THE MUNICIPAL WORLD

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

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Contents:

Calendar for July and August, 1901.

Legal, Educational, Municipal and Other Appointments.

JULY 1. Dominion Day (Monday.)

All wells to be cleaned out on or before this date.—Section 112, Public Health Act, and Section 13 of By-Law, Schedule B.

Last day for Council to pass By-law that nominations of members of Township Councils shall be on Third Monday preceding the day for polling.—Municipal Act, Section 125.

Before or after this date Court of Revision may, in certain cases, remit or reduce taxes.—Assessment Act, Section 74.

Last day for revision of rolls by County Council with a view to equalization. —Assessment Act, Section 87.

Last day for establishing new High Schools by County Councils.—High School Act, Section 9.

Treasurer to prepare half-yearly statement for council.—Section 292, Municipal Act.

Treasurer to prepare statement of amount required to be raised for sinking fund to be laid before Council previous to striking annual rate.—Municipal Act, section 418, (4.)

Last day for completion of duties as Court of Revision.—Assessment Act, Section 71, sub section 19.

5. Last day for service of notice of appeal from Court of Revision.—Assessment Act, Section 75.

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15. Last day for making returns of births, deaths and marriages registered for half year ending 1st July.—R. S. O., Chapter 44, Section 11.

20. Last day for performance of statute labor in unincorporated townships.—Assessment Act, Section 122.

31. Last day to which judgment on appeals, Court of Revision, may be deferred, except as provided in the Act respecting the establishment of Municipal Institutions in territorial districts.—Assessment Act, Section 75, sub-section 7.

AUGUST. 1 Last day for decisions by Court in complaints of municipalities respecting equalization.—Assessment Act, Section 88, sub-section 7.

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High School Trustees to certify to County Treasurer the amount collected from County pupils.—High School Act, Section 16, (9.)

The Municipal World

PUBLISHED MONTHLY

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

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ST. THOMAS JULY 2, 1901.

At the last session of the council for county of Ontario, it was decided to erect a house of refuge at the town of Whitby.

* * *

Section 8 of the Line Fences Act was amended by section 21 of charpter 12, Ontario Statutes, 1901, by inserting after the word "given" in the fifth line thereof, the words, "by the clerk of the municipality with whom the same has been deposited."

* * *

The town solicitor of Peterborough has recently given it as his opinion that telephone, telegraph and electric light companies have no right to cut trees upon the highways of the town without the consent of the owners of the property, and that the matter was, further, under the complete control of the municipal council.

* * *

Scarboro township makes its own concrete pipes for culverts and sewers. The moulds for making these pipes are made of spring steel and are composed of an outside casing resembling a stovepipe. They are 2½ feet in length, the inner one being less in diameter so as to leave a space between the two of about 4¼ inches. These are set on end and the concrete mixed and shovelled in.

* * *

Mr. A. W. Campbell, the Deputy-Commissioner of Public Works, and Good Roads Instructor for Ontario, was up in North Renfrew last week lecturing on the question of good roads. He delivered addresses in Beachburg and Westmeath to large audiences of farmers who had gathered to hear him. He came at the invitation of the township council who have in contemplation the improvement of the roads of the municipality.

In its issue of the 17th May last, the Sarnia *Observer* editorially pays a glowing tribute to the worth and ability of Mr. James Watson, the late clerk of the township of Moore. For nearly thirty-two years he faithfully discharged the duties of the office, and recently resigned by reason of advancing age. He is succeeded by Mr. Chas. C. Watson.

* * *

The city council of Guelph has passed a resolution favoring the introduction of a by-law to secure the voice of the people on the proposition to elect twelve aldermen by a general vote instead of eighteen by wards as at present. The principal objection to the submission of such a by-law hitherto has been the fact that each ratepayer could vote for aldermen in every ward in which he possessed the necessary property qualification. This objection was removed by legislation enacted at the last sittings of the Ontario legislature.

* * *

Albion township fathers have asked the pathmasters throughout the township to prevent as far as possible the cutting down of shade trees along the highways in their respective divisions In some divisions hardly a tree of any kind is to be seen. In a few years, perhaps the council will be offering a bonus to those who will plant trees on the roads. Speaking of shade trees brings to our mind the report of a convention of the heads of mutual fire insurance companies, held in Toronto a few days ago. At that convention it was decided that owing to the largely increased number of fires occurring in the rural districts, the rates would have to be raised. It was stated that the absence of trees exposed barns and houses to the lightning, and that as the trees disappeared the number of fires increased. There is food for reflection here for those who cannot sleep nights until every tree about the farm has been felled.

Municipal Association.

In Carleton Place there is a flourishing organization known as the "Municipal Protective Association" and, according to the *Herald's* report of their last meeting, the Association has a worthy mission which it is endeavoring to carry out. Too often municipal councils are elected because the candidates are "jolly good fellows" or members of some influential local fraternal organization. Sometimes because they are great blusterers, and at times because of their religious views, while their fitness to represent the corporation, and look after its interests is never once thought of. The Municipal Protective Association, which is composed of some of the best business men of Carleton Place, is intended to watch closely the business transactions of the council, to advise its members when necessary and to lend its influeuce to the election of the best men to the council board.—Smith Falls *News*.

Disposition of Collector's Bond.

We feel constrained to again call attention to the fact that a number of municipal councils are in the habit of delivering up the bonds of their respective collectors for cancelation as soon as it is made clear to them that these officials have made the returns required by sections 147 and 148 of the Assessment Act. Since commenting on this dangerous practice in our last issue, our attention has been drawn to another instance in which it has been done. Why, in spite of repeated warnings, councils persist in thus transgressing, we are at a loss to understand. Their duty is plain; to allow the bond to remain in the custody of the clerk as one of the municipal records, uncancelled. It then remains a good and valid security for the reimbursement to the municipality of the amount of any deficit that may be discovered after the roll has been returned. The handing over of the bond to the collector or his sureties is wholly without legal authority, a breach of the duty that councillors owe to the ratepayers who elect them, and they thereby needlessly incur the risk of having, at some future time, to shoulder the blame for losses sustained by their municipality on account of their careless or wilfully negligent method of performing this part of their municipal work.

Section 562 of the Municipal Act was amended by section 19 of chapter 12, Ontario Statutes, 1901, by inserting immediately after sub-section 1 thereof, the following :

1. (a) For purchasing or otherwise acquiring and taking a conveyance from any company incorporated under the laws of the province, or the late province of Canada, of any harbor within the municipality or within any adjacent municipality, in the same county, or for selling or conveying such harbor to any purchaser thereof.

Steel Flag Staffs.

Among the practical and beautiful products of this "age of steel," the galvanized steel flag staffs, made at Brantford, by the Goold, Shapley & Muir Co., Limited, occupy a high place. A number of these new century up-to date staffs occupy prominent positions at Thorold, Niagara Falls Park, the Gore, Hamilton; the Collegiate Institutes of Brantford and Hamilton, Toronto Exhibition Park, also at Massey-Harris Co.'s office, the Albany Club and other points in Toronto; at Stratford, Dunnville and Beamsville public schools, besides numerous others at Brockville, Pembroke, Ottawa and elsewhere in Canada. The G. S. M. Co. have an established reputation as makers of windmills and gasoline engines. Their advt. appears in this issue, and they will be pleased to give full information and prices to all who ask for them.

Obituary.

We are indebted to Mr. G. J. Carson, reeve of the township of Augusta, for the opportunity of publishing the following:—

Mr. J. W. Place, clerk of the township of Augusta, died on May 12th, 1901. The funeral took place on the 14th day of May, at the Victoria Methodist Church, and the attendance was very large. Mr. Place was born in England, in 1836, and came to Canada when four months old. For over thirty years he was engaged in teaching school, in the township of Augusta, county of Grenville, and in the year 1888 he received the appointment of township clerk, which office he filled to the satisfaction of all parties up to the time of his death Mr. Place was married to Miss Rebecca Briggs, daughter of Charles Briggs, in the year 1868, who was also born in England, and still survives him. He also leaves four children, two sons and two daughters, Charles and Luther, of the city of Ottawa, and Mrs. Herbert Throop and Mrs. George Scott, of Augusta. His death has caused a vacancy in the community that will be hard to fill. The pall bearers were the reeve, treasurer and councillors. A photograph and life sketch of Mr. Place will be found in the issue of THE WORLD for August, 1897.

Was This Candidate Legally Elected?

"The talk of the town to-night is the throwing out of the two nominations by Returning Officer Fry, and declaring David Patterson elected to succeed the late Ed. Collins as the representative for the fourth district (of the county of Wentworth). At the meeting at 2 p. m., T. A. Wardell objected to the nominations of Messrs. Lawrason and Smith, on the ground that their names were not spelt out. Mr. Smith's nomination paper read "John W. Smith," and Mr. Lawrason's "Wilkie Lawrason." The latter's full name is John Wilkie Lawrason. At this time, Mr. Fry, the returning officer, said he was not certain as to the exact requirements of the statute in this respect. T. A. Begue contended that the nominations were perfectly regular. After the nominations were over, Mr. Fry consulted Mr. Gwyn, the town solicitor, and, as a result, threw out the nominations of Messrs. Smith and Lawrason, and declared David Patterson elected. The friends of the two gentlemen, who were wiped off the slate, feel sore over Mr. Fry's action. They say that the objection raised was a trivial one, and that such an action savors of sharp practice."

The above is a clipping from the columns of the Dundas *Star*. In this connection we call attention to a decision recently given by His Honor Judge McCurry of the district of Parry Sound, unseating the members of the council of the township of Chapman elected in January last. This decision was confirmed on appeal to the courts in Toronto.

The action was brought, at the instance of an elector, to declare the election of the reeve and two of the councillors illegal. It appears that on nomination day, two candidates were nominated for the reeveship and more candidates for councillor than were required to be elected. After the close of the nomination meeting the returning officer, on comparing the nomination papers with the requirements of the statutes, found that the full names of several of the candidates were not written on the nomination papers, initials being used instead, and on this ground disallowed them, and declared one of the candidates for the reeveship and three of the candidates for councillor elected by acclamation. When proceedings were instituted to unseat the men declared elected, one of them disclaimed the seat and the others contested the proceedings with the above result.

We have repeatedly given it as our opinion in these columns, that returning-officers should not take upon themselves to pass judgment on the validity, or otherwise, of papers and documents filed with them.

Unauthorized Changes in the Assessment Roll.

In a newspaper report of the proceedings at a meeting of a certain council, we observed that the following resolution was introduced and carried:

"That the clerk examine the assessment roll, and correct any errors in the description of lots he may find."

This is not the first time our attention has been called to the passing by municipal councils of resolutions of a similar nature, and we deem the matter worthy of particular comment. In passing we would refer to the fact that municipal councils are essentially creatures of the egislature—their duties and responsibilities are defined in, and limited by, st tutory enactment. They are powerless to act unless legislative authority can be found for that which they propose to do. We fail to find any such authority for the passing of a resolution such as that above quoted. If its intent on is to complete the work of the Court of Revision or county judge, after appeals have been made to them, or either of them, and disposed of, it is needless and superfluous. The Assessment Act, in terms directs the Court of Revision or clerk of the municipality to perform this duty. (See sub-section 15, of section 71 and section 82.) If it is intended as an original direction to the clerk, it is wholly unauthorized, and that official has no power to act in accordance with its instructions. The council should not accept the assessment roll from its assessor until he has fully completed it in accordance with the provisions of the Assessment Act. If, after the acceptance of the roll, errors and omissions are discovered therein, the Act itself provides the machinery for their correction, by appeal to the municipal Court of Revision, and from the Court of Revision to the county judge. In no other way can the roll be altered or added to after it has been accepted and filed as a municipal record. The allowing of the clerk, or any other official, to make alterations in the roll of his own motion, and according to his own ideas, would have the effect of exposing him to needless temptation, and lead to the introduction of many dangerous practices. If he be given power to change the description of lots, or add or strike off lots, there is no reason why he should not go one step further, and add names to or strike them off the roll, for the purpose of giving votes to ratepayers who are not entitled to them, or improperly depriving others of an undoubted right to the franchise. In conclusion, we might add that the collection of taxes on land that has been omitted from the assessment roll, inadvertently or otherwise, is provided for by section 166 of the Act.

A Town Without Taxes.

The problem of municipal management has been given a unique solution by Shumway, a town in Effingham county, Illinois. It is located on the Wabash Railway, and was founded twenty-six years ago by Fawcett Plumb, of Streator. The three hundred inhabitants of the place are chiefly of German extraction and take a pardonable pride in their civic record since August 27, 1895, when Shumway received incorporation. Not a cent of taxation has been levied in the past six years by the town council, although that august body has been able to construct six miles of brick walks, having the requisite number of crossings, and keep the thoroughfares in excellent condition. The entire revenue of $700 comes from a saloon license held by Charles Schæfer. No other man is allowed to dispense the stimulating fluid within the corporation limits. Practically all of the town's income goes into public works, as the combined salaries of the clerk and marshal total but $48 per annum. Only a dozen persons have been arrested for drunkenness during the past six years, and the fines imposed on these were spent in street improvement.

The legislation of 1900 extending the powers of municipalities in granting of bonuses to manufacturing institutions has apparently given the indulgence in this practice considerable impetus. The following corporations have recently passed by-laws of this kind, for the amounts and purposes named:—Village of Drayton, to loan $10,000 to a factory for the manufacture of boots and shoes. Village of Hespeler, to grant a site to the Hespeler Furniture Co. Village of Hanover, to grant a bonus of $10,000 to the Knechtel Furniture Co. The towns of Midland and Parry Sound have passed by-laws for purchasing the existing electric light system from their present owners, and the town of Midland and village of Hanover for installing systems of waterworks.

Engineering Department

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

Laying Sewer Pipe.

It will save considerable trouble in the laying of pipe if the foreman has the trench dug exactly to line and grade as ascertained by measuring and plumbing from a grade line already set. It is better to have the bottom a little too high rather than too low.

Pipe sewer is usually laid up the grade, and the pipes are so manufactured that the specials must be laid with their bell ends pointing up. Laying the sewer-pipe in this way is more likely to produce good joints, particularly if the grade is at all steep, since if laid down-grade, a pipe, after being placed in position and before the next is laid, tends to slide away from the one next above and cause a break in the inner surface of the sewer and a leaky joint. It is also much easier to lay pipe with the bell pointing ahead, and the cement joint is apt to be firmer. The only reason advanced for laying pipe down hill is that the lower end of the trench being ahead of the pipe, any ground-water will be kept drained away from the sewer construction.

Before a pipe is lowered into the trench a "bell-hole" should be dug where its bell will come, of such size that when the pipe is in position the jointer can pass his hand entirely under and around the front of the bell. It is convenient to have a stick exactly as long as two or three lengths of pipe, by which the location of each bell-hole is measured from pipe already laid, the bell-holes being dug for a few lengths in advance of the sewer.

Two men should be employed in laying sewer-pipe, one straddling the pipe last laid, the other in the trench just ahead of it. The latter as the pipe is lowered guides it into place and releases the hook on the lowering-rope, if one is used. The former, holding one end of a length of packing in each hand, places the loop thus formed under and around the pipe about an inch from the spigot end and guides this into the bell of the pipe last laid, taking care that the packing also enters the bell. With a yarning-iron he then pushes the packing up against the shoulder of the bell all round, being first sure that the pipe is "home" in the bell. The other pipe-layer meantime supports the pipe at the bell end and shoves it home. The grade-rod and plumb-bob are then used. If the bell end is too high (the spigot end should be all right since the previous pipe is) it may, if the soil is loam or loose clay or sand, be forced down a quarter of an inch, more or less, by standing and jumping upon the top of the pipe. (The pipe-layer should never rest his foot *inside* the pipe to force it down, as this is likely to break the bell or even the pipe.) If the soil is stiff clay or gravel the pipe should be removed and the trench bottom lowered sufficiently with the shovel. If the pipe is too low it should not be raised by placing a stone or piece of wood under it, but should be removed and fine earth placed and rammed in the bottom of the trench. By means of the plumb-bob the pipe should be centred exactly under the grade-line. A convenient way of doing this is to suspend the bob from the cord at a grade-plank, being careful not to lower the cord by its weight. then, when the eye is so placed that the cord and plumb bob string coincide, the former is projected by the eye vertically into the trench and should cut the centre of the pipe. With a circular salt-glazed pipe, the centre is known by a streak of light reflected from the sky, and this streak should be bisected by the vertical projection of the grade-cord. Another plan for obtaining a vertical projection of the grade-cord is to stretch another cord a foot or two vertically below it. But this method is less accurate in practice than the other and is not recommended. The grade-cord cannot be stretched so tight that it will not sag 1-16 to ¼ of an inch at the centre, but allowance may be made for this in using the grade-rod. The foreman or inspector who uses the grade-rod will need to have a short movable plank spanning the trench just ahead of the pipe being laid, on which to stand.

As soon as a pipe is in position sufficient earth should be placed and rammed on each side of it just back of the bell to prevent its moving. The next pipe is then lowered and set, and so on.

At least two joints behind the pipe which is being set, is another man who cements the joints. The cement he usually keeps in an iron pail of ordinary size (although one having the shape of a pan would be better) just enough being mixed at a time to permit his using it all before it stiffens. If there is any delay in laying the pipe the pail should be cleaned out lest the cement set in it. The jointer should wear rubber mittens, and a small trowel will be found more convenient than the fingers for getting the cement out of the pail. The cement mortar should ordinarily be about as stiff as putty, but if the trench is wet it should be as dry as it can be and have any cohesion. The jointer takes a handful of mortar in each hand and presses it into the bell all around, drawing his hands meantime around the joint. With a wooden or iron calking-tool he compacts the cement in the joint, adding more as is necessary, and with additional mortar he makes a neat bevel outside the bell, continually pressing the mortar firmly towards the bell. This bevel should not be flatter than 45°, since if too much mortar be outside the bell its weight may cause it to fall away from the pipe and perhaps draw with it the mortar from inside the bell. The compacting of the cement is frequently omitted, but is necessary if tight joints are to be obtained.

Just behind the jointer should be another man, who, as soon as the joint is made, fills the bell-hole carefully with fine earth well tamped, and then fills and tamps the same material under and around the rest of the pipe up to at least its middle. His tamping-bar should be of wood, there being danger of breaking the pipe if the ordinary iron ones are used, and with a face about 2 x 4 inches.

Maintenance of Roads.

Roads are apt to receive very little attention except at the time of performing statute labor. Roads are very much more cheaply and easily kept in good condition, if repairs are made as soon as wear appears, for ruts and wheel tracks interfere with surface drainage, hold the water, and quickly cause the road to "break up" in wet weather. Repairs of this kind are of such a simple nature, requiring a little raking, filling a rut, the freeing of an obstructed drain, at the most a load of gravel, that every farmer could, with no loss of time, see that the half of the road allowance, passing his farm, was not neglected in such trifling matters. Attention of this kind would result in an immense benefit to every resident of the townships.

Instead, however, of men having sufficient public spirit to volunteer work of this description, we find them adopting all sorts of means to avoid doing even their just amount of statute labor. These men, after idling away their time, will wait in deputations on the councils, complaining of the bad and dangerous condition of their roads, asking for municipal grants to do the work which they should, in justice to other taxpayers, have done by their statute labor. No encouragement should be given in such cases by making money grants where the ratepayers neglected to make good use of their statute labor.

A system has been adopted in some townships which has been productive of good results. Under a by-law of the municipality, where any section subscribes an amount of money for road improvement, the municipal council assists with an equal amount from the general funds. In other townships, no money is paid out for gravel unless the road division has first drained, graded and formed the roadway according to the set specifications of the municipal council.

If, however, a section of the people persists in looking on their statute labor as a joke, if the present waste and injustice continues, and the roads are permitted to remain in an unsatisfactory condition, a hindrance to individual and national progress; if, after a fair trial, it is found that the statute labor law cannot be operated on business principles, it will be the inevitable result that ratepayers will

demand its abolition and the substitution of a law that will be less easy to evade. This has been the result in numerous townships, and if the old system is to exist still its friends must make a radical change in the present meth ds of administration a-d prove its worth.

Water Supply on Roads.

An important adjunct to any well constructed road is the syst-m of watering places for the refreshment of man and beast. Here and there in Ontario the people have availed themselves of the chance to provide such water supply from high lying springs. In other portions of the country where streams cross the road an arrangement is made by which the horses may be turned from the main way into the water. In some of the States an annual allowance is made in the way of rebate of taxation to those who may provide suitable watering troughs and keep them in repair. In general, however, this provision for man and beast is neglected and it is impossible to obtain water for horses without begging it from the farms. No main way should be without arrangements for watering animals at intervals of not more than four miles.

Where the character of the country is such that water can be brought in pipes to the road from points not more than five or six hundred feet away, this supply by gravitation is in practically all cases the cheapest and best that can be obtained. Pumps are likely to get out of order ; they demand constant at ention, as do also the wells from which they draw their supply. Where wells have to be resorted to, as is the case in most plain lands, the use of driven pipes with small windmills is to be commended. If the wells have to be sunk to the depth of thirty feet or more, the pipe method where applicable is almost always the best. A small windmill, such as can be provided with a sufficient tower for less than one hundred dollars, can, with a little attention, be made to serve the needs.

In most cases the watering-troughs of this country are too large for the flow of water which passes through them. The result is that the saliva of animals remains in the basin as a source of contamination and disease. The most satisfactory troughs are those made of single blocks of stone, with a sufficient cavity with abruptly sloping sides, so that water freezing in the vessel will not disrupt the rock. In the glaciated district in this country boulders suitable for such use can readily be found and the cost of a stone-cutter's labor is slight. Where the water is to be brought in pipes from a considerable distance, care should be taken to have a tap so placed in relation to the supp'y that the pipe will not freeze. Experience indicates that ordinary iron pipe used to lead water from a spring is likely to rust in a very rapid way. The process called galvanizing, effected by dipping the pipe in a metallic alloy, prolongs the life of the metal by some years. A yet better result is obtained by the use of any of the several enamels which are made to serve as protective coatings. On the whole, for a stream which is to flow continually to the trough, ordinary wooden pipe appears to be the best.

The method of providing watering-places by diversions of the road on the side of bridges is not to be commended unless pains are taken to pave the ford with well-matched blocks of stone. Such watering-places are not serviceable to heavily laden vehicles, and are, moreover, frequent sources of accident.

Streets.

From the annual application of coarse gravel there is now, in many towns and villages, a pretty firm foundation for a roadway on the principal streets. But at no time of the year is such a roadway satisfactory. The gravel used, and to be found in the vicinity, is apt to be composed of round stone, of irregular dimensions, and a mixture of earth and sand.

The material in its natural condition is not suitable for heavily travelled streets. Round stones, earth and sand soon bond together, and in the dry season make a comparatively solid mass ; but in the wet season the earth and sand attract moisture, turn into slush and mud, the bond between the round stone is broken, the wheels of the vehicles separate the stones, causing ruts which hold water, and create a surface of mud, slush, ruts and rough protruding boulders.

If this mud is left on the roadway, it dries and grinds into a bed of dust, almost unbearable in a dry season, the only relief being an expensive system of water sprinkling. On the other hand, should this mud be scraped off in the spring, there remains a hard roughened surface of protruding stones, injurious to horses, destructive to vehicles, and exasperating to the user. It matters not how much knowledge of roadmaking councillors possess, nor how much care they exercise in doing the work, nor how much money they appropriate, so long as the present system of using gravel in its natural form is continued, unprepared for roadmaking, streets will be bad, and the citizens will not get that return for their money for which they are entitled.

Clean gravel of a uniform size makes a good country road, and can be used on side streets with satisfaction, but on the main streets of towns nothng but crushed stone should be used if it is obtainable within reasonable cost. The work of improving streets should be undertaken and properly carried out at one time. Boulders should be collected and deposited in piles at convenient poi-ts along the street, and a crusher should be used to crush and screen the stone.

These crushers are now owned by persons throughout the country who go about from point to point crushing at a rate per cord. One of these machines will crush from fifteen to twenty cords per day. These crushers have a screen attachment that grades the stone into three sizes, the coarsest being of about two and one half inches in diameter, and the finest, the stone dust and screenings.

When the roadway is shaped with a grading machine and properly prepared, the coarse stone should be placed in the bottom of the roadway, then the finer grade, and over this the screenings. It is then advisable to sprinkle with water which carries these screenings into the voids of the stone, filling and cementing them. By passing a heavy roller over this material, the whole is made perfectly solid, the stones are driven together, and the surface is left hard and smooth so that even the heaviest load makes no rut or impression.

A heavy roller is owned by the larger towns and cities of Ontario. No doubt, the smaller places can make arrangements with one of the nearest of these places for the use of a roller while the work is being done, for a small rental per day. A roller can be taken from point to point on a flat car for a small sum.

Where there is already a depth of gravel, on many streets only a light surfacing of broken stone is required. It is difficult to get new material to unite with the old foundation, but where a steam roller is used this difficulty is obviated. Spikes about three inches long are inserted in the rolls, and the roller pas-ed over the surface, tearing it up. This is then harrowed, levelled off, and a layer of coarse stone spread over, and the fine is placed on this as a dressing. The spikes are removed from the roller, and the road is rolled to a hard, smooth and even surfac-.

Drainage.

The drainage of a road is quite as important as the gravelling, but the best way to obtain this must be one adapted to the nature and elevation of the soil, and the direction and extent of natural water-courses, etc. It is imperative, however, that provision shall be made wherever the soil is in a low or wet location, or is of a retentive nature, that it shall be drained both above the surface and below it. Sandy or gravelly soils very frequently do not need sub-drainage, while clay nearly always requires it. Unless there is natural sub-drainage, artificial under-drainage must be resorted to.

Considerable has been done in making open drains by the roadsides in all townships, but a great many of these need deepening and cleaning to provide better sub-drainage. A much better practice than having deep open drains is to use tile. These should, wherever practicable, be placed beneath the present open drains on each side of the road. No matter how good the material placed on the surface of the roadway, unless the natural soil beneath is kept dry the metal is forced down and the mud comes to the surface. When roads in this country are gravelled

they are frequently termed "Macadam." The important feature of the roads built by Macadam, however, was the drainage, not the surface covering.

Tile and open drains must be kept free, with a good fall to an unobstructed outlet. It is useless to drain water from the roadway and then keep it standing in drains until it soaks into and softens the natural soil under the gravel. At all seasons of the year, particularly spring and fall, when obstructions of snow and ice are likely to occur, the outlets should receive special attention.

The Good Roads Train.

The Eastern Ontario Good Roads Association, which was organized in Ottawa last February is exhibiting an energy and enterprise that seems likely to make road reform the leading question of the eastern part of the province. Acting upon the movement conducted by the United States and Good Roads Association in running a good roads train between Chicago National New Orleans, a similar plan has been formed for eastern Ontario. Arrangements are now nearly completed for running a similar train through a number of the eastern counties, carrying roadmaking machinery, and experts in road construction. Model sections of an improved road will be constructed at various points in each of the counties interested.

The roadmaking machinery is being provided free of charge by the manufacturers, Sawyer-Massey Co. of Hamilton, this to consist of:

One stone crusher, capacity seventy-five to one hundred cubic yards per day, with elevator and rotary screen for grading the broken stone; one set of bins for receiving the stone; one traction engine for supplying power and moving the crusher; one road grader for excavating; two spreading wagons for distributing broken stone; one grading plow; one wheeled scraper; one drag scraper; six sets of concrete moulds.

The train carrying this machinery will be supplied and carried free of charge from point to point along their lines by the Grand Trunk Railway, the Canadian Pacific Railway, the Ottawa and New York Railway, and the Canada Atlantic Railway.

Cement for constructing concrete tile and arch culverts will be supplied without charge, by the Canadian Portland Cement Co., Deseronto, this contribution representing a value of $600.

Each township in which a stretch of road is built will provide:

Two men to assist in building culverts and afterwards to aid in unloading the machinery from the cars.

At least one hundred cords of stone.

Three cords of hardwood for the engine.

Eight men—five to assist with the crusher and three to assist in spreading stone.

Eight teams of horses—four for hauling stone, three for the grader, and one for hauling wood and water. These assistants will have to be under the absolute direction of the man in charge of the train.

Part of the time a portion of these men and teams would not be required.

The counties interested are: Carleton, Renfrew, Lanark and Russell, Dundas, Stormont and Glengarry.

Each county council is required to contribute $100 for every model section of road constructed within the county. The services of Mr. A. W. Campbell, Deputy Commissioner of Public Works, have been obtained to accompany the train and specify how the work of building should be done.

This movement is one of education only, having as its object the construction of permanent models of a good road at prominent points where they will be of most service as specimens of a good road, how it should be built, and the use of modern machinery in connection with road-making. The work will be done only in the eastern counties, and will probably, for the present be confined to those enumerated.

A Dominion Good Roads Convention.

The government of Prince Edward Island has just passed a measure abolishing statute labor and substituting a system whereby the roads will be made and kept in repair by contract. In British Columbia, a Good Roads Association, the originator and president of which is a member of the government of that province, is actively carrying on a campaign in behalf of improvement. In every other district of the Dominion lying between these extreme provinces, Prince Edward Island on the east and British Columbia on the west, there is an effort being put forth to obtain better roads.

The good roads movement in Ontario has accomplished more than is yet apparent in the other provinces, for although statute labor is not yet wholly abolished, its days are numbered, and the end will be more satisfactorily attained by a process of evolution rather than revolution. The grant of $1,000,000 for road improvement by the Ontario government is a distinct acknowledgment of the need for good roads, and an expression of confidence in the system of the people.

Now that the movement for good roads has been inaugurated throughout Canada, the time would appear opportune for a union of forces. In the United States, the National Good Roads Association is performing a magnificent work, for while there is a separate association in each state there is found to be a great benefit arising from united action.

The co-operation of the railways has been secured in giving exceedingly low rates to delegates, so that distance is not a hindrance to good attendance. Undoubtedly similar favor would be shown to such a movement by the Canadian railways, and a rally of representatives from the associations in British Columbia, the North West Territories, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia and Prince Edward Island, would be of incalculable benefit in arousing interest and enthusiasm, and by the opportunity afforded for the interchange and discussion of methods. As Ontario has led in other branches of the movement, it is to be hoped that it will do so in this.

Highways Report.

A copy of the report of the Commissioner of Highways for the year 1900 has been mailed to every municipal councillor and clerk in the province, also to the officers and directors of Farmers' Institutes. Any others interested in the question of road improvement may obtain a copy of the report by applying to A. W. Campbell, Deputy-Commissioner of Public Works, Parliament Buildings, Toronto.

The report contains several articles dealing with the objects of road improvement, recent provincial legislation, township road systems, statute labor, road machinery, and concrete culverts. The township method is exemplified by a reprint of the commutation by-law in Pelham, and the instructions to pathmasters under this system. A specification for cement concrete sidewalks is given. The report contains the recent Act of the provincial legislature appropriating a million dollars for highway construction, and the Toll Roads Expropriation Act of 1901.

The expenditure of every township, and the total for each county during the past ten years, with which the report concludes, is evidence of the fact that the roads as they exist are costing more than is generally supposed.

Sidewalks.

Plank used in sidewalks is subjected to the severest test that such material can be given. Lying on the surface of the ground, subjected to repeated changes of wet and dry, the life of the material now available for this purpose is not more than seven years before some repairs are necessary. These walks may be carried for ten or twelve years but at the end of this time the cost of repairs equals renewal. So that the actual life of a plank walk is now placed at about seven years. The price commonly paid for lumber is $20 per thousand. At this rate, plank sidewalks cost seven cents per square foot.

Cement-concrete is being used almost entirely for this purpose in Ontario. Where properly made, its life can be placed at half a century without any repairs. These walks as generally made would cost from ten cents to fourteen cents per square foot.

The comparison then is: The plank walk, with a life of seven years, costs seven cents a square foot. The concrete walk, with a life of at least fifty years, averages twelve cents a square foot.

It is to be recommended that councils should adopt cement-concrete for sidewalks, and as rapidly as possible abandon the use of plank. Systematically, each year, so much cement-concrete walk should be laid down, and the planks taken up can be used in patching the remaining plank walks. In this way, each year's work will be an extension of the former, in a few years the plank will be replaced by the concrete. In the interval the old planks will be used for patching, thus preventing the necessity of purchasing new planks for this purpose.

What Bad Roads Cost.

The importance of roads in the economy of the country is well shown in the fifth annual report of the commissioner of highways, just issued, which states that during the ten years from 1889 to 1898, inclusive, $18,449,561 in money and statute labor, was expended on the highways of Ontario. The report shows in detail the amount spent in each municipality, and goes on to argue that the results are by no means commensurate with the expenditure. Mr. A. W. Campbell, the commissioner, devotes a number of chapters of the report to suggestions on road making, and points out the close relation which good roads bear to the progress of the country. The educational campaign of the past few years has borne fruit, and already forty-five municipalities have abolished statute labor and substituted more businesslike methods of improving the highways. The report is an interesting one throughout, and will doubtless be much consulted during the movement for good roads, which is now taking more definite shape.

The Town Treasurer Should Pay These Amounts.

"There is likely to be some trouble regarding the expenditure incurred through the board of health in connection with the small-pox cases, as the mayor has refused to pay the orders of the board and also instructed treasurer not to do so. In refusing the orders, it would appear that the town authorities assumed the entire responsibilty in connection with the matter. The orders are issued in the legal and proper manner, signed by the chairman and one other member of the board of health, and section 57, of the Public Health Act, provides:

The treasurer of the municipality shall forthwith, upon demand, pay out of any moneys of the municipality in his hands, the amount of any order given by the members of the local board or any two of them, for services performed under their direction by virtue of the Act.

There is no option given to the treasurer, but what is he to do. The statute says he shall pay and the mayor says he shall not. Further developments may be expected at the next meeting of the council.'

The above is an extract from the columns of the Collingwood *Bulletin*. It is clearly this treasurer's duty to pay the amount of the orders of the local board of health, given under the statute. The plain direction of an Act of parliament cannot be over-ridden or superseded by the order of the head of a municipal council.

The Councillor Backed Down.

If more of our civil engineers had the backbone of William T. Jennings, C. E., of Toronto, it would be better for the dignity of the profession. Mr. Jennings was recently engaged to report on a sewage system for Oshawa, Ont., and when his report was discussed in the town council, one of the councillors declared that "Jennings had got his report from some young fellow working in the city," and further stated, "It is plain that this man (meaning Jennings) was paid to report favorably on both systems," hinting that he had received pay from private individuals as well as the town Mr. Jennings promptly instructed John Jennings, solicitor, of Toronto to take steps to compel the councillor to prove his statements. This brought the councillor to a realizing sense of the recklessness of his criticisms, and he not only had to confess that his statements were absolutely without foundation, but that he had not even a rumor on which to base his insinuations. The slanderer, who is a well-known local manufacturer, had the humiliation of being compelled to make a full retraction of his irresponsible statements in writing, to be read at the succeeding meeting of the council, and to be published in the local papers.—*Canadian Engineer.*

In Bridgeport, Connecticut, a scheme of municipal co-operations are to be chartered, which will involve the raising of six million dollars, but without going outside the city to borrow. Forty thousand citizens will each take $175 worth of stock, out of each subscription twenty-five dollars will be deposited in a savings bank, which is to be one of the six corporations, while the remainder will pay for one share in each of the other five companies. Along with the scheme is to be established a system for insuring the lives of prominent citizens, the city paying the premium and having the benefits, as a means of wiping out the city debt. The plan is said to have the support of many business men who believe that the joint stock system can be successfully applied in this way to a whole community, the members of which can from their own resources create all the means necessary for the establishment and carrying on of industrial, banking and distributing enterprise more economically than under the existing competitive system. This experiment shows how earnestly modern communities long to discover a cure for the tyranny of combination wealth. It will be followed with interest even by those who look only for its failure.

* * *

A suit has been entered for $1,000 damages, against the township of Montague, for wrongfully discharging water upon the plaintiff's land and for wrongfully obstructing the free and lawful flow of the waters of what is known as the Swayne award ditch, etc.

* * *

A curious state of affairs has arisen in in Tilsonburg. The question is as to the validity of a by-law which was recently voted upon by people of Tilsonburg. Some time ago a by-law was introduced by the Tilsonburg council for the removal of the McIntosh works from Otterville to Tilsonburg. The by-law also provides that the concern shall be allowed exemption from taxes and receive a bonus of $2,000. A number of the Otterville people hold that the by-law is illegal, and that an industry that is induced to move from one place to another cannot receive a bonus.

* * *

For some years now the Island of Guernsey has had a very complete, efficient and cheap municipal service of telephones. There are several tariffs, the cheapest being only thirty shillings a year, with a fee of one penny per call, and five calls for a penny when the number exceeds one thousand. The highest tariff is £5 13s. 4d, which covers four thousand free calls, any excess being charged at the rate of five calls a penny. There is an intermediate tariff at £2 10s a year, for one thousand five hundred and twenty calls, and a charge of a penny for five calls in excess of that number. This is the most popular service, and suits the frequent caller. But the system is very elastic, and is arranged to suit all classes. The result is that the traffic has grown steadily since the system was inaugurated.

* * *

The first case, under the Ontario law enacted for the special intent of preventing municipalities from enticing away each others' factories, was entered at Osgoode Hall, last Saturday, when Markham village caused a writ to be issued against the town of Aurora, for the quashing of a bonus by-law of $10,000 and exemption from taxation offered to Underhill & Sisman, to remove their shoe factory from Markham to Aurora. The whole province will watch, with interest, the result of this action.

* * *

Mr. Aylesworth, K.C., has given his opinion with regard to Ottawa's financial position. He holds that the city has reached the limit of its borrowing powers and that any further expenditure will be illegal. All work must be suspended until taxes can be collected to pay for it. The city borrowed $450,000 and over $250,000 was used for liquidating illegal overdrafts of previous years.

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.

Assessment in Districts.

316—W. D.—Acting under the authority of subsection 2 of section 42, chapter 225, R. S. O., our township council adopted the assessment of 1900 as the assessment for the present year, but finding so many properties had changed hands and improvements made, the council determined to have the township assessed. I would ask :

1. Can the assessment be made now ?

2. Can the council, by by-law, fix a day for the return of the Assessment roll and hold court of revision in due course ? and will all subsequent duties of the clerk be legal under such an assessment ? Section 250, chapter 224.

3. If the assessment of 1900 were adopted, would the court of revision have power to add names and properties to the roll ? or should the court only decide appeals ?

We are of the opinion that the council may, under the circumstances, repeal the by-law adopting the previous year's assessment and have the township assessed, fixing a time for returning the roll, and any person complaining of his assessment can appeal from the assessment within one month after the time fixed for returning the roll. The duties of the clerk are clearly provided by the Assessment Act. The court of revision cannot deal with any complaint unless it has been brought before it by notice given within the time limited by the Act.

Illegal Drainage Works.

317—C. O. D.—The owner of lot 21 digs a drain across his farm up to the sideroad and puts in a six-inch tile at his own expense. The owner of lot 20 asks the council to put a drain across the sideroad to give him outlet. Then he digs a drain and puts in a six-inch tile and drains his land. The owner of lot 21 claims that the water off lot 20 fills his drain so much that it cannot take the surface water and drain his own land. Can the owner of lot 21 come on the council and the owner of lot 20 for damages ? or would the owner of lot 20 and the council have to enlarge the tile drain across lot 21 ?

We are of the opinion that both the township and the owner of lot 20 are liable to an action by the owner of lot 21 because it appears that they have together conducted water into the tile drain constructed by the owner of lot 21 to his injury. If the township and the owner of lot 20 want to get the right to conduct water through lot 21 they must take proceedings under the Ditches and Watercourses Act.

Duties of Fence-Viewers.

318 INQUIRER—A owns west half of lot 15, B owns east half of lot 16. The line fence between them has been in dispute for twenty or twenty-five years. A claims that B has part of the land that belongs to his lot. A is the original owner of his lot. B has owned his lot about three years. His lot has changed hands frequently. The fenceviewers were called on some years ago by A. The two owners then agreed to divide what then appeared to be an overplus equally, so one of the fenceviewers now tells me. The fenceviewers staked out the line and apportioned it but made no award and the two parties did not file an agreement with the clerk. A built his part of the fence on the central line some time after. The tenant of east half of lot 16 tore it down, and A has not been able to build it since. They have had a few fights over it since. A has again called the fenceviewers.

1. Can the fence-viewers locate a line fence on the correct line if it is in dispute? If the fence never has been on the central line they should call in a land surveyor under subsection 4, section 7 of the Line Fences Act, and make an award.

2. If the land in dispute is found to be an overplus and B has possession, can the fenceviewers divide it between the parties and locate the fence in the centre ?

3. If the fenceviewers have no jurisdiction over the matter, what steps should be taken to settle it ?

4. If the fence-viewers do not meet and agree and make an award, will their award be binding if not set aside on appeal ?

The fenceviewers have no power to determine the question of title or ownership of the lands of these two persons. They can only deal with the fence and can only make an award fixing the portion which each is to build or maintain, the kind of fence to be built, etc. If there is a dispute as to where the true boundary line is, that question must be decided by the courts, if the parties cannot agree.

Duties of Assessor.

319—A SUBSCRIBER.—1. Can an assessor assess my real estate at the rate of $14 per acre, and the next day send me notice by registered letter (containing the regular assessor's notice) to say that he had raised my land to $18 per acre ?

2. Can the council legally collect taxes on the $18 assessment, there being no appeal, only I go to the court of revision and state my case, refusing to pay rate on any but the $14 aasessment ?

The assessor gave as his reason for assessing this way, that I had made false statements to him, declaring that my land had been rated at $13 per acre, the assessor telling me at the time if my statement was not true he would certainly raise me up to the $18.

1. Yes.

2. Yes, unless you had appealed to the court of revision in the manner provided by section 71 and following sections of the Assessment Act, and the court of revision, on the evidence adduced at the court, reduced your assessment to $14 per acre, you will have to pay taxes on the $18 assessment, or such other amount at which the assessment was fixed.

Issue of School Debentures—Division of Townships School Sections.

320—CLERK.—A question arose at ast meeting of our council. Had they power under section 70 of the Public School Act, to issue debentures to raise money to build a school, a site having already been obtained ?

2. How can a council form a school section according to section 11, when there is no school in the section, and the ratepayers live all on one side and will probably place the school in one corner ?

1. Yes, provided the proposal for such loan has been submitted by the trustees to and sanctioned at a special meeting of the ratepayers of the section called for the purpose (see the latter part of sub-section 1). This section is now 74 of the Consolidated Public Schools Act, 1901.

2. By sub-section 1 of this section the municipal council shall sub-divide the township into school sections, so that every part of the township may be included in some section, etc. It makes no difference whether there is a schoolhouse in any section so formed or not. The council has nothing to do with the locating of the site of the school-house. This is a matter to be settled by the trustees of the section. See sub-sections 3 and 4 of section 62 (now section 65).

Adjustment of Rights and Liabilities in Alteration School Sections.

321—W. M. N.—A part of S. S. No. 1 withdraws from the section and with a part of No. 3. They form a school section of themselves to be known as No. 5. No. 1, S. S., is about to sell the present school site, it being too small, one-fifth of an acre and buy one acre and build a new school-house within one hundred yards of the present site. Now the ratepayers who withdrew from S.S. No. 1, want $150 from S.S. No. 1 as their share of the old site, said old site will not sell for more than $75 or $80.

1. What are they entitled to ?

2. Are they entitled to anything ?

1 and 2. Section 44 of the Consolidated Public Schools Act, 1901, (section 41 of chapter 292, R. S. O., 1897), makes ample provision for this case. It is as follows : In case a school site or school-house or other school property is no longer required in a section, in consequence of the alteration or the union of school sections, the same shall be disposed of in such a manner as a majority of the ratepayers in the altered or united school sections may decide at a public meeting called for that purpose ; and the ratepayers transferred from one school section to another shall be entitled, for the public school purposes of the section to which they are attached, to such a proportion of the proceeds of the sale of such school-house or other public school property as the assessed value of their property bears to that of the other ratepayers of the school section from which they have been separated ; and the residue of such proceeds shall be applied to the erection of a new school-house in the old school section, or to other public school purposes of such old section. In the case of united sections, the proceeds of the sale shall be applied to the like public school purposes of such united sections.

Statute Labor Commuted—Accident to Road Commissioner.

322—J. P. N.—Our township statute labor is commuted and A is engaged as a road commissioner at a salary of $1.75 per day. After he has commenced his duties he meets with an accident on the highway, his horse shies over an embankment smashing the rig and hurting him slightly, and now he claims damages from the council.

Admitting that the road was out of repair, does not his position as commissioner destroy his claim for damages?

If the accident happened while A was actually engaged in repairing the road, we do not think he can recover, but if the accident happened while he was using the road for the purpose of travel over it, we do not think that the fact that he happened to be commissioner would disentitle him to recover, though his knowledge of the road may make it more difficult for him to recover than it would if he were a stranger, because if the road was dangerous and he was well acquainted with it, greater care would be required on his part than on the part of one who was unacquainted with the road.

Union of Townships—Liability for Debt.

323—J. A.—Where there is a union of two or more townships, in one municipality, can the petition of the ratepayers of the townships, asking the council to purchase a road grader for their township and have their rateable property levied on for payment, separate from the other townships in the union, be acted on and a by-law passed making the said action legal? Some of the ratepayers in the other township in the said municipality claim that they will be liable for the debt contracted.

Sub-section 14 of section 2 of the Municipal Act defines township as follows: "'Township' shall mean township, union of townships, or united townships, as the case may be." If the council of the two townships purchase a road grader, it must do so as a council of the two townships, and at the expense of the two townships, and, therefore, we do not see how the council can treat the road grader as the property of one township, and levy a rate on the ratepayers of that township to pay for it any more than the council in the case of a single township can levy a rate upon a portion of the ratepayers, which clearly cannot be done. Section 32 of the Municipal Act provides the mode of division of the property of a union of townships, and that section implies that all the property is regarded as the joint property of the whole territory, that is, the townships forming or comprising the union.

Revision of Assessment Roll—Error to be Rectified.

324—C. H. S.—The court of revision for our municipality met on the 27th inst. and finally revised the assessment roll. Since that date there has been an error detected where a ratepayer is assessed for fifty acres instead of one hundred. Can said error be rectified at once, and if so what course must be taken?

Yes. Section 166 of the Assessment Act, provides that if it comes to the knowledge of the clerk, that such land has not been assessed, the clerk shall, under the direction of the council, enter such land on the collector's roll next prepared by him thereafter, as well for the arrears for the year preceding only, if any, *as for the tax for the current year*; and the valuation of the land so entered shall be the average valuation of the *three* previous years, if assessed for the said three years, but if not so assessed, the clerk shall require the assessor or assessors for the current year to value such lands; and it shall be the duty of the assessor or assessors to value such lands when required, and to certify the valuation, in writing, to the clerk; and the owner of such land shall have the right to appeal to the council at its next or some subsequent meeting, after the taxes thereon have been demanded, but within 14 days after such demand, which demand shall be made before the 10th day of November; and the council shall hear and determine such appeal on some day not later than 1st day of December.

Debentures Cannot be Issued Under the Ditches and Watercourses Act.

325—J. M. D.—A number of farmers wish to construct a ditch under the Ditches and Watercourses Act at a probable cost of $600. Can the council, under section 84 of the Drainage Act, issue debentures for the cost? If so, would all the conditions of the Ditches and Watercourses Act have to be complied with, or how would we proceed?

The Drainage Act and the Ditches and Watercourses Act are two separate and distinct enactments. If the drain is to be constructed under the provisions of the latter Act, no debentures can be issued for the purpose of raising money by way of a loan to pay the cost of the work. The doing of the work will have to be apportioned by the township engineer amongst the several parties interested, as provided in the Act.

Damage to Implements Used in Performing Statute Labor.

326—T. I.—An overseer in notifying men on his division to perform statute labor requests one man to bring his plow, another to bring his wagon. They do so. While working, the beam of the plow is bent and has to be taken to shop to be straightened; one of the axles of the wagon is broken with not more than a yard of gravel on for load. Eventually the council is presented with a bill for these repairs by respective owners.

1. Can council be compelled to pay these bills?

2 Would it be legal if they did pay them?

1. No.

2. No.

Meeting to Equalize Union School Assessment.

327—C. A. W.—In the year 1900, the assessors of a township and incorporated village met for the purpose of equalizing a union school section. The assessor of the township asked for an adjournment to get advice, which was granted, and he agreed to notify the assessor of the village of the time that they should meet again. They did not meet again, and the section was not equalized, and no awards were sent in. In the year 1901, a new assessor of the township and the same assessor of the village met to equalize the same section, and disagreed as to the amount that each partly should pay, and now since they have disagreed the assessor of the village claims that last year's meeting was legal.

1. Was the meeting of 1900 legal, no awards being sent in?

2. What steps should be taken?

1. Sub-section 1 of section 521 of the Public Schools Act, 1901, (section 51 of chapter 292, R. S. O., 1897), provides that "once in every three years the assessors of the municipalities in which a union school section is situated, shall, after they have completed their respective assessments, and before the first day of June, meet and determine what proportion of the annual requisition made by the trustees for school purposes shall be levied and collected upon the taxable property of the respective municipalities out of which the union school section is formed." Since the assessors for 1900 did not meet again and complete their duties, and did not notify the secretary-treasurer of the union school section of the result of their deliberations, as required by this sub-section, the meeting in 1900 had no legal results, and was practically a nullity.

2. Since the assessors for 1901 have disagreed as to what proportion of the trustees' annual requisition for school purposes shall be levied upon and collected from the respective municipalities, "the inspector, in whose district the union school section is situated, with the assessors aforesaid, shall determine the said matter and report the same to the clerks of the respective municipalities on or before the first day of July." (See sub-section 2.)

A Drainage Petition.

328 U. C.—We had a petition sent into our council under the Drainage Act which contained a majority in number of the owners described in the area to be drained. After the engineer's report was read all those who wished to withdraw their names from the petition were given an opportunity of doing so. There were two ordered their names to be taken off, then it was left a tie. The council then made a motion not to go on with the work. Those men who brought the petition to the council can now get a majority of names on a petition again.

1. Will the law allow them to get up a petition again on the same drain?

2. Will it be lawful for the council to take action on the second petition and go on with the work, should they get a majority within ten days of the first?

3. Will the engineer go over the work a second time or will the first time do for the second?

1. Yes.

2. Yes, if they consider that the drainage works petitioned for are necessary and should be carried out and completed.

3. If the engineer can report to the council on the drainage work petitioned for, as required by the Act, without going over the ground a second time, it will not be necessary for him to do so.

Liability of a Councillor Contracting with His Council

329—A. A. O.—1. A member of our council has a number of teams which at some times do work on the corporation streets and paid by council. Can this member's seat be declared

vacant or has he a right to do such work, he being paid by the hour?

2. Can a member be interested in a team with another person and do work for the corporation, all bills coming in his name? Please explain without quoting the Act.

1. This member has no legal right to do this work for the council. His seat cannot be *declared* vacant by reason of his having done it; but if he refuses to resign his seat, proceedings may be taken to unseat him, as provided by sections 219 and 244 of the Municipal Act. See section 208 of the Act.

2. He cannot let his team to the council for this purpose. If he does, he cannot collect his pay, as the contract is void. See section 83 of the Act.

Seizure of Wire Fence for Taxes—Mode of Paying Township Accounts.

330—W. H.—1. Can a wire fence on an unoccupied farm be sold for taxes, and can the purchaser remove it?

2. Is it necessary to pass a by-law each time money is ordered to be paid, or will one by-law suffice for all payments during the year?

1. If the wire fence is standing, and erected on and attached to the land in respect of which the taxes are payable, it is part of the realty, and cannot be seized and sold for the taxes, and a purchaser of it at a tax sale has no right to remove it.

2. We assume the payments you refer to are those ordered or directed by the council to be made in transacting the ordinary business of the municipality. This being the case, the passing of a by-law is not necessary. Resolutions of the council, directing the issue of orders on the treasurer for the respective amounts are sufficient.

Council Liable for Flooding Cellar—Dog-Tax By-Law.

331—M. H.—1. Provided the road drains have gathered up more water than usually went in an old watercourse, consequently flooding a man's cellar, is the council liable for damage?

2. Can a council, by by-law, collect fifty cents only on dogs if there has been a petition of twenty-five names to that effect?

1. If the council, by the construction of drains on the road, have collected and directed towards the man's cellar, more surface water than would naturally flow in that course, and this is the proximate cause of the damage, the council is liable to make it good.

2. Having received a petition from twenty-five ratepayers of the municipality to do so, the council may pass a by-law pursuant to section 2 of chapter 271, R. S. O., 1897, dispensing with the levy of the tax imposed by section 1 of the Act, in the municipality. The council can then pass a by-law under the authority of sub-section 3 of section 540 of the Municipal Act, imposing a tax of fifty cents on each dog in the municipality. If this is done the fund raised does not constitute a fund under chapter 271 for the purpose of paying damages for sheep killed.

Amount of Loan to Build New School-House Should be Sanctioned by Ratepayers.

332—RATEPAYER.—The trustees of a rural school section call a special meeting of the ratepayers to sanction a loan to build a new school-house and one ratepayer moved and another seconded a motion that the trustees be empowered to apply to the township to pass a by-law and issue debentures for a sufficient amount to build a new school-house. The motion carried. What I want to know is, is it a legal vote when there was no stated amount voted on or mentioned at the meeting? Is the word "sufficient" all that is required? My opinion is that the amount should be voted on, as the School Act says such loan has been submitted by the trustees and sanctioned at a special meeting.

We agree with you, and are of the opinion that the amount required and for which the debentures are to be issued should be definitely submitted to and mentioned in the resolution passed at the special meeting of the ratepayers, called for the purpose of considering the loan. It cannot be said that the ratepayers of the section have sanctioned the loan, if they did not know the amount the trustees proposed to raise. Sec. 76, Public Schools Act throws some light on this question, though it does not apply to a rural section. It says, that wherever the council refuses to raise or borrow the *sum required*, then the question shall be submitted by the council, if requested by the board of trustees, to the electors.

Rights of Municipality Under the Ditches and Watercourses Act.

333—A. S. 1. Has the municipal council the same power as a private land owner to take advantage of the Ditches and Watercourses Act?

2. Could a land owner collect damages from a municipality instead of taking advantage of said Act? his lands being flooded to a certain extent by back-water from a ditch on the road allowance, which connects with a watercourse which requires to be deepened?

3. What course should a municipality pursue if the council has not the power to force the deepening of the watercourse, as section 7 of the Act would imply?

1. With regard to this Act we have considerable doubt as to whether a municipal council can initiate proceedings under this Act. "Owner" includes a municipal corporation as regards its highways, but it seems anomalous that a municipality should bring in its own engineer as an arbitrator, to act as judge in a matter which is the municipality's own affair; and the language of section 7 of the statute is ambiguous. The first sub-section of this section *may* mean that any owner "*other than a municipality*" may commence proceedings by filing this declaration of ownership, and that a municipality shall not commence such proceedings at all. The point has not, so far as we are aware, been decided by any high court judge but we understand that the county judge of Welland, has held that a municipality has no right to commence proceedings under this Act.

2. If, by the construction of ditches along the highway, the council has collected and discharged onto the owner's land a larger quantity of surface water than would naturally flow thereon, and he thereby suffers damage, he can collect the damages he has sustained, from the municipality.

3. The council should take such steps as the nature of the locality renders necessary, to prevent the flow of the surplus water to this party's lands, either by stopping up or conducting to a sufficient outlet, the drains that are causing the damage.

Contract of Member of Joint Stock Co. with His Council.

334—A. A. O.—Please say if a member of the council, being a member of a joint stock company, could be unseated for the teams belonging to the company doing work for the corportion and receiving pay for same from council?

No. Sub section 2 of section 80 provides that "No person shall be held disqualified from being elected a member of the council of any municipal corporation by reason of his being a shareholder in any incorporated company having dealings or contracts with the council of any such municipal corporation," but 'no such shareholder is entitled to vote in the council on any question affecting the company."

Manhood Suffrage Voters Omitted from Assessment Roll.

335—A. A. S.—About twenty appealed to the court of revision to have their names put on voters' list as M. F. Several of these persons took an affidavit (similar to the one enclosed) before a magistrate and sent it to the clerk. Others attended court personally, the remainder had some one to appear for them. Some of the councillors contended that they should all take the affidavit.

1. Could these names be legally added without taking the affidavit?

2. Was it right to add names of persons that were not of the full age of 21 years, although they were within two months of being?

It is the duty of the assessor, under section 15, of the Assessment Act, to place upon the assessment roll the names of persons qualified to be voters under the Ontario Election Act, who deliver or cause to be delivered to him, affidavits, in the form of schedule B, referred to in sub-section 1 of that section. Subsection (3) of section 16 of the Assessment Act, entitles persons who have not been entered upon the assessment roll, as qualified to be voters under the said Act, who should have been so entered, to make complaint to the court of revision as in the case of assessment. Section 71 of the Assessment Act, provides the manner in which such complaints are to be made. If the persons referred to by you made their complaints in the manner provided by that section, the court of revision had the right to direct their names to be placed upon the assessment roll, upon such evidence as the court considered sufficient, and when such complaints are made to the court of revision, the affidavit which the assessor requires under section 15, is not an absolute pre-requisite to their right to be placed upon the assessment roll.

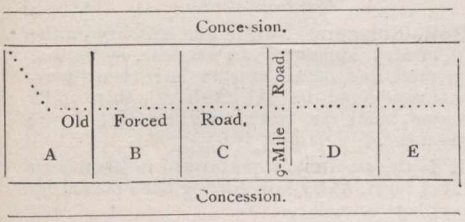
2. No. The amendment to the Voters' Lists Act, made by chapter 2, Ontario Statutes, 1901, applies only to appeals to the county judge sitting as a court for the revision of the voters' lists.

Closing of Portion of Forced Road.

336—D. T.—1. A got council to close forced road to line between A and B. D and E got road across them closed also. Now C wants to close road across his lot as he has bought the property lately. Can B keep this road open across C for his own use only, having two concessions, one at each end of his lot? Both are good roads. I don't think there was any statute labor done on the old road for years.

2. If C can shut this road what steps will he have to take?

3. Has the council anything to do with this road?



1, 2 and 3. If C desires to close the road across his lot, he should make application to the council of the township for the passage of a by-law pursuant to section 637 of the Municipal Act, closing the road. The council will, no doubt, see its way clear to passing such a by-law, as the road seems to be quite unnecessary, as far as the general public are concerned, and B cannot be prejudiced, as he has ingress and egress to and from his land, by good roads at either end. Before passing this by-law the council must take the preliminary steps mentioned in section 632 of the Act. The requirements of the last mentioned section should be strictly observed, otherwise the by-law could be quashed on an application made for such a purpose. The council is not, however, bound to close the road unless it sees fit to do so.

Enlargement of Drain Under the Municipal Drainage Act.

337—C. W. W. D.—1. After a drainage scheme has been carried out under the Drainage Act of Ontario, and has been in operation for a few years and it is found that a certain portion of the drain across four lots is not of a sufficient capacity to carry the water, being of the same size and yet having to take water from three other cross drains and itself emptying into a creek of a far greater capacity. What steps should the owners of the four lots take to get council to deepen and widen said portion of drain?

2. And what is the duty of the council in said matter? It requires more than ordinary cleaning out.

1 and 2. If the cost of the deepening and widening of this drain will not exceed $400 and only land and roads within or under the direction of your municipality are assessed, the owners of the four lots should request the council to pass a by law for the doing of the work, pursuant to the provisions of section 74 of the Drainage Act (chapter 226, R. S. O., 1897). In this case it is to be observed that no petition or report of an engineer is necessary, and the work will be paid for by a pro rata assessment on the lands and roads as last assessed for the construction or repair of the drainage work. If the cost of the work be more than $400, proceedings must be taken under section 75 of the Act and no petition for the drainage work is necessary, but a report and assessment of the cost of the work by an engineer must be obtained and parties interested have the same rights of appeal as are provided with reference to any drainage work constructed under the provisions of the Act.

Signature to a Drainage Petition—Powers of Council and Engineer.

338—W. D.—1. Has the actual owner of farm the right to sign a drainage petition if his lot is not described on the petition when he is assessed for outlet and benefit?

2. Has the council power to hold the engineer's report over to second meeting to allow any person to withdraw and sign their names to the petition?

3. Would it be legal for the council to allow the engineer to reduce the size of drain one-third and make another report in accordance with the reduction?

1. The persons who have the right to sign petition under the Drainage Act are the resident and non-resident persons (exclusive of farmers' sons not actual owners) as shown by the last revised assessment roll to be owners of the lands to be benefited in any described area within the township, that is, for the draining of the area described in the petition. According to subsections 3 and 4 of section 3 of the Municipal Drainage Act the owners of the lands or roads made liable for "injuring liability" or "outlet liability" shall neither count for nor against the petition required by subsection 1 of section 3, unless within the area therein described. The owner in this case is not within the area described in the petition and therefore we do not think he can be counted either for or against the petition.

2. The council can, at the meeting at which the report is received and read, adopt or reject it, refer it back to the engineer for amendment, or hold it over for the purpose of allowing persons to withdraw or sign their names to the petition.

3. The council can refer the report back to the engineer for amendment, but should leave the nature and extent of the amendment to the judgment and professional knowledge of the engineer. If, in his opinion, the reduction in the size of the drain could be made without impairing the utility of the drain petitioned for, he can legally do so and file an amended report with the council; but the council has no right to dictate to the engineer as to what the size of the drain would be. He must use his own judgment.

Proceedure at Court of Revision.

339—C. D.—A court of Revision, all members present except the reeve, court organized, members were sworn, then one of their number elected chairman, some business discussed. Reeve enters, claims the seat without motion, as chairman. Would his then taking the chair make court irregular and illegal?

The reeve had no right to claim and take the position of chairman of this court of revision. The members are quite in order in choosing, by resolution, any of their number to act as chairman of the court. The reeve having taken the chair, however, apparently with the acquiescence of the other members of court, no objection can now be taken to the legality of the court or the regularity of its proceedings.

A Bicyclists Right to Damages.

340—G. S.—When travelling along the Nipissing Road (a public road) on a bicycle, which is my way of travelling; I was travelling at an ordinary speed and my pedal caught on a part of a lumber pile that was piled partly on the road, and badly damaged my wheel, and has given me considerable trouble and left me out of the use of the wheel for some time. Can I come on the council or man who owns the lumber for damages to wheel, or if any, which one?

2. Can I collect for being out of the use of the wheel while it is being repaired, which will be about two weeks?

Persons travelling along a public highway on a bicycle or any other vehicle are required to exercise ordinary care in so doing. If a person riding along a road in daylight runs his bicycle so close to a lumber pile on or by the side of the road, that the pedal strikes it, a strong presumption would be raised that the rider was not exercising ordinary care at the time the accident happened. It may be that you were riding after dark or that there were some circumstances which you could rely upon to show that your own carelessness was not the cause of the accident, and if you can you have a good cause of action against the man who placed the lumber on the road. In regard to the municipality you would have to show that the council had knowledge of the existence of the lumber on the road or that it was there so long that the council was negligent in not having discovered the fact that it was there. As to the damage we do not think you can recover damages for the use of the wheel beyond what you had to pay for another wheel if you had to hire one for your business, and that a bicycle was really necessary to carry on your business.

Commutation of Statute Labor.

341 X.—A municipal council last year passed a by-law commuting statute labor at fifty cents a day. This year's council passed a by-law repealing the old by-law and allowing all ratepayers to do statute labor, putting in the by-law a section providing that any person or persons or road division might have their statute labor commuted at seventy-five cents a day, upon applying to clerk or council before a certain date. After passing this by-law, at the same session, the council passed a resolution, authorizing the reeve and clerk to sign it and affix the corporate seal, to give the resolution the effect of a by-law, commuting statute labor

in two divisions in the township at fifty cents a day, any other divisions or persons, of course, who desired to commute had to pay seventy-five cents a day.

1. What authority has the council to refuse the privilege to commute at fifty cents a day to those who desire to do so, that is granted to these two divisions?

2. If a ratepayer notified the clerk or council that he desired to commute, could he demand, or would the council be obliged to accept fifty cents a day?

3. Is not the transaction, commuting at fifty cents a day, illegal?

We are of the opinion that the acts of the council are legal for these reasons: The resolutions passed by the council having the seal of the corporation attached to them are, in effect, by laws. See note (d) to section 277 of the fourth edition of Harrison's Municipal Manual, where the author says an order or resolution duly signed and sealed is virtually a by-law, and under section 103 of the Assessment Act the council of any township may by by-law direct that a sum not exceeding $1 a day shall be paid as commutation of statute labor for the whole or *any part* of such township. The only objection which can be urged against the by-law is, that it discriminates as between the ratepayers of different parts, of the township, but we do not think there is anything in this objection, because the council clearly has the right to pass a by-law directing a commutation of statute labor for a part of a township, leaving the ratepayers in the other part to perform their statute labor and the doing of the work might be worth more than the rate of commutation in the part in which the statute labor is commuted.

Exemption of Farm Lands in Towns from Local Improvement Rates.

342—H. M.—In answering question 310, in the June number, are we to infer that the council are *compelled* to pass a by-law pursuant to sub-section 2 of section 8 of the Assessment Act, exempting farm lands, whether the *notice* provided for by sub-section 3 be given or not? or is it an essential preliminary step to passing of such by-law that notice be given pursuant to sub section 3?

Section 8 of the Assessment Act is not clear upon the point raised by you, but after the best consideration which we have been able to give the matter, we are of the opinion that the council need not pass a by-law under this section unless some person claims exemption. The time fixed for returning the assessment roll is the 30th of April, and a person claiming exemption under this section must make his complaint within one month from that time, and the council is not in default in not passing a by-law within that time, because it is only required to pass a by-law at least two months before striking the rate of taxation for the year. The usual time for striking the yearly rate is the middle of August, and it cannot be struck earlier than the first day of August, because school trustees have until that date to submit estimates of the moneys required by them for school purposes to the council.

Opening Road for Private Individual.

343—C. B.—Can one person compel a municipal council to open a portion of a concession road for said person's benefit only. Said portion has never been open on account of obstructions which would cost a large outlay to remove, to make a passable road. When asked the question, I gave the opinion that when it was not for the public in general, a council could not be compelled to open the road for the benefit of one person only. Will you kindly give your opinion?

The road would be of no benefit to any person, only the one desiring the opening, who is a non-resident. There is no one living on the property, and probably never will be.

It is optional with a municipal council whether it opens and establishes a new road when requested to do so. If the road you mention, when opened, would be for the use and benefit of one individual only, and public convenience does not require it, the council should not open it.

Opening of Road for Private Individual.

344—D. A.—You will notice that on concession 1, O. S. Road, the lots are fifty acres each and were free grants. On the 2nd concession, the front fifty acres was a free grant and the back fifty acres was a reserve and sold at $2 per acre, and in all the deeds on the 2nd concession there is a road allowance dotted ..... for the owner to reserve to get out to concession 2. But the owners of the front 52, 53, 54, 55 and 56 clubbed together in 1869 and bought or rather paid for a new road as marked such across west end of the reserves down to the sideroad, and the deeds are in the council's name, but no mention of giving up all claim through the front fifty acres to concession 2. The reserve of 51 was owned then (1869) by the owner of the fifty acres abutting it on concession 1, O. S. road, hence he was on a good road and the new road is only bought up to 51 but now the reserve of 51 has come into other hands, viz., the owner of reserve 52, 53 and 54 and he wants to open the road allowance through 51 to concession 2. I have found no document showing that road allowance through to concession 2 of any of the lots was signed away. The present owner of 51 says that the owner of reserve in 1869 had nothing to do with making this new road, and would sign nothing. I am served with a notice to get a by-law passed to open the road through front of 51 to concession 2 for the benefit of the reserve.

Concessions 2 and 3.

Lot 5	52	53	54	55	56	57	
These two b'ocks were	Reserve 50 ac.	Reserve 50 ac.	Reserve 50 ac.	Reserve 50 ac.	Reserve 50 ac.	Reserve 50 ac.	Side Road.
	New road made 1869.						
one farm in 1869.	50 acres	50 acres	50 acres	50 acres	50 acres	50 acres	

Concession 1, Owen Sound Road.

It is optional with a municipal council whether it opens a new road on being applied to, to do so, or not. This road appears to be required to be constructed for the benefit of a private individual only, and not for the convenience of the general public, and the council should not open it.

Right to Hold Inquest—Payment of Expenses.

345—A SUBSCRIBER.—1. The body of a man was found in the township of Stamford in the county of Welland, which was run over by an electric car on the Niagara, St. Catharines and Toronto Railway, and the body was brought to the city of St. Catharines through the town of Thorold in the county of Welland, where there is a coroner for that county. Has a coroner in the county of Lincoln jurisdiction to hold an inquest?

2. If he had, which county is liable for the fees?

1. Since the body is now in the county of Lincoln, if a coroner in and for that county deems it necessary, he is the proper coroner to hold an inquest. A coroner appointed in and for the county of Welland has no jurisdiction to conduct an inquest in any other county.

2. The county of Lincoln.

A Legal Assessment—Belting, Etc. Acquired with Mill—Part of the Realty.

346—SUBSCRIBER.—Our municipality on the 13th of May appointed an assessor, by motion of council, and asked him to have the assessment completed by the 20th of May. The assessor went to work and completed the assessment.

1. Is the assessment performed in the month of May legal, no by-law having been passed by the village council?

2. Can the ratepayers be compelled to pay their taxes on an assessment performed in the month of May?

3. Have the village council power to sell the belting, pulleys and shafting of a woollen mill, acquired by foreclosure of mortgage?

4. Have the council power to give away or lease the above mentioned articles?

1. Yes. The Assessment Act, section 56, requires the assessor to complete his roll and deliver it to the clerk of the municipality on or before the 30th day of April, but if, for any reason, the assessment can not or has not been completed by that date, it may be proceeded with and completed as soon as possible therea ter.

2. Yes.

3. Yes. The belting, pulleys and shafting were held to be fixtures in the case of Gooderham, et. al., vs. Denholm, (18, A. R., P. 203) and as such passed to the municipal corporation on foreclosure of the mortgage, as part of the realty, with the mill and the land on which it was erected.

4. The articles are the property of the council as trustee for the municipal corporation, and should be dealt with in a way that would be most advantageous to the municipality. They should not be given away, unless there is no possibility of them being disposed of otherwise for value.

These Are Manhood Suffrage Voters.

347—CLERK.—How should the following names be placed in Voters' List?

Jones, Wm., T. M. F. .....No assessed value.
White, Geo., Occ. M. F..... " "
Smith, J., Householder & M.F. " "

Since of these parties are, according to the assessment roll, possessed of no property qualification, they cannot be in either parts one or two of your voters' list; but as manhood franchise voters they should be placed in part three.

Can Non-Resident Councillor Sit and Vote in Council? Wrongful Act of Assessor.

348—NEW SUBSCRIBER.—1. A is a township councillor in 1906 and when elected last January was a resident of township. In the spring he rented his farm and moved into adjoining township about five or six miles from boundary. If he sits in council for remainder of year will it cause any business passed by council to be illegal?

2. If other members of council passed any by-laws or resolutions without his vote, would they be legal?

3. If no steps are taken to unseat him, can he still hold his seat and vote as formerly without affecting the legality of business done? A is still on the roll as resident.

4. D is assessor. At court of revision one ratepayer, C, was lowered $50 by court. He refused to accept his schedule and D privately lowered him $50 more without the knowledge of the court. Can council change figures to their own valuation at court without notifying C or D?

5. What could be done to D?

1. No. As long as the man was a resident of the municipality or within two miles thereof at the time of his election, he is quite competent to take part in the proceedings of the council for the balance of the year, no matter where he resides now.

2. Yes, provided a quorum of the council (that is a majority of the members) was present when the by-law or resolutions were voted upon, and since your municipality is a township, and the council consists of five members, if at least three members voted in favor of the by-laws or resolutions (see sections 268 and 269 of the Municipal Act).

3. Yes.

4. Assuming that C had previously filed an appeal to the township court of revision, pursuant to the provisions of the Assessment Act, and the court, after hearing the evidence, reduced his assessment by $50, his assessment should now be the amount as it appeared on the assessment roll before the sittings of the court, reduced by $50, and should remain at this figure, unless altered by the county judge on appeal to him. Neither the assessor nor any person other than the county judge on appeal, has any right to make any alteration whatever in the roll after it has been revised by the court of revision. No notice is required to be given C or D, that the amount of the assessment on the roll is that fixed by the court of revision.

5. Nothing. What the assessor did in this case had no legal effect. It did not hurt any person and therefore no proceeding can be taken against him for the purpose of punishing him.

Councillor Resigns His Seat—Election of Successor.

349—REEVE.—1. One of the members of our council has resigned his seat on account of a proposed loan being given him by corporation to enable him to re-establish his business, which was recently destroyed by fire. How should we proceed to nominate and elect another member? in the usual way?

2. Should the candidate who at the last municipal election had the next highest number of votes be entitled to the seat?

3. If such candidate is the proper person to take the seat, in what way should we proceed to declare him elected?

1. A warrant for a new election to fill the vacancy should be issued by the person and in the manner mentioned in section 212 of the Municipal Act. The election must be held by the returning officer and his deputies, within fifteen days from the receipt by them of the warrant, and the clerk must appoint a day and place for the nomination of candidates, and the election must, in respect to notices and other matters, be conducted in the same manner as the annual elections. (See section 214 of the Act.)

2. No.

3. Our answer to question No. 2 renders it unnecessary to answer this question.

Resignation of Councillor—Election of Successor.

350—T. W. S.—Jno. Brown, a member of a village council, tenders his resignation on the ground that he is about to enter into a contract with the council. The council accepts the resignation and orders a new election. Some say that the defeated candidate, who obtained the highest number of votes at last election, is the one who is entitled to the seat. I differ. What is your opinion?

We agree with you. This vacancy can be filled only by the holding of a new election, in the manner provided by sec. 212 and following sections of the Municipal Act.

Council has no Power over Private Walks.

351—A. C. W.—In building granolithic sidewalk along a street, where the work has been commenced by petition and the buildings being back from the street line, can the council (if the private owners wish it) assess the part on the private property along with the other and extend the payment over the same period?

No. The council has nothing to do with portions of work constructed on private property.

Pathmaster's Right to Take Gravel.

352—T. C.—Please inform me whether a pathmaster who owns a gravel bed and who is drawing gravel from that pit on his division can forbid the pathmaster in the adjoining division, from taking gravel from the same pit. There is a road into the pit so no damage would be done to the crop, and the municipal council has always paid for all the gravel used on the roads, whether for statute labor or for road jobs, and also for any damage done to crop by driving over it. What would be the proper course to pursue to compel the said owner of pit to allow the gravel to be taken? There is no other pit near.

The pathmaster who owns the gravel pit has a perfect right to prevent other pathmasters or officials of the municipality from taking or removing gravel from his pit without his consent, so long as the property in the pit is vested in him. In order to compel the owner to allow gravel to be taken from the pit for road purposes, if the municipality cannot make an amicable arrangement with him for the purchase of the pit, or a sufficient part of it or the gravel, the council may take proceedings to expropriate such portion of the pit as is deemed necessary, pursuant to the provisions of sub-section 10 of section 640 of the Municipal Act.

Duties of Pathmasters.

353 W. S.—On a road which is the town line between two townships about one mile from an incorporated town and leading market, there is a high fence on both sides of the road, which caused road to drift badly with snow in the winter. Then pitch-holes form one after another two or three feet deep. Pathmasters on both sides of the townline claim they repaired those holes to amount of seven dollars each, when one township has paid their pathmaster and the other refused on the ground that he should turn it on his statute labor. Can he collect his pay, there being no by-law of township council for keeping the roads open in the winter? We claim the road was out of repair. Please give your opinion.

Unless the council had passed a by-law pursuant to sub-section 3 of section 537 of the Municipal Act, appointing this man a pathmaster to make and keep open this road during the sleighing season, he had no authority to do work of this kind, nor could he call out persons liable to perform statute labor to do it. The work cannot be turned on this year's statute labor, nor can pathmaster compel council to pay him or others acting under his instructions for doing it. However, if the work was really necessary, and the pathmaster did no more than was sufficient to put the road in a proper state of repair, the council would be doing no hing wrong in paying him such a sum as it may deem fair and reasonable for doing the work.

Mortgaged Lands Can be Sold for Unpaid Local Improvement Rates.

354—E. C.—Please inform me if unpaid rates for local improvement cement sidewalk can be legally returned to the county treasurer "and lands sold for same" against land previously mortgaged for all it is worth. My own opinion is that lands can be so returned to the county treasurer notwithstanding their being mortgaged. Others think not, it being unfair to those who hold mortgage.

We quite agree with you. These lands can be returned and sold for arrears of local improvement rates in the same manner as for arrears of ordinary taxes.

Payment of Assessors for Equalizing Union School Section Assessments.

355—M. F. A.—I think I saw in the WORLD some time ago, that union school sections now pay the assessors fees for equalizing said sections. How is this done? Do the assessors collect direct from the sections concerned, or do the councils pay their assessors and levy the amounts afterwards upon the union sections?

This question can be answered best by quoting the contents of a letter on the subject written by the Deputy-Minister of Education to a school inspector in Chatham. They are as follows:

DEAR SIR,—I am directed by the Minister of Education to state in reply to your letter of the 17th inst. that the work of the assessors becomes that of referees or arbitrators when engaged in equalizing the union school sections' proportions, and their payment should be from the *funds of the union section.*

Your obedient servant,

JOHN MILLER,
Deputy-Minister.

Toronto, 20th February, 1896.

Houses on Road Allowance—Taxes on—Qualification of Owners as Voters.

356—Q.—There are some road allowances through a rough section of the township where there are stone quarries that have not been opened for travel. Some three or four parties have built dwelling houses on these allowances for road. The assessor has assessed them $100 each.

1. Should the clerk place them on the collector's roll for taxes.

2. Where should their names appear on the voters' list, part one or part three.

1. Yes.

2. In part 3.

Law as to Appeals from Assessment Roll

357—J. F. C.—1. Is an appeal against assessment of land in a township lawfully made when the party appealing delivers to the clerk notice of appeal in March, right after the assessor has called on him?

2. When the court of revision confirms the assessor's valuation, re said appeal, and the appellant serves the clerk in three days after, with a notice of his intention to appeal to the county judge, said notice naming the assessor as respondent, and the clerk having before the court of revision served the appellant with and also posted up the necessary statutory notices, and as I understand the statute to say that the court of revision is not legally closed until 30th June, and that the clerk should in five days after forthwith notify the judge of any appeals, can the clerk notify judge at any time before that date, or what is his proper course to take in dealing with the matter right through?

3. If the appellant did not serve his notices in lawful time on the clerk, let me know and also if such neglect would affect the validity of such appeal?

4. What are the clerk's fees, re serving notices and attending court by county judge re appeals, etc.

5. What is usually the chief guidance of the judge in coming to a decision of an appeal against overcharge on farm property?

1. We are of the opinion that this notice of appeal was legally given. The language used in subsection 2 of section 71 of the Assessment Act, fixing the time within which appeals can be made to the township court of revision, is the same as that used in subsection 2 of section 75 fixing the time within which appeals can be made to the county judge from the court of revision. These provisions limit the time AFTER which notice is not to be given, and in the case of Scott vs. town of Listowel (12 Practice Reports, p. 77) decided under what is now subsection 2 of section 75, it was held that service of the notice of appeal to the county judge from the court of revision prior to the date fixed for the closing of the court of revision is good service.

2. The time limited for closing the court of revision is the 30th of June (see subsection 19 of se tion 71 of the Act). Persons desiring to appeal from the court of revision to the county judge must serve notices of appeal upon the clerk of the municipality within five days from the date fixed by the Act for the closing of the court of revision, that is, before the end of the 5th of July (see subsection 2 of section 75). Immediately after the expiration of the time fixed for filing such appeals to the county judge, the clerk shall forward a list of the appeals to the county judge, etc., (see subsection 3 of section 75).

3. We are of the opinion that the notices of appeal were served in proper time.

4. The statutes make no provision for the payment to the clerk of extra fees for services performed under the Assessment Act, attending courts of revision, effecting service of notices, etc., nor is he entitled to any unless some agreement for payment was made with him by the council at the time of his hiring or at some other time. The performance of these duties devolves upon him as clerk of the municipality.

5. The only foundation for the decision of the judge as to whether an assessment is too high or too low, or of any other question properly coming before him, is the evidence adduced by the parties and their witnesses at the sittings held for the hearing of the appeals.

Exemption of Volunteers from Statute Labor.

358—O. M.—If a volunteer in Hamilton field battery is assessed for a house and lot and is owner of it, is he exempt from doing statute labor; in fact he is only hired to go with teams and as servant for officers.

Section 96 of the Assessment Act provides that no non-commissioned officer or private of the volunteer force, certified by the officer commanding the company to which such volunteer belongs or is attached as being an efficient volunteer shall be liable to perform statute labor or to commute therefor, but that this exemption does *not* apply to any volunteer *who is assessed for property*. Therefore this volunteer, being assessed for property is liable to perform the statute labor chargeable in respect of it, according to the scale in force in your municipality.

Hon. Mr. Stratton does not believe that the Ontario government or legislature should be asked to shoulder the responsibility for the blunders and shortcomings of Toronto aldermen. Speaking at Millbrook, the Provincial secretary said the fact was that municipalities had not protected themselves in the granting of franchises, and the blame for this neglect was sought to be unfairly placed on the legislature, which has conferred upon municipalities the power to deal with franchises. The city of Toronto granted certain rights to gas, electric lighting and telephone companies, as it had the power to do, and if the ratepayers of the city elected aldermen who would sacrifice or fail to protect their rights in these matters they had only themselves to blame. It was not an uncommon occurrence for the ratepayers to appeal to the legislature to protect them from the acts of the men they had chosen as aldermen. A a matter of fact, no city in the Province was as much indebted to the Ontario legislature for rectification of, and protection from, the blunders made by the aldermen it had elected in the past as Toronto.—St. Thomas *Journal.*

Property-Owning and Non-Property-Owning Voters.

In discussing questions of public policy, reference is not infrequently made to "property-owners' and "the best citizens," as th ugh these terms were synonymous, which they are very far from being. Statements are also frequently made that property owners need safe-guarding against the demands of non-property-owning voters. We have always dissented from this implied assumption that non-property-owning voters, as a class, are less honest than property-owners. We again state our belief that there is no monopoly of honor, honesty or intelligence by either class, and that the majority of both classes are equally honest, and will vote on questions of public policy with great unanimity if equally intelligent. Just here we wish to advance the proposition that the weight of evidence for real practical intelligence necessary to the correct solution of questions of public policy is likely to be found on the side of non-property-owners. Why? Because non-property-owners, as a class, are wage-workers. The income of wage-workers, as a class, is sufficient to enable every one of them, if so disposed, to own as many of the best publications treating on questions of public policy as anyone can read or properly digest, and the hours of employment provide unemployed time during which such publications can be read and studied. This shows that the non-property-owning class have the means and the time with and within which to become thoroughly enlightened on questions of public policy, and, as their welfare is more intimately dependent upon the public welfare than is that of the property-owning class, they have an ever present and vital reason for improving their opportunity to become intelligent, and their action on questions of public policy will be conservative and safely progressive.

Property-owners need safeguarding from proposals advocated by speculative promoters—voters of their own class. Promoters who see opportunity to make money for their own pockets will advocate any project of public improvement, or any duplication or extension of a public-service industry by means of which they can make money for themselves, regardless of the effect of their measures on the tax rate, on the value of property or the business of any existing corporations. The speculative promoter—not the non-property owning voter—is the real enemy of property-owning and industrial investors and voters.—*Public Policy.*

The two great items of municipal expenditures are those of lighting and watering the streets of a municipality. In hunting for a place to retrench don't overlook the open bunghole.

* * *

"My dear, why don't you hit the nail on the head sometimes?"

"I do. Look at my thumb."

Legal Department.

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

Re Queenston Heights Bridge Co. and Township of Niagara.

Judgment on appeal by the company from the order of the board of the counties of Lincoln, Wentworth and Welland, fixing assessment of the company's property at $40,000 and reducing the assessment of the court of revision from $100,000. The bridge is over the Niagara River, from Queenston to Lewiston, and the company is incorporated under 61 Vic., chapter 114 (D). Appellants contend that the American side of the bridge was constructed after the assent obtained from the State of New York, and the judges should have, therefore, assessed the one-half of the bridge in the Canadian township of Niagara as an independent piece of property; and that (1) neither the franchise, the earning capacity of the bridge nor its actual cost affords the true assessment test, but that the Canadian half of the bridge being real property, covering about three acres of land on the Canadian side, is to be valued at what iron and other material constituting the structure would sell for when separated both from the franchise and the other (American) half of the bridge; Bell Telephone Co. vs. City of Hamilton, 25 A.R., 351; re London Street R. W. Co., 27 A. R., 83, and (2) that section 28 of Assessment Act declares that the assessor shall appraise all property at its actual cash value, as if in payment of a just debt from a solvent debtor, and, therefore, the property in the township should be assessed irrespective of the fact that it is connected with, or forms part of any other system, and should not be valued as a going concern, but at the value which would be placed on it by a creditor who would be willing to take half the bridge in payment of a just debt. The board of judges followed the above cases, but not to the extent contended for by the appellant. They held that the bridge should be assessed at its cost, including the cost of the land, without reference to its franchise, and bearing in mind that the right of the company to the land would go with the bridge, that the statute has in view an honest solvent debtor owing a just debt and a willing creditor calling in a third party to appraise the property as it stands and not after it has been destroyed. It would be dishonest and absurd to stipulate that either the franchise should not go with it or that the purchaser should remove the structure. Suppose the property were being sold to be given or dedicated as a free bridge, what would be its value as in an honest, sensible transfer, with the wish and consent of the parties interested? The cases do not require anything else. A solvent debtor would not consent to hand over his property to his creditors at a price fixed after it had been denuded of all its value. The rule says nothing about a sale and does not contemplate one. Niagara Falls S. B. Co. vs. Gardner, 20 U. C. R., 194, was cited for the township, and it was contended that the principle of ward assessment, adopted under section 18 of the Assessment Act, upon which the Bell Telephone and London Street Railway cases were decided, does not apply, because by subsection 5 of section 2, the word "ward," unless so expressed, shall not apply to a township ward, and section 18 enacts that land shall be assessed in the municipality in which the same lies, and in the case of cities and towns in the ward in which the same lies. Appeal allowed, with costs from the commencement of the controversy, and assessment fixed at $5,000.

Wigle vs. Township of Gosfield South; Rae vs. Township of Gosfield South.

Judgment on appeal by defendants from judgment of the referee under the drainage act. The actions are brought in the High Court for damages to the lands of the respective plaintiffs caused by the alleged negligent construction and maintenance of a drain known as Tap drain number 47, constructed by the township of Gosfield under a by-law passed in 1886, and for a mandamus to compel the construction of a proper outlet to the drain, an injunction restraining defendants from throwing water upon the lands. Upon the references under orders of Meredith, J., the referee awarded $400 damages in the first action, and $300 in the second action. After the completion of the drain an act was passed in 1887, forming out of Gosfield, the defendants, and Gosfield North. Held, having regard to the provisions of that act, and of section 55, of the Municipal Act of 1883, that as soon as the drain in question was constructed by the township of Gosfield it became subject to a continuing liability to persons whose lands might be affected, and this was a liability to which each of the townships of Gosfield North and Gosfield South, upon its erection out of the township of Gosfield, remained subject, as if there had been a union of two townships; the plaintiffs, therefore, should have proceeded against both townships jointly, and not one alone. Campbell vs. York and Peel, 27 U. C. R., 138; Ekins vs. Bowse, 30 U. C. R., 48. This course is also necessary that the provisions of section 95 of the drainage act may be carried out. Appeal allowed and case referred back to referee to add, as a party defendant, the township of Gosfield North, and proceed with the reference. Costs here and below reserved. The court intimate that the parties should make use of the evidence already given as far as possible.

Gilbert vs. City of Hamilton.

This was a motion by defendants to set aside verdict of jury and judgment of county court of Wentworth for $100 entered thereon in action for $200 damages sustained by plaintiff owing to defendants' alleged neglect in constructing and in keeping in repair the sewer on East avenue, between Barge and Barton streets. The plaintiff is the owner of two houses on East avenue, and the sewer becoming choked, the sewage matter was forced up his connecting drain and overflowed on his premises. Appeal dismissed with costs.

Challoner vs. Township of Lobo.

Judgment on appeal by defendants from judgment of Meredith, C J., in action to restrain defendant corporation and defendant Oliver, their contractor, from proceeding with the construction of Crow's Creek drain, to declare invalid by-law 423 for its construction and damages. The Chief Justice held that the petition required by R. S. O., chapter 223, section 3, to support the by-law had not been signed by the majority in number of the resident and non-resident persons (exclusive of farmers' sons not actual owners), as shown by the last revised assessment roll to be the owners of land to be benefited, that the act requires that at the time action is taken by the council by passing the by law at the meeting to be held under section 17, it must have before it a petition signed by the necessary majority, according to the then last revised assessment roll, as provision is made for the withdrawal from and the addition to the petition of names of owners affected, and if then there is a majority the by law may be passed, otherwise the proceedings end with the meeting; and held, also, that the words, "exclusive of farmers' sons not actual owners," did not mean actual owners in fact but as shown by the last revised assessment roll. Appeal allowed with costs and action dismissed with costs.

Re Martin and Township of Moulton.

Judgment on motion to quash by-law 380 of the township of Moulton, for non-compliance with section 629 of the Municipal Act. Held, that the necessity for supplying some other convenient way of access to the land in question, only applies to cases where the only means of access is closed; re McArthur, 3, A. R, 295, nor is the by-law void under section 632. Applicants should be left to collect by the proceedings they threaten or by arbitration, the amount they claim as damages if they have suffered or will suffer such inconvenience as entitles them to compensation, but it is not a case for the summary intervention of the court. Motion dismissed with costs.

Re Orr vs. Township of Toronto.

Judgment on appeal by defendants from judgment of county court of Peel, in action to continue an injunction restraining defendants from causing water or other matter to flood or flow upon plaintiff's lands and to direct them to close a certain culvert, built by them, across the highway opposite his farm, and for damages. It was contended for defendants that they were under statutory obligation to keep the highway in repair, and in doing the repairs or acts complained of merely performed that obligation ; that the repairs were necessary, that the construction of the culvert providing only for the flow of water accumulated on the west side of the road, was proper, and in its construction they were within their statutory powers, and plaintiff's remedy, if any, was under section 437, et. seq. of the Municipal Act ; that the damages, $100, were excessive, and that both damages and injunction should not have been granted. Held, that semble, this case does not come within the ratio decidendi of Pratt vs. Stratford, 14, O. R., 260 ; 16 A. R., 5, relied on at the bar, but rather within the principle of New Westminister vs. Bridgehouse, 20, S. C. R 520, but it is unnecessary to decide this because the finding below as to defendant's negligence is justified by the evidence and therefore fatal to them ; per Strong, C. J. C., in Derinzy vs. Ottawa, 15 A. R. 712. Held, also that taking into consideration the evidence as to the bringing down of mustard seed, as results of defendant's acts, the damages were not excessive. As to the injunction, the proper course is to suspend its operation for a sufficient time to enable defendants to exercise the statutory power of expropriation and acquire the land to justify their otherwise wrongful act, and such time is extended until May 1 next. With this variation judgment below affirmed with costs and appeal dismissed with costs.

Bogart vs. Township of King.

Judgment on appeal by plaintiff from judgment of Meredith C. J., (32 O.R. 135, dismissing action brought for a declaration that defendants were not entitled to collect a certain sum alleged to be due by virtue of by-law No. 66, passed on the 25th of September, 1897, to raise a loan by the sale of debentures to bonus the Schomberg & Aurora R. W. Co. and for the levying of an annual rate to pay the debentures, and for an injunction, etc. The chief justice held that it was the duty of the township clerk, under section 129 of the Assessment Act, without any further direction, to insert in the collector's rolls the amount with which each ratepayer was chargeable under the by-law and that it was not necessary that the amount levied each year under the by-law should be mentioned in the annual by-law authorizing the levy of sums for ordinary expenditures, and that section 402 of the Municipal Act had not the effect of making it necessary ; (2) that the rate could be levied notwithstanding that none of the debentures had been sold ; (3) that the failure to collect the rate for the first year after the passing of the by law did not cause the failure of the whole scheme. Appellants contended, inter alia, that the debentures not having been issued within one year after the passing of the by-law, that it became ineffective under subsection 3, section 384 of the Act ; that the by-law did not fix a rate, but merely directed a specific sum to be realized, and that the clerk had no power to place a special rate upon the roll without the by-law authorizing him so to do, and that until the debentures were issued there was no debt created, and therefore no power to "assess and levy" under section 402. Held, that the debentures authorized by the by-law have never been issued, that is, delivered or negotiated, and, having regard to section 384 (3), the time has now elapsed when that can be lawfully done. Not having been sold, as was done in Clarke vs. Palmerston, 6 O. R., which is, therefore, distinguishable, or delivered to or placed with a trustee, no one has acquired any right to deal with them, and the defendants might, if they chose, destroy them ; Mowat vs. Castle Co, 34 Ch. D., 58 ; hence, there is no debt and the plaintiff has the right to have defendants restrained from levying upon him the rate under the by-law. Appeal allowed. Judgment to be entered for plaintiff declaring his right in this respect and to an injunction and for repayment, etc. Costs of action and appeal follow the result.

McDonell vs. City of Toronto.

Judgment in action tried at Toronto brought to try the validity of certain assessments made by the defendant corporation on the lands of the plaintiff on Sunnyside avenue, charging them with local improvement rates. Held, that from the time of the passage of by-law 2,206 on January 14, 1889, founded on the engineer's report of July, 1888, to open up the street, the prospective expenses connected with the opening and establishing of that street became a charge on the land especially declared to be benefited by that report, and that it was not necessary, as in the case of ordinary taxes, to take all the preliminary steps required by the Assessment Act, to make them a charge on the land ; these special rates are not "taxes accrued" within the meaning of section 149 of the Assessment Act, but become a charge on the land from the passing of the by-law, and the land charged can be sold in default of payment on demand, and that under distress she is clearly liable to pay these rates since and inclusive of the year 1892 (with interest) for opening the avenue, and that the assessment for these rates does not form a cloud on plaintiff's title to the portion of the land mortgaged to defendant Duncan. Declaration accordingly. Action dismissed with costs.

Sutton vs. Village of Dutton.

Judgment in action tried at St. Thomas, brought for a mandamus to compel defendants to remove a tile drain connecting their sewer on Main and Station streets with a certain well situate within twenty-five feet of plaintiff's land, and for damages for suffering to plaintiff's health, caused by the pollution of the water in the well. Held, that the plaintiff's only cause of action is for the maintenance of a nuisance on adjoining property, whereby her health was injured, and there is practically no evidence upon which a finding might be based that the defendants either permitted the tile drain to tap the sewer or, after being informed of the facts, allowed it to remain, but assuming such to be shown there remains the question whether the plaintiff's health has been affected and there is not evidence of this. See Connacher vs. City of Toronto, 33 C. L. J,, page 340. Action dismissed with costs.

Re Priest and Township of Flos.

Judgment on appeal by the Township of Flos from judgment of Referee under the drainage act, awarding Priest $200 damages caused to his lands and crops owing to the negligent and improper construction of a drainage work in said township, and for not continuing the same to a proper outlet, but not awarding claimant, the Township of Vespra, any damages.

The proceeding was commenced by notice under the act and consolidated upon the reference with one in an action between the same parties. Appeal dismissed with costs.

The circumstances of a recent action against an English municipal corporation (Lambert vs. Lowestoft, 1901, 1 Q. B. 590) are somewhat peculiar. The action was against a municipal body to recover damages for injury sustained owing to a sinking in of the roadway under the defendant's control, occasioned by a defect in a sewer, also vested in the defendants, and for the repairs of which they were liable. The plaintiff's horse, in passing over the road, broke through the crust of the road, into a cavity thus caused, and was injured. The defect in the sewer was caused by rats, and there was no evidence that the defendants had any notice of the defect, and it was held that they were not liable.

Sub-section 6 of section 22 of the Ditches and Watercourses Act, is amended by section 22, of chapter 12, Ontario Statutes, 1901, by adding thereto, the following :

"Or within such period as the judge, on hearing the paaties, may decide to be necessary in order to allow proper inspection of the premises to be made as authorized by the next following subsection."