothing definite there.

As I am anxious to know the law on this point. I take the liberty of asking you to give me your opinion, and please cite the sections of the Act on which you base your opinions.

We are of opinion that there is no legal objection to the holding and discharging the duties of the offices of assessor and collector of a village by one and the same person, as these offices are in no way incompatible.

Collection of Taxes.

610—J. A. S.—A owns 100 acres, has leased an acre, and a factory was on it owned by C. The factory was burned and the only thing on the acre is about seven cords of wood. D, the collector, has mailed a tax notice to C and put another on the wood, but C has not paid any notice to the same, and the last day of our taxes is the 15th December.

1. Can D legally go on and distraint? Has he done right with the notices, and is the tax notice the same as a demand?

2. Or if he does not get them out of C, can he come against A, the owner of the land?

3. There are some other articles of C's in the near neighborhood. Could D distraint them?

C does not live here now, only comes at times and sells a load of wood, but cannot say he is dodging his taxes.

1. We are of the opinion that the collector should make a personal demand upon C for the taxes, and then if the taxes are not paid within 14 days after such demand he should then distraint upon his chattels to make the taxes.

2. The collector must make the taxes out of C's chattels if found anywhere within the county within which the local municipality lies in order that they may be returned against the land in case they cannot be made out of the chattels.

3. Yes, if they are within the county.

The annual catalogues will be forwarded during this month in souvenir form to every municipality.

The Peterboro Light and Power Company has obtained the contract for street lighting at \$50 per lamp, agreeing also to operate the electric street railway.

Mr. F. H. Macpherson, chartered accountant, of Windsor, who has been making an audit of the accounts of the City of Chatham, has made his official report. It shows that there is a deficit of \$49,734 in that city's finances, caused by the councils of each year not paying their way, striking too low a rate, and then over-spending their appropriations.

A Provincial View of Sanitation.

The following article, which appeared in the issue of the Oshawa Vindicator of the 5th November last, has been forwarded to us by Dr. T. E. Kaiser, a councillor of the County of Ontario, who strongly urges the advocacy of the suggestions therein contained :

"The town dwellers of this Province do not receive that attention from the politicians and the Government of Ontario which our peculiar position in the general fabric of society fairly warrants.

The public men of Ontario seem to set their sails to catch the wind from the daily press of Toronto. Unless we are fortunate or unfortunate enough to be directly interested in such matters as are being forced upon the Government by the daily press, we are left out of all consideration. The city dailies are never slow to stampede public opinion in favor of every venture, such as street franchises, ownership of electric energy, city charters, etc., which is of actual interest to their more advanced stage of social development.

The matters of importance to town life, in their comparatively slower pace of evolution, seem to be almost entirely ignored by city papers, and as the politician listens alone to the suggestions coming from such a source, the crying needs of the minor municipalities receive very scant consideration. It would be well for the large cities to remember that they are fed, commercially and otherwise, more largely from towns and villages than they are from the country proper. Even in the general move of population which tends to the growth of cities, the common method of such increase is for the boys and girls of the farming communities and the hamlets to move into the towns and villages, and from thence to the cities. It is the exception to find people from the country districts to move at once into the city, without first passing through the transition process of dwelling for a time in a smaller centre of population. This being the case it is not detrimental to the interests of our cities to have the Province studded with prosperous and comfortable towns and villages.

Let us for a moment study the general distribution of population in Ontario :

Population of townships in 1901.....	1,092,181
Population of towns and villages in 1901.....	457,248
Population of cities in 1901.....	479,460
Total.....	2,028,889

The increase since 1901 would no doubt bring the town dwellers up to the 500,000 mark. It should be the business of the politician to study the

conditions of life which surround these variously classified elements of society. It should be his duty to apply himself to the task of improving these conditions and thereby contributing to the happiness and comfort of the people. From the standpoint of taxation it would be well to remember that towns and villages, when taken together, are more heavily burdened than either of the other classes specified. The relative rates are as follows :

Average tax rate in townships.....	10 mills
Average tax rate in cities.....	20 mills
Average tax rate in villages.....	20 mills
Average tax rate in towns.....	23 mills

It is certainly a matter for serious thought when a townsman goes to the city and sees every modern improvement that the mind of man can conceive—granolithic walks, asphalt pavements, public water supply, adequate and effective sewage, on every hand, and then remembers that the city rate of taxation is only 20 mills on the dollar, while his at home is 23, and that, too, in the absence of these improvements which seem so essential to the very existence of his town.

It would be foreign to our present purpose to analyze all the reasons which have contributed to our high rate of taxation. There are two, however, which merit special consideration, namely, bonuses to manufacturers and bonuses to railways. The former we are obliged to assume in order to resist the tide of centralization that causes all eyes to turn towards cities. The latter, which stands the municipalities of Ontario \$12,307,664.37, unfortunately for us, tended much more effectively towards the building up of cities than to the advancement of the towns.

These facts are merely cited for the purpose of showing the politician and the daily press of Toronto that we have a special provincial claim upon a fair consideration for one or two of our most pressing needs.

A public water supply and a proper system of sewage is just as essential to the life of a town or village as to that of a city. There are nearly 300 places in Ontario crying out for this reform. A few places favorably situated by nature have availed themselves of a water supply. Scarcely any have what might be called a system of sewage.

Our lack of enterprise along these lines may be gathered from a comparison with similar places in the United States. According to the Municipal Year Book, 1902, of 1,524 places with 3,000 population and upwards, 1,475, or all but 3 per cent., are properly equipped with these improvements. Money is plentiful there, and stock companies have almost entirely monopolized these works as a means of

investment. We have been obliged to go slow in these matters from lack of money, high interest, and heavy municipal taxation.

Now, by way of pressing our claim as townsmen upon provincial consideration, we submit that, in order to bring the sanitation of Ontario up to that of the various states of the union, the Province of Ontario should grant the following concessions :

1. Provincial endorsement of sanitary debentures.
2. Bear all interest on such debentures for five years.

From the cost of waterworks and sewage systems already installed the outlay stands at \$16 per head to accomplish it. Upon this basis it would take \$8,000,000 for the 500,000 people now populating the towns and villages of Ontario \$2,000,000 are already invested ; \$6,000,000 is the sum still required. Provincial endorsement, in securing cheaper money and more of it, would easily guarantee a saving of \$300,000 to the people, without costing a solitary cent to any living man. The most difficult period for towns and villages is the first five years after these improvements are installed. The burden falls very heavily upon the general tax-payer until sufficient watertakers are found to make the system self-sustaining. The plan would be feasible if the Government would provide for the interest for five years, the most critical period. The total sum required for this purpose would be about \$750,000. A Government grant for the purposes which we have stated is quite as justifiable as the grant to education, or the yearly allotment to hospitals, it being better to prevent sickness than to treat disease.

This is a live question to-day in every town and village of Ontario. The politician or party that is first committed to listen to our needs, and to assist towns and villages in the solution of our problems is the one most deserving of our support."

Our stock of election supplies, sufficient for the whole Province, is ready for immediate distribution. The possibility of a delay in the mails (which always are crowded at this season) or a mistake on the part of an express company, should be considered and election supplies ordered at the earliest possible date.

The council of the Township of Pelee recently appointed a committee to examine the account between that municipality and the collector of taxes for the years 1899 and 1900. This committee has completed its work, and reports that the collector is indebted to the municipality in the sum of \$237.30.

Corporate Liability for the Payment of Debentures.

We are indebted to the Tweed "News" for the following history of an important case :

After several weeks of anxiety judgment has been finally given upon the appeal by the village of Tweed from the judgment given by Justice Ferguson on Sept. 15th last ordering summary judgment against the village as defendants in an action to recover \$5,000 and interest on debentures held by the Standard Life Assurance Co. The judgment upon the appeal held that the debentures fell within the scope of an Act passed by the Ontario Legislature in June, 1903, reading as follows :

"Where in the case of any by-law heretofore or hereafter passed by any municipal council, the interest for one year or more on the debentures issued under such by-law and the principal of the matured debentures (if any) has or shall have been paid by the municipality the by-law and the debentures issued thereunder remaining unpaid shall be valid and binding on the corporation and shall not be quashed or set aside on any ground whatever."

The appeal from the judgment of Justice Ferguson was argued at Osgoode Hall, Toronto, before the Chancellor, Sir John Boyd, and Judges McMahon and Teetzel on October 7th, when judgment was reserved. As a result of the judgment just given out by them the village of Tweed must pay the \$5,000 and interest on the debentures held by the Standard Lite Assurance Co., together with costs.

A brief review of the history of the case may be of interest. The debentures were issued March 25th, 1892, by the village of Tweed for the purpose of raising money to enable Mr. George Easterbrook to rebuild his mill after it had been destroyed by fire. They were five in number, each for \$1,000, payable at the office of Murphy, Gordon & Co., Tweed, ten years from date thereof. When they fell due in March, 1902, the Standard Life Assurance Company, who held the debentures, immediately made application to the village for payment. This the village refused on the ground that no provision for payment had been made in the by-law under which the debentures were issued and that there were no funds out of which payment could be made. The matter was apparently dropped and nothing was heard of it for a period of about six months until in October, 1902, the Standard Life Assurance Co. made a second application for payment which was similarly refused. A period of some eight or nine months then elapsed

and in July, 1903, after the passing of the Act already referred to, a third application was made, this time with a threat to sue for the amount if payment were not made. Again the village refused payment on the same grounds as previously. The Standard Life Assurance Co. then entered action to recover the amount. The case came up for trial before the Master-in-Chambers, J. S. Cartwright, on Aug. 22nd, 1903, when the application for judgment against the village was dismissed. The Standard Life Assurance Co. then entered an appeal against this dismissal of their motion which was argued before Justice Ferguson on Sept. 14th. On the following day judgment was given reversing the order of the Master-in-Chambers and giving judgment against the village for the amount of the claim, and costs. Following this the village entered the appeal upon which judgment has just been given as above reported.

In giving judgment against the village in this appeal the Divisional Court held that the debentures were invalid at the time they were given because no provision had been made for a sinking fund to pay the principle and that when the debentures fell due the Standard Life Assurance Co. had no real claim against the Corporation to recover the amount, but that the Act passed in June, 1903, had the effect of validating the debentures and making them binding upon the Corporation.

The judgment given is for \$5,000, the amount of the debentures, together with the interest on that amount at 5 per cent., since March 25th, 1902, and costs of the various actions. The whole amount has to be levied at once in addition to the ordinary taxes unless the council make application to the Legislature for a special Act to enable the Corporation to issue debentures to raise the amount.

Mr. Reuben Lawless has been appointed Clerk of the Township of Haldimand, to succeed Mr. J. H. Johnston.

The electors of the Town of Brockville, last month, by a vote of 793 to 124 carried a by-law providing for a grant of \$16,000 to the Cossitt Company, Limited, on certain conditions, to assist that company in the re-building of their works destroyed by fire in July, 1900.

Two by-laws were recently carried by the electors of Windsor by substantial majorities. One provides for the conversion of the old Central School into a City Hall, and the other for the raising of \$56,000, to be expended in the laying of new sidewalks throughout the city.

Chatham's Bad Financing.

The people of Chatham have suddenly come to the knowledge that the city is facing a deficit of some \$49,734. The Government auditor, after investigating the books, made this astounding announcement to the citizens. Expenditure by the council in excess of appropriation, and expenditures for which no appropriations are made, are the main causes of this deplorable state of affairs. That there must have been something radically wrong in the system of doing business, or else gross carelessness on the part of the city's representatives in allowing a debt to accumulate without the council's knowledge, no one will deny. The system adopted by municipal councils of expending money in excess of the cash on hand and borrowing until the taxes are collected, is a fruitful source from which these conditions may emanate. It is easy to understand that as long as the amount collected in taxes covers the amount borrowed, everything goes smoothly on, but at the same time, just in proportion as the amount borrowed gets nearer the amount levied, the municipality's debt is increasing.

This system, the Berlin Telegraph points out, was followed by the County of Waterloo a few years ago with the result that the county was thousands of dollars in debt more than its representatives supposed. In the year 1894 the county council found it necessary to issue debentures in order to make up a deficiency that had occurred through this way of doing business. The old estimate of \$20,000 a year being insufficient, \$25,000 a year was levied, and later on \$30,000 for current county expenditures. A reduction, however, to \$27,000 was made, in 1902, with the result that debentures had again to be issued to make up for another deficiency. The proper method for municipal bodies to follow is to make an intelligent estimate of the amount necessary for annual current expenditure, and then keep within their estimates. The appointment of a Government auditor by the Ontario Legislature, some years ago, was a good move, and in Chatham's case has been the means of unearthing a condition of affairs which otherwise might have continued and become worse.—Guelph Mercury.

Mr. Thomas Scott, clerk and treasurer Township of Osprey, was recently shot at through a window when sitting alone in his house. Mr. Scott has no clue to the man, but believes it was some person who knew he was alone in the house, the object doubtless being to kill him and steal the township funds.