THE MUNICIPAL WORLD

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Contents:

Calendar for October and November, 1902.

Legal, Educational, Municipal and Other Appointments.

OCTOBER.

1. Last day for returning Assessment Roll to Clerk in cities, towns and incorporated villages where assessment is taken between 1st July and 30th September.—Assessment Act, section 58.

   Last day for delivery by Clerks of Municipality to Collectors, of Collectors' Rolls, unless some other day be prescribed by by-law of the municipality.—Assessment Act, section 131.

   Last day for passing resolution by Boards of Separate School Trustees in urban municipalities adopting voting by ballot at elections of Separate School Trustees.—Separate Schools Act, section 32, subsection 6.

   Notice by Trustees of cities, towns, incorporated villages and township boards to Municipal Clerk to hold Trustee elections on same day as Municipal elections due.—Public Schools Act, section 61 (1).

   Night Schools open (session 1902 1903).

   Ontario Normal College opens.

5. Make returns of deaths by contagious diseases registered during September, R. S. O., chap. 44, section 11.

   Copy of Roll, or summarized statement of the same, as the case may be, to be transmitted to County Clerk.—Assessment Act, section 83; Assessment Amendment Act, 1899, section 7.

16. THANKSGIVING DAY.

10. Selectors of Jurors meet in every municipality.—Jurors Act, section 18.

31. Last day for passing by-laws for holding first election in junior townships after separation.—Municipal Act, section 98.

NOVEMBER.

2. Last day for transmission by local clerks to County Treasurer of taxes on lands of non-residents.—Assessment Act, section 132.

   Last day for transmission of Tree Inspector's Report to Provincial Treasurer.—Tree Planting Act, section 5.

9. King's Birthday.

10. Last day for collector to demand taxes on lands omitted from the roll.—Assessment Act, section 166.

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The Municipal World

PUBLISHED MONTHLY

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

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ST. THOMAS, OCTOBER 1, 1902.

By-laws were recently submitted to the electors of the town of Lindsay to raise $20,000 for the improvement of roads, $14,000 for a public school building, and $2,000 to purchase a site for the Carnegie library building, respectively. A large adverse vote was cast against each by-law, and they were all defeated.

* * *

In Brown v. city of Hamilton it was decided that the passing by a municipal corporation, under the powers conferred by the municipal act, of a by-law prohibiting the setting off of fireworks, fire crackers, etc., on the public streets does not cast any duty on the municipality to see to its enforcement.

* * *

How many municipal clerks sent out the voter's list of their respective municipalities, without having first had printed thereon the date of the first posting up of the list in the clerk's office, as required by section three of the Statute Law Amendment Act, 1902? Some cases have come under our notice where this duty was not performed.

* * *

The Electrical Supply and Maintenance Co. has entered suit against the Town of Orillia for over $220,000. The basis of the claim is the fact that the company constructed and developed the water power service which Orillia now obtains from Ragged Rapids on the Severn River. The work was completed about a year ago and the cost was considerably in excess of what the town was authorized to pay under the by-law voted on by the electors. The question came before the Private Bills Committee last session, and the question was raised whether the company's claim should be left to the precarious fate of another popular vote. The compromise reached was that the company should be entitled to collect whatever it could prove in the courts without depending on another by-law. This is the origin of the writ.

* * *

In answering question number 389 in our September issue, we overlooked the fact that the municipality concerned was located in the District of Algoma. This being the case, the general law on the subject, as embodied in sub-section 1 of section 8 of the Municipal Amendment Act, 1900 is qualified by the provisions of sub-section 4 of this section. From further information we have received it appears that there are 500 *ratepayers* in the municipality entitled to vote on the by-law, that some of these ratepayers are entitled to more than one vote, being qualified to vote in more than one ward in the municipality, and that in consequence of this, there are 600 VOTES that may be legally polled. This is very different from the statement of the facts in question 389 which was that the total number of ratepayers in the municipality is 500 and the total number of *voters entitled to vote* is 600. The latter two allegations seem inconsistent and hard to reconcile. The question raised is one upon which the courts have not, so far as we are aware, yet passed. Section 355, of the Municipal Act, entitles a ratepayer to vote in each ward in which he has the qualification necessary to entitle him to vote and by the section quoted the by-law shall be carried if two-thirds of the ratepayers who actually vote (and being a majority of all the ratepayers entitled to vote) shall vote in favor of the by-law. The words all the "ratepayers" mean all the ratepayers of the municipality, and in ascertaining the whole number, a ratepayer cannot be counted more than once, though he has two or more votes in the municipality. The clerk, under section 364, is required to cast up the votes for and against the by-law, and if he finds that there is a majority of votes for or against the by-law, he must so certify, and we have no doubt but that if there is a majority of the votes cast for the by-law, such majority is sufficient, provided that the other requirements of the section you quote are not lacking. This view is confirmed by reference to the clause in the last mentioned section, which provides that "In addition to the certificate equired by section 364, of the Act, the clerk, in case the *majority of votes* being in favor of the by-law, shall further certify, etc." From this it will be observed that the clerk is required to give a further certificate in case of *the majority of votes* being in favor of the by-law. The legislature does not say a majority of the *ratepayers*, but a majority of the *votes*. Where the legislature speaks of two-thirds or three-fifths of the ratepayers, we are perfectly satisfied that the clerk has no right to multiply a ratepayer who is a voter in each of three wards, by three, and thereby make three ratepayers out of him. We are not concerned with *what* was really in the mind of the legislature who had this enactment placed upon the statute books, nor with the question as to whether it is fair to count individuals only in one case, and votes in the other case or not, we have simply to ascertain what the legislature meant by what it has actually said. In view of the above and of the provision of sub-section 4 we are of opinion that the by-law under discussion was carried. Since a majority of the ratepayers entitled to vote, namely 305 actually voted, and two thirds of those who actually voted, namely 275 voted in favor of the by-law. The following is the full text of the question referred to :

389—A. Mc. N.—Complying with the Municipal Amendment Act, 1900, page 110 sub-section 4, of section 8, is a by-law to grant a bonus to a manufacturing industry carried, when the conditions are as follows :

Total number of ratepayers in municipality 600
Total number of voters entitled to vote.... 600
Total number of votes polled for the by-law 275
Total number of votes polled against the by-law..... 30

Ontario Municipal Association.

This association met at the Town of Brockville, on the 10th September last. There was a fair attendance of delegates from the several municipalities in the Province. The following, amongst others formed the subjects of resolutions passed by the association :—The assessment of all property at its full value.

Abolition of the exemption of personal property from taxation to the extent of the debts owing thereon.

The assessment of the personalty of incorporated companies in the same manner as that of private individuals.

Curing the invalidity of sales for taxes when there were goods on the premises that might and should have been sold to realize the amount of the taxes.

The giving to the municipality powers to lease, at the opinion of the treasurer, improved property in arrears for taxes, instead of selling the same.

Bonus Legislation.

The appointment of a Board of Registrars to define polling sub-divisions for Ontario elections.

The registration of all voters and the payment of the expenses of such registration and of elections by the Province.

The power to appeal from a magistrate's decision dismissing a complaint for the breach of a by-law.

Government ownership and control of telephone systems.

The next meeting of the Association will be held at the City of Guelph.

Consolidated Schools.

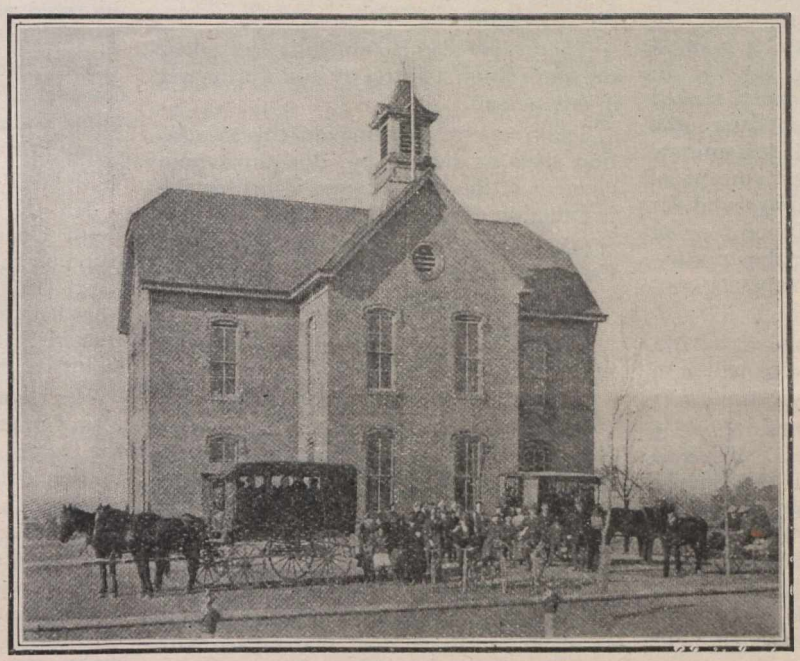
The rural public school system of Ontario will undergo a radical change when the importance of amendments to the Public Schools Act passed at the last session of the Legislature are properly understood.

In many of the United States the change has already taken place in the establishment of consolidated schools, with the best possible results. A writer in the "Review of Reviews" for September refers to these schools as follows:

CONSOLIDATION OF COUNTRY SCHOOLS.

The educational problem in rural communities is still unsolved to a great degree. Heretofore it has been customary to send the more ambitious children, whose parents could afford it, to the graded school in town after they have passed through the district school, where perhaps the school term was only five or six months long Sometimes this has furnished a strongincentive to the farmer to leave the country and move to the town or city, in order tha this children may have the best in the way of educational advantages. While it is still a new idea to many people the consolidation of rural schools bids fair to bring directly to the farm the educational advantages of the town. The plan has been tried in a small way in Ohio, in Iowa, in Kansas and in other States, and it has been remarkably successful. The last Kansas Legislature passed a law to make the plan general wherever communities desire it, and Prof. Frank Nelson, state superintendent of public instruction, has made it his special work to encourage the adoption of the plan. Superintendent Nelson has become the apostle of school consolidation in Kansas.

Several years ago four school districts around Lorraine, Ellsworth County, Kan., were consolidated, and a central schoolhouse was built at the village of Lorraine. After the consolidation three teachers did the work which required four formerly, and as the school was graded they did it better. Some of the children lived several miles from the schoolhouse, but they were transported to and from school in covered spring wagons at the public expense. Last year a two-years' high school course was added to that of the common school, and now the entire cost of maintenance is but little more than that of the four separate districts before the consolidation. The extra expense is largely due to the transportation of the pupils. To offset the small additional expense the term is considerably longer, the work much better done, the high-school course has been added, the school house is much more sanitary, and the advantage of transporting the children to and from school, especially in bad weather, can scarcely be estimated. The consolidation idea is growing rapidly in Kansas, and movements to consolidate rural districts are now under way in many counties in the State.



A TYPICAL CONSOLIDATED SCHOOL IN INDIANA, SHOWING WAGONS FOR TRANSPORTING PUPILS.

Consolidated schools should have several rooms and teachers, and the children should be brought to the school on a cooperative plan in suitable conveyances for protection from cold, wet and fatigue.

One of the consolidated rural schools donated to the Province by Sir William Macdonald of Montreal, will be located in the Township of Pelham. A meeting recently held there to consider the question was addressed by Prof. Robertson of Ottawa, the Honorable Mr. Harcourt, Minister of Education and others.

The keynote of the address was the elevation of the standard of education in the rural districts by the consolidation of a group of schools into one well-equipped graded school, and much enthusiasm was aroused.

The amendments to the School Act passed by the Ontario Legislature, authorizes trustees to pay for the conveyance of pupils from a rural school section to a school in any adjoining urban municipality.

The provisions of the act, section 41, relating to the alteration of school boundaries was made to apply to the consolidation of two or more sections for the purpose of providing a central school. The management of the consolidated section is referred to as follows:

The trustees of the sections thus united shall continue to be trustees of the united section, but if deemed expedient the municipal council may by by-law limit the number of the school board to two members for each section, each trustee holding office for two years and one retiring annually by rotation. The trustees shall have all the powers ordinarily exercised by trustees of a rural school section and in addition the power to meet the cost of conveyance of children to the central school established under jurisdiction of the board."

Union of Canadian Municipalities.

The Union of Canadian Municipalities held their annual convention in the council chamber at the City Hall, Montreal, and in Victoria Hall, Westmount, on the 15th, 16th and 17th September last. Delegates were present from a fair number of the urban municipalities in the Dominion. Following were the most important resolutions adopted by the convention:

"That this union petition the Legislatures of the various provinces of the Dominion to entirely abolish bonuses to manufacturers by municipalities, and that the municipalities be requested to individually present similar petitions to their respective Legislatures."

"That the Union of Canadian Municipalities having heard with satisfaction of the intention of the Dominion Government to consult the executive committee of this union, in the drafting of the forthcoming bill concerning telephone companies, hereby specially authorizes and instructs the executive committee to press this business to a conclusion in the interest of the municipalities of the Dominion, large and small, so that they may obtain and retain their rightful control of their streets in connection with the telephone business.; full facilities, if desired, for control of local franchises; Government control of all long-distance connections; effective control of rates, and class of instruments and service; and all other protection to municipal bodies and citizens they may find it possible to secure."

Resolutions asking for greater protection from the dangers of level crossings and authorizing the establishment of a bureau of information were also moved and adopted.

The meeting closed with the giving by delegates of a number of notices of motion and the electlon of officers.

* * *

The Supreme Court of the State of Illinois recently affiirmed the decision of the lower court in the Chicago teacher's tax case, in which they insisted that t hecapital stock of corporations should beassessed. This ruling will add over $100,000,000 to the taxable property in Chicago.

Several months ago the teachers of Chicago, led by some energetic women, combined to force a number of the defiant corporations to their knees. Expert legal advice was obtained and then the tax dodgers were run into court. The public was behind the teachers and the funds supplied them for the legal contest proved ample. The ruling in question is a notable one and it cannot be upset by any higher authority.—*Ex.*

Two elders were discussing their new minister. "Mon, Sandy," said one of them, "It's an awfu' peety the noo minister speaks through his nose." "Yes, mon," replied the other. "It's an awfu' peety, and it's no like as if he was pinched for room through his mouth."

Engineering Department

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

The Western Ontario Good Roads Association.

A new impetus has been given to the good roads movement in Ontario by the forming of a good roads association for the western part of the Province. Upon the invitation of J. E. Farewell, clerk of Ontario County, a good number of representative wardens, reeves and others interested in the question assembled in the Board Room of the Toronto Exhibition Association, on Tuesday, September 9th, when organization was completed.

The large attendance, representatives being present from many of the western counties, showed the interest taken in the movement. Mr. George Gero, warden of the County of Ontario was a pointed chairman, and immediately Mr. J. E. Farewell, clerk of Ontario County, moved a resolution to form the association, the object to be to procure and desseminate information as to the best means of improving the public highways and for discussing the question of abolishing or commuting statute labor, for the improvement of roads and other subjects connected with these matters.

This resolution was seconded by Mr. Edward Kenrick, county councillor of Wentworth and unanimously carried.

The following committee was appointed to draft a constitution: J. E. Farewell, clerk of Ontario County; T. H. Shantz, warden of Waterloo; D. Quinlan, warden of Simcoe; Mr. Cook, warden of Halton County; P. Christie, councillor of Ontario County; and Nelson Monteith, ex-warden of Perth County. The draft constitution submitted by this committee was adopted.

CONSTITUTION AND BY-LAWS OF THE WESTERN ONTARIO GOOD ROADS ASSOCIATION.

1. This association shall be called the Western Ontario Good Roads Association.

2. The objects of the association are as follows:

(a) To bring the question of good roads up for discussion in every way possible throughout the various municipalities of Western Ontario.

(b) To organize and hold meetings at central points in the counties of Ontario west of Kingston, at which the various county and municipal representatives will be able to meet, discuss and form intelligent decisions on questions pertaining to the improved construction and management of roads.

(c) To assist in every way possible in having the statute labor question discussed and considered before the ratepayers with the object of having it finally commuted or abolished, and a more systematic and permanent system of road management adopted.

(d) To hold an annual large central convention at some point in Western Ontario.

(e) To assist in securing and disseminating information pertaining to the construction of permanent roads.

OFFICERS.

The officers of the association shall consist of a president, to be elected at the annual meeting, vice presidents, the wardens of counties in the territory of this association for the time being shall be vice-presidents.

Executive Committee. The chairman of Roads and Bridges Committee in each county are to act as executive officers of the association.

There shall also be annually elected by the association a secretary and a treasurer in one person.

The funds for carrying on this association shall be raised by donations from councils of the various counties within the jurisdiction of the association.

(a) Such grants as may be made by the Government of Ontario.

(b) Private subscriptions.

(c) Such membership fees as may be directed by the association.

MEETINGS OF THE ASSOCIATION.

An annual meeting of the association shall be held at such time and place as may be selected at the preceding meeting of the association.

Membership. The president, vice-presidents and members of the municipal councils, persons appointed by county councils, and such other persons as may be elected members and that subscribe to the constitution, providing that no county shall have more delegates than two for each township.

The above was adopted by unanimous vote.

MEMBERS AND OFFICERS.

Motion made and carried that all persons registering to-day shall be members of this association.

On motion, Mr. George Gero, warden of Ontario County, was unanimously elected president for 1902-3.

On motion, J. E. Farewell, of Ontario County, was unanimously elected secretary and treasurer for 1902-3.

ADDRESSES.

Mr. H. B. Cowan, of Ottawa, secretary of the eastern association, gave an interesting talk of the work of that association. He referred particularly to the first prejudice against the movement. They had gone ahead, however, and with their good roads train had constructed some eleven stretches of sample roads in the different counties, and the good work done was now generally recognized. These sample roads were such as any township could afford to build. On the financial question Mr. Cowan said, they received $100 from each county where they put down the sample road, and with the eleven stretches completed they would have between $350 and $400 left.

Mr. A. W. Campbell, commissioner of good roads, in a brief address, referred with satisfaction to the organization of the new association. He found all through the Province the question of good roads being taken up, and this was extremely encouraging. The Eastern Ontario Good Roads Association had done a good work; in fact it was surprising what good they had done, and the new association could not do better than to follow along the lines of the old one. In Ontario the best roads were in the central portion, but in Eastern Ontario the roads had been revolutionized as a result of the work of the association there.

Such associations as the present one he considered would provide a leverage that would place Ontario far and away ahead of any Province of the Dominion in respect to its roads.

Mr. Nelson Monteith, ex-warden of Perth County, urged an aggressive campaign on the part of the association. Mr. Alex. Griffiths, warden of Welland, told what had been done in that county, and trusted that the new organization would stimulate the good roads movement.

Mr. George Graham, councillor of Victoria County, referred to the recent act of the Ontario Government setting aside one million dollars for the improvement of roads. There were some objections felt towards the act, and he would like to have it changed so as to make it acceptable to all. He suggested the appointment of a committee to suggest such amendments as might be considered necessary and make the act acceptable. He himself thought the money should be placed at the disposal of the county councils. Mr. Graham moved in this direction, Major Bruce, of Collingwood, seconding the motion. He thought if the act were made plain it would be an easy thing to have the township councils accept it. The resolution carried, and the committee will report to the executive, the latter to take action and urge the changes upon the Government.

It was decided to hold the annual meeting on the second Tuesday of the next exhibition in Toronto.

Mr. Justice Ferguson recently handed out his judgment in the case of Lawrence v. Town of Owen Sound. It is in favor of the plaintiff with costs, the amount of the damage to be fixed by the County Judge on a reference to him. The action was for damages for injury done to his property by the construction of a cutting or culvert to carry off water which came over a rock and from the roadway.

Resources of Local Government Insufficient for Road Work.

With the passing of the toll road system the withdrawal of the general government from the field of actual road construction and the various state governments doing little or nothing, the only remaining active agent occupying the entire great field is the local government in each community and while these various local governments have done and are still doing the best they can under the circumstances, there is great need that their efforts should be supplemented, their revenues enlarged and their skill in the art as road construction increased.

The skill of the local supervisor was sufficient in primitive times, so long as his principal duties consisted in clearing the way of trees, logs, stumps and other obstructions, and shaping the earth of which the roadbed was composed into a little better form than nature had left it ; and the resources at his command were sufficient so long as he was authorized to call on every able bodied male citizen between twenty-one and forty-five years of age to do ten days' labor annually on the road, especially when the only labor expected was that of dealing with the material found on the spot. But with the changed conditions brought about by the more advanced state of civilization, after the rights of way have been cleared of their obstructions and the earth roads graded into the form of turnpikes, it became necessary to harden their surfaces with material which often must be brought from distant places. In order to accomplish this, expert skill is required to pay for the cost of transportation, and machinery must be substituted for the hand processes and primitive methods heretofore employed in order to crush the rock and distribute it in the most economical manner on the roadbed. Skill and machinery are also required to roll and consolidate the material so as to form a smooth, hard surface and a homogeneous mass impervious to water.—Hon. Martin Dodge, Director of Public Road Enquiries at Washington.

Sewage not a Source of Revenue.

Reference is sometimes made to the value of sewage as a fertilizer, and the suggestion is made that, instead of its disposal being a source of expense to municipalities, it should be a means of revenue. The matter has been a subject of experiment in a number of cases, but so far, we believe, without successful results. The difficulties to be overcome are better understood, when the composition of sewage is considered.

It is essential that sewage be removed from houses as quickly as possible, and to this end a large amount of water is mixed with it, the removal being accomplished by water carriage. In any event, a large proportion of the sewage is itself made up of dirty water from kitchens, and factories. The result of this intermixture of water is that the sewage as it reaches a sewer outlet is nearly all liquid, having only about 2 parts of solid matter in 1,000. Of these two parts of solids about one half is inorganic mineral matter, the other one half only being composed of animal or vegetable waste, such as is available for plant food, and even this is not immediately suitable. The great cost of machinery and equipment for separating the liquid from the solid matter, the cost of operation, and the comparatively low value of the product as a fertilizer, combine to made sewage disposal a matter of expense instead of revenue in spite of the thought and experiment which has been directed toward that end.

Mortar in Brickwork.

Lime mortar is generally employed for brick masonry, particularly in architectural construction. Many of the leading railroads lay all brick masonry in cement mortar, and the practice should be followed more generally. The weakest part of a brick structure is the mortar. The primary purpose of the mortar is to form an adhesive substance between the bricks ; the second is to form a cushion to distribute the pressure uniformly over the surface. If the mortar is weaker than the brick, the ability of the masonrp to resist direct compression is thereby considerably reduced.

If the strains upon a wall were only those arising from a direct pressure, the strength of the mortar would in most cases be of comparatively little importance, for the crushing strength of average quality mortar is far higher than the dead load which under ordinary circumstances is put upon a wall ; but, as a matter of fact in buildings the load is rarely that of a direct crushing weight, other and more important strains being developed by the system of construction. Thus the roof tends to throw the walls out, the rafters being generally so arranged as to produce a considerable outward thrust npon the walls ; and for example, barrels piled against the sides of a warehouse produce an outward pressure against the walls.

In many brick constructions, the use of cement mortar is absolutely necessary, as for example, in tall chimneys, where the bearing is so small that great strength of the cementing material is required.

Electric Railways in Great Britain.

The policy of municipal ownership and operation of street railways is making rapid progress in the United Kingdom. Out of 213 undertakings, with a total mileage of 1,307, about 100, with a mileage of 689, belongs to the local authorities. The railways, owned by Birmingham, Edinburgh, Oldham and 24 other towns are leased, but the tendency is toward municipal operation. Birmingham is a good example of profitable leasing, but the corporation has decided to municipalize the service as the leases fall in. Edinburg, with total rentals of £57,660 has a surplus profit of £5,230 after sinking fund payments, but is having trouble with the companies.

Street railways are operated as well as owned by 41 municipalities and, as nearly all own their electric lighting supply, the introduction of electric traction is proceeding economically. The main objects of this policy are reduction of fares, symmetrical development of suburbs, and the improvement of methods of traction, but when the investments required for equipment, construction account and the purchase of private companies have been liquidated by the operation of sinking funds, the railway service will be a large source of profit for the relief of taxpayers.

Glasgow had last year a balance of £117,388 from horse and electric traction, of which £12,500 went to the common good, the remainder being required for interest, depreciation, general reserve and sinking fund. Liverpool had a blance of £147,056, of which £16,045 was available for the relief of taxpayers. Leeds had a gross profit of £61,797, and a surplus of £31,058, after payment of sinking fund and interest, £21,058 being applied for the relief of rates. Sheffield had a working balance of £48,657, and £10,000 was transferred from the surplus account in relief of rates. The gross profits of other towns are :—Bradford £6,989, Aberdeen £8.769, Blackburn £12,423, Dover £2,948, Halifax £9,076, Southampton £11,940 and Hull £23,000.

Manchester is in the transition stage, but will have in the course of a few years 150 miles of electric lines under municipal operation. London has a working balance of £102,861 from its northern and southern railways, but it is absorbed by interest and sinking fund payments. Huddersfield is the only town having a deficit for working expenses, although Dundee barely balances its account. About fifty new schemes for the municipalization of street railways are now in progress.

Electric Lighting in Paris.

A by-law to raise $22,000 for municipal improvements in Paris, was voted upon and passed by a majority of 202 on September 36th. Of this amount, $17,000 will be devoted to the remodelling of the electric light plant, described in a recent number oi The Municipal World. The reason advanced in support of this step, one favorable to municipal ownership, is that the number of lights wired up has exceeded the capacity of the plant. In the town are 700 residences, only 13 of which are using electric light. The dynamo in use is of 1,000 light capacity, but over 1,400 lights are installed, chiefly in stores, offices and hotels. With this number of lights already in use, and the field of house lighting scarcely touched, there seems to be good cause for increasing the efficiency of the plant.

New Jersey Roads.

The State road law of New Jersey, which has resulted in giving that State more miles of improved roads than is possessed by any other State in the Union, and has caused her to be held up as a model wherever a "Good roads" movement is agitated, works something like this: The State employs a "commissioner of public roads," whose duties are: 1st, to examine personally, or otherwise, and approve of the location of all roads; 2nd, to approve the plans and specifications and estimated cost of the proposed roads; 3rd, to supervise their construction; and 4th, to certify that the completed roads have been properly built, and the amonnt of State aid to which the county is entitled because of such roads.

The roads are entirely built by the several counties under direction of the county council and the county engineer who is appointed by this council.

When a road is petitioned for, the engineer is directed to make a survey of the same, prepare plans, specifications and an estimate of the cost, and submit them, first to the county council, and second, if approved by this board, to the State road commissioner for his approval.

If approved by the commissioner, the county receives bids, and contracts for the construction of the road. The State is represented by an inspector, termed a "supervisor," appointed by the State, usually upon recommendation of the county council. The county engineer sets out all work, and represents the county council during construction. When the road is completed and paid for by the county, the State pays to the county, one third of the cost of construction, and the road thereafter becomes a county charge.

There are in the State about 20,000 miles of public highways, 786 miles of which are now substantially improved under the State aid law. One hundred and nine miles have been built the present year, and the commissioner now has petitions for many more than can be built next year, under the present State appropriation of $150,000 per year.

The State has an abundant supply of the finest road material extending over its northern and northwesterly portions in the form of trap ridges which outcrop at frequent intervals.

In the southern portion of the State oyster shells have been freely used; while in the central portion, through the pine districts, gravel has been used with good results, as these roads have comparatively light travel.

The stone roads that seem to show the best and most economical results, are built of trap rock after the macadam plan, no foundation of large stones being used. The binder is stone screenings.

The commissioner is a strong advocate of six-inch roads, either eight or fourteen feet wide. The stone is placed upon the graded and consolidated roadbed in two layers of loose stone four inches thick. A small amount of screenings for binder is used in the lower course, but not enough to completely fill the voids. The lower course is built of 2½ inch stone, and the upper course of 1½ inch stone. A surplus of binder is used on the upper course. Each course is watered with a horse sprinkler and rolled till no more compacting is possible.

Concrete Sidewalks.

The increasing price for lumber is making itself widely apparent in the decreased use of this material in making sidewalks. Even at the higher price the quality is of a lower grade, so that plank walks at seven cents a square foot, which remain in use for ten years at the most, are found to be more than the average municipality can afford.

Fortunately the new material, concrete, which has taken the place of lumber, is growing less in price. A few years ago fifteen and eighteen cents a square foot, were the lowest figures for concrete. This year numerous contracts have been let as low as ten and a half cents. That this is the case in spite of the high prevailing rate of wages is certainly encouraging. But at the same time it may lead an observer to question whether or not the low price of concrete walks is consistent with true economy. The economy of concrete lies in its durability; in the fact that it is a permanent work. That good concrete walks can be constructed for even less than ten cents a square foot under favorable circumstances is not to be questioned, but it is important to know that contracts are not let for a price which compels inferior work on the part of the contractor.

A greater extent of concrete walk has been laid this year than in any previous season. That some of it will prove disappointing is a certainty. Inferior workmanship or material very quickly makes itself apparent in a concrete walk. This, however, will not prove that concrete walks in general are a failure, but will merely show that greater care must be exercised in future work. Concrete is at present, the most satisfactory material available for sidewalk construction and more has been laid during the past summer, than in any previous year.

One error which may still be avoided is that of laying concrete walks in frosty weather. This cannot be done with safety although injury may not always result. The only reliable course is to cease laying these walks immediately the period of frosts commences. Alternate freezing and thawing appears to cause greater injury to newly laid concrete than does a constant degree of frost.

"Do you consider fish healthy, doctor?" "I have never heard one complain."

The Good Roads Movement.

The making and maintenance of roads is no longer looked upon as being a simple or commonplace task, unworthy of our best consideration, but as being one of the public properties susceptible of the greatest development, and upon which our expenditure can be made exceedingly profitable, if wisely and economically made. The day is past when we can think that the maintenance of roads involves no more than the filling up of some dangerous holes, the fixing of a decayed culvert, the hauling of a few loads of dirty material, or the putting in of the number of days imposed against us for statute labor. It has been reduced to a business proposition, business methods are being employed, and there is no question to-day more popular with the citizens generally than that of how best to make our roads. Wherever public meetings are called for the purpose of considering this matter, so far as convenient, the people attend in large numbers and the trend of talk is along friendly lines. The interest created is most enthusiastic, and the results generally a unanimous conclusion as to some reform.

When the agitation was put on foot a few years ago, it was met as a general thing with disapproval and bitter opposition in many quarters. The prejudice was a natural one, coming from a misunderstanding of the true object. People were inclined to think that the movement was inspired by a few enthusiasts, anxious to thrust upon this young country a system of roads equal to those of countries which are centuries older, regardless of cost or consequence. When the matter was taken up by the Legislature, and a Commissioner of Highways appointed, this substantial approval was sufficient to at least satisfy many of the people that their rights and interests would be protected. The question received attention from the press. Meetings, at first slightly attended, were held, and the strong reasons for reform that were put forth attracted the attention of the people, and in a very short time prejudice was turned into sympathy, and this sympathy into a genuine determination for better methods and better work. It is not too much to say that every citizen in Ontario is now an advocate of better roads, at least an advocate for methods that will secure results consistent with every day of labor, and every dollar of municipal expenditure, and that our municipal organizations should be made so perfect that in no section of the township will money be misapplied, or labor wasted, or not performed.

Lawyer—"When I was a boy my highest ambition was to be a pirate." Client—"You're in luck. It isn't every man who can realize the dreams of his youth."

Municipal Government in Germany.

The German conception of city government is that the city should do whatever is necessary to promote the welfare of the city and its citizens. Acting upon this principle, German cities have boldly assumed many municipal functions that in this country are held to belong to the field of private enterprise, such as municipal water works, gas plants, electric light and power plants, street railways, railroad terminals, tenement and lodging houses, slaughter houses, and markets, baths, laundries, garbage converting plants, street cleaning and sprinkling and pawn shops. German cities have been able to take on these extensive public service functions and carry them forward efficiently, economically, and honestly. It is doubtless true that municipal ownership of public utilities in itself tends to safeguard official integrity and to uplift the standard of public service, because of the well understood fact that under private ownership, private interests seeking valuable concessions already possessed have an incentive to corrupt men elected to municipal office and to control party nominations and elections to the end that men subservient to their interests shall be placed in power. But municipal ownership alone does not account for the high standard of municipal government in German cities. The German system not only successfully manages municipal public service plants, but if reports be true, it has been equally efficient in regulating the public service plants under private ownership.

The most notable feature of the German municipal government is that of the citizen committees. All the details of administration in German cities are executed under the direction of special committees, a separate committee being constituted for each important work. These committees are appointed by the city council and consist usually of one or more members of the council, the proper expert member of the executive board for the business of which the committee will have charge, and a number of private citizens, who are termed "Citizen Deputies," selected because of their special qualification to serve as associates on the committees. The entire oversight of the various branches of the city administration, including the construction of public improvements and the maintenance of parks, schools, charities and sanitary work devolves upon these committees. Service as a citizen deputy is compulsory and without compensation.

Municipal ownership is growing in the old land. There are in Great Britain 931 municipalities owning water works, 99 owning street railways, 240 owning gas-works, and 181 supplying electricity.

Public Lighting in Wisconsin.

During the last few weeks we have received from the city clerks the replies to our circular letters which were sent out for the purpose of gathering information with reference to costs of public and private lighting in the cities of the state. We desire in this connection to express our appreciation of the promptness and carefulness with which the city clerks have given us this information. Few people are in a position to appreciate the constant demand made upon our city clerks by those persons who desire information upon the various questions concerning our cities, and while it is with reluctance that we make the request, it is about the only means open for us for such information, and we hope that the results of this co-operation of the city clerks will fully compensate for the trouble which they have taken in assisting us.

About 125 letters were sent out and about ninety replies are received so that the information covers quite fully the whole state. The cities of all sizes sent in their replies. In some of the smaller cities the lighting is more primitive, consisting of oil lamp posts located at the street corners, but, on the other hand, some of the smaller villages possess a very complete system of public and private lighting. The main interest in this inquiry centres in the question of public and private lighting. Our replies show twenty-five cities possess public plants, the remainder being private, while Grand Rapids possesses a co-operative lighting system. The growth of public lighting has been marked in recent years. The public plants are as a rule confined to the smaller cities. The city council of Milwaukee has recently taken steps looking towards the construction of a public lighting plant and in other cities the agitation is quite pronounced, so that in the near future the list of public plants will doubtless be considerably increased.

From the point of view of economy, it is interesting to note whether the lighting and waterworks are operated from the same power plant. The returns show that only about twenty cities operate the two plants together. It is quite obvious that great economies may result from such operation. At least a duplication of power plant would be unnecessary. In most of our cities the pumping at night is very light and the power can thus be applied to lighting which of course in the day time is unnecessary. By this interchangeable process great economy may be secured not only in the cost of ground, building and plant itself but also in the cost of operation Some of our cities that are fortunately located near natural water power can secure their lighting at comparatively little expense, but the great majority of our cities are not so situated and they must either purchase their power from a private company operating this water power or else construct their own plants for the power of lighting within the city limits. These problems must be solved according to conditions and cannot be treated by hard and fast rules. In many of the cities the arc lights alone are used while in others the combination of arc, with gas and incandescent lights are found. Naturally the number of arc lights varies with the size of the cities and the degree to which they are combined with other lights. In our larger cities considerable use is made of the arc lights. According to our returns Milwaukee dossesses 1,700, Oshkosh, 269, LaCrosse 219. Racine 225, Janesville 198, Kenosha 120 and Madison 149. An examination of the number of arcs in the various cities show that there is no relation existing between the number of lamps and the population. In fact some of the cities of less size have more arc lights than other cities oi greater population.

There is also great variety with reference to cost of light per arc. This varies in the cities from $85, in Chippewa Falls to $30 in Hudson. The city of Hudson owns its own plant and doubtless its method of computing cost is somewhat different from the other plants, while on the other hand it has been in operation but a short period. There are a great many methods of fixing the rates for lighting. In some of our cities a flat rate is paid each year for each arc light while in others it is paid by the month, and in some of the cities there are all night and twelve o'clock lights so that it is extremely difficult to make any comparison or a review of the statistics which we have collected. The cost of lighting of the cities owning their own plants is materially reduced, but it should be said in this connection that the methods of computing the cost of public light is different from that of private lighting, and in many cases the material reduction of cost obtained by the public plants is due to the fact that as a rule no allowance is made for the depreciation of the plant; but it must be admitted that the community pays the bill in any case. And although the private company sets up a claim that a large part of their profits are put aside for plant depreciation, still we cannot escape the fact that this comes from the earnings of the community. A city is not compelled to use its funds in this way. Its reserve fund is the wealth of the community. Its enterprises are not designed to declare dividends. Its dividends are services well and economically done.—*The Municipality.*

Mr. Wm. Lucas, clerk of the township of Courtright, died at his home in Blackstock, on the 12th of August last aged eighty years. He had efficiently performed the duties of township clerk continuously since the year 1861. A portrait and biographical sketch of Mr. Lucas will be found on page 35 of THE WORLD for 1900.

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 atten ion 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.

Compulsory Cleaning of Outlet of Drain.

418—G. P. There is a ditch running through the farms of A and B. A has cleaned out ditch, and wants B to clean his out, which is the outlet, B refuses to clean his out. Can A go on B's lot and c ean ditch? B has forbid him on premises. What is the lawful proceeding? A does not want to call on surveyor as it is only about two days' work.

It is not stated whether this drain was originally constructed under the provisions of the Ditches and Watercourses' Act, (R. S. O., 1897. chapter 285) or not. If it was not, but was constructed merely by mutual agreement between the parties interested, A has no right to go on B's lot for the purpose of cleaning out the drain if A objects to his doing so. His only remedy is to take proceedings to have the drainage works necessary constructed under the provicions of the Ditches and Watercourses' Act. If the drain was originally constructed nnder an award made pursuant to the provisions of the above act, A's only remedy is to institute proceedings under Section 35 of this act.

County Council Cannot Pass By-Laws Regulating Running of Automobiles.

419—W. P.—1. Have county councils power to pass by-laws for the regulating of the running of automobiles and automotors on public highways?

2. If so, what Act gives them such power?

1. We are of the opinion that the council of a county has no power to pass a by-law for the purpose suggested.

2. Our answer to question No. 1 renders it unnecessary to reply to this.

Councillor Supplying Material to Council or Pathmaster is Disqualified.

420—G. A. M.—1. When an appropriation has been made for repairing a road by a township council and one of the councillors appointed to look after the expenditure of the grant, is it legal for this councillor to put any of his own material, say timber for culverts etc., in the work and charge for same?

2. Is it legal for any councillor in a township where statute labor is commuted, to sell material to the road commissioners?

1. If a member of the council furnishes any material of his own to be used in doing corporation work and which is to be paid for by his council, he is a person having an interest in a contract with or on behalf of the corporation within the meaning of section 80 of the Municipal Act, and the latter part of sub-section 1 of this section provides that such a person shall not be qualified to be a member of the council. See also sections 83 and 208 of this act.

2. No, for the reason given in our answer to question No. 1.

Qualification of Petitioners Under Drainage Act.

421. S. T.—Under the Drainage Act a lot is described on the petition as lot 10, concession 10, and there are several village lots on the said lot. They are assessed as parts of said lot but not described on the petition. Has the owner of village lots a vote on petition when they are not assessed for benefits?

2. When there is school property on a lot within the area described have the trustees a vote on the petition or should the secretary of the school board have the vote only?

1. No.

2. Neither the secretary nor the trustees can be petitioners under the Drainage Act.

Threshing Engine not a Traction Engine.

422. S. R. W.—Re Traction Engines. Do traction engines used for threshing purposes only come within the meaning of the Act?

We do not think so.

Remedy for Injury to Road.

423. A SUBSCRIBER.—We have in our township a pathmaster, who, in doing statute labor, drew out a quantity of gravel and put same on the road. Some of same gravel being somewhat course, one of the men living in the division did not seem satisfied with the work and undertook to rake the course gravel off the road in the watercourses. The said pathmaster stopped him, he then sent his wife and hired girl to complete the raking off.

1. What can be done in such a case?

2. Who should take procedure, the pathmaster or the council?

Municipal Councils are trustees for the public in respect of public roads and as such trustees they can apply to the court to restrain any person from doing acts injurious to such roads. It does not seem likely however that what was done in this case was an injury to the road. At all events it seems to us that the act is not one in respect of which any proceedings should be taken.

Payment of Expense of Disinfecting Premises.

424. W. M.—In case the Medical Health Officer of a municipality is called upon to disinfect or fumigate a house in which sickness has been, who is the right and proper person to pay said officer for his duties, the council of municipality or the resident of house?

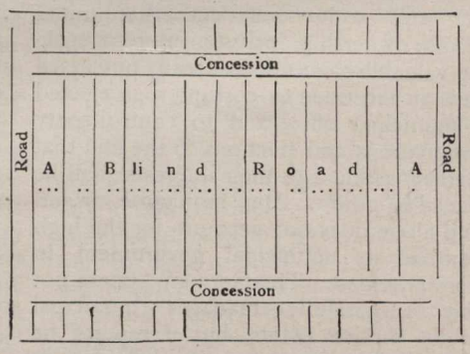
Ordinarily medical health officers are appointed by municipal councils and their salaries should be, and they are usually fixed by such councils at the time of their appointment. If a salary was fixed in this case we do not see what claim he can have beyond his salary. If, on the other hand his salary was not fixed he should be paid by the council a reasonable sum for the services rendered by him.

Expropriation of Land for Road.

425—W. D.—Application has been made to the council by parties resident in the vicinity to open a new road on blind line AA between two concessions. Some owners of land through whose property the proposed road will pass object to its formation on the ground that the council should open up the concession allowances instead. One concession is impracticable on account of rocks and swamps and the other by reason of swamp would cost a great deal of money to open out. A good level road can be got on the blind line at a moderate cost. Petitions for and against received.

1. Can the council force a road, compensating the land owners according to award of arbitrators, if the council should decide to do so?

2. Who pays the cost of arbitration and award?



1. Yes, but the council should not open a road unless it is necessary in the public interest to do so.

2. The costs are in the discretion of the arbitrators.

Authority of Town Council to Rent Park.

426—W. H. C.—This corporation is about to purchase a park at present owned by an Association or Company. It is entirely outside the corporation limits and part of the ground has been used by the Argicultural Society which has a building in one corner. The council wish to know whether they have the power to hire or rent this park to societies or clubs or individuals so that they may charge admission fee to certain events. Also what claim, if any, the Agricultural Society has on the town for use at their annual exhibition or fair?

The Society had or has an agreement with the present owners for their occupation once a year for show purposes, but at our council meeting last night we could not ascertain if this agreement was still in force. A by-law for purchase of park was introduced last night. A number of the councillors wished that no action be taken until a few days had elapsed. The matter will come up again on the 10th inst.

If the town purchase the lands mentioned or expropriate them under the power contained in the Municipal Act the Agricultural Society will not have any claim upon the town just because it is an Agricultural Society, but what we hav

said has nothing whatever to do with any claim which the Society now has in respect of these lands under any existing agreement with the actual owners. Before the town can acquire absolute ownership of the lands it must acquire all the rights existing in respect of these lands. Section 45 of chapter 43 R. S. O., 1897 makes provision for agreements between a Municipal Council and an Agricultural Society. We refer to this section merely to support our view that an Argicultural Society has no claim upon a municipality in respect of lands owned by the municipality and that it must acquire the right to use lands of the municipality by an agreement for the purpose. Section 576 of the Municipal Act confers powers upon Municipal Councils to acquire lands for parks and sub-section 6 of this section empowers the councils of cities and towns to grant leases of portions of park lands for any period not exceeding three years.

Entry on Roll of Defaulters Statute Labor.

427—X.—Pathmasters of several road divisions do not return unperformed statute labor until after the collector's roll has been delivered to the collector. Can same be placed on roll for next year. If not, why not?

Section 110 of the Assessment Act makes it the duty of the pathmasters to return defaulters before the 15th of August, and it is then the duty of the clerk to enter the commutation for statute labor against his name in the collector's roll of the current or FOLLOWING year, and the collector is then to collect the amount. It is important that all municipal officers should comply strictly with the provisions of the assessment act.

Railway Bonuses.

428—T. S.—Has a municipal council power to grant to a railway company a small bonus out of the taxes of the current year for which they were elected, without submitting a by-law to the ratepayers, provided that in order to pay such bonus it is not necessary for the council to levy a higher rate than two cents in the dollar exclusive of school rates?

Section 694 of the Municipal Act empowers councils of townships to pass by-laws for lending any sum of money to an incorporated Railway Co., and the latter part of sub-section 6 of this section provides that no municipal corporation shall incur a debt or liability for the purpose aforesaid, unless the by-law before the final passing thereof receives the assent of the electors of the municipality in the manner provided by this act (the Municipal Act). The passing by the council of the by-law necessary to provide for making this loan, notwithstanding that it is made payable within the year in which the by-law is passed, is "incurring a liability" for the purpose mentioned in this section, and the council cannot therefore finally pass such a by-law until it has been submitted to and received the assent of the electors of the municipality. The making of a loan of this kind cannot be provided for by *resolution* of the council.

By-Laws Providing for More Than One Object.

429—EX-CLERK.—I note your remarks under the heading of "Illegal Bonus By-Laws" on Folio 126 of the August number of the MUNICIPAL WORLD in reference to submission to ratepayers of by-laws granting bonuses. The point being that when it is contemplated to aid by way of bonus more than one industry and raising money therefor by issue of debentures, a separate by-law should be submitted providing for each of the purposes for which it is intended to borrow money by the issue of debentures.

Would it be necessary to pass separate by-laws to raise money by the issue of debentures for two or more purposes such as the purchase of a site and erection of a poor house, the building of a costly bridge or the introduction of modern methods of heating, ventilating, etc., of county buildings, in such cases where it is not necessary to submit by-laws to a vote of the electors. Would a council be warranted in passing a by-law authorizing the issuing of debentures to raise money for more than one purpose providing they are fully set forth in such by-law?

We are of the opinion that in cases where a county council proposes to raise money by the issue of debentures for two or more separate and distinct purposes, separate by-laws should be passed for each purpose for reasons similar to those given in the article to which you refer. It makes no difference whether the by-laws are such as require the assent of the electors or not, or how clearly the several purposes are set out in the by-law. In case a by-law makes provision for the issue of debentures for two or more distinct purposes, and a number of the council is in favor of one or more of the purposes and opposed to the others, in order to support the scheme he favors, he will have to vote in favor of the passing of the by-law, and in doing this he will be supporting the schemes mentioned therein, to which he is opposed. If, on the other hand, he votes against the by-law, by reason of his opposition to one or more of its purposes, he will be helping to defeat also that portion of it to which he is favorable. It will thus be seen that a fair and untrammeled vote on a by-law of this kind is practically impossible unless ALL the members of the council happen to favor ALL the schemes it contains, which is extremely improbable.

Effect of Notice of Withdrawal from Separate School.

430—F. L.—In a union Roman Catholic Separate School some supporters of said R. C. Separate School and residing in the adjoining township where there is a public school, have given the lawful notice of withdrawal from the separate school. Now, they do not join the public school, thereby paying no school tax.

Have the trustees of that union R. C. Separate School the power to make them pay their school taxes to their school?

No, except such rates as are mentioned in subsection 2 of section 47 of the Separate Schools Act (R. S. O., 1897, chapter 294), but these parties can and should be made pay the school rates required to be levied to maintain the public school in the school section in which their lands are situated.

Payment out of Commuted Statute Labor Fund.

431—A CLERK.—Statute labor is commuted in our township. Commissioners are appointed as overseers and they have full power to hire men. Now, in what way can the men be paid so that they will not need to wait until council meet to get their orders granted? How can it be made legal for commissioners to hold a sufficient amount of money for the payment thereof?

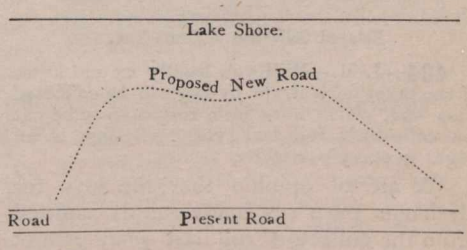
If it is the desire of the council to pay men for day work on the roads as soon as possible after the work has been done to the satisfaction of the commisioner in charge, we would suggest that it pass a by-law to the following effect, that each commissioner shall keep an accurate record of the men employed and the work done by him under by-law Number , of the said municipality, being a by-law to (here set out the object of the by-law as contained therein) and he shall furnish to the reeve in such written form and at such intervals as his instructions may require, properly itemized statements made up from these records and duly certified by him, accompanied by any vouchers pertaining thereto. The reeve upon being satisfied of the correctness of such statements may issue his cheque upon the treasurer of the municipality payable out of the proper fund from which payment should be made under the provisions of this or any other by-law of the said municipality.

Law as to Closing Old Road and Opening New.

432—W. G. H.—At our last council meeting a question arose concerning the closing of a road and the opening and establishing a new one instead thereof. The reeve claims that the council cannot do so until first putting up notice and also to have it published in the township or the county and claims to show the clause in the statute to that effect, and that the county make by-law. Is the reeve right? He claims he will not sign any motions concerning the new road as it is not necessary to build the new road as it will incur too large an expense on the tax payers. There is a hill on the present road but no worse than hills on all other roads in this rough part, and can be made practicable by a mere trifle compared with the building of a new road. We have only 100 ratepayers and are not over blessed with worldly goods.

1. Is the reeve right?

2. Can the council compel him to sign minutes if he sees errors in it? Please give in full detail.



1. The reeve has the correct idea of this matter. No municipal council can legally pass a by-law of this kind until written or printed notices of the intended by-law have been previously posted up for one month in *six* of the most public places in the immediate neighborhood of the original allowance for road (see clause

(a), subsection 1 of section 632 of the Municipal Act) and published weekly for at least four successive weeks in some newspaper published in the municipality; or if there be no such newspaper, then in a newspaper published in some neighboring municipality; and, where no newspaper is published in the municipality or in a neighboring municipality, then in the county town, if any such there be (see clause (b) of this subsection). Nor until the council has heard, in person or by counsel or solicitor, any one whose land might be prejudicially affected thereby, and who petitions to be so heard (see clause (c) of this subsection.)

The by-law closing the original road allowance, if passed by the township council in accordance with the provisions of section 632 of the Act, can have no force until confirmed by a by-law of the council of the county in which the township is situate, at an ordinary session of the county council held not sooner than three months nor later than one year next after the passing thereof (see clause (b) of subsection 2 of section 660 of the Act.)

2. No.

Custodian of Dominion Voter's List.

433—G. S—You advise Clerks to forward copy of certified Voters List for use of Dominion Government. I have just received a card from the Clerk of the Peace asking for a couple of copies for this purpose Judge's court will be held shortly. To whom shall I send a certified copy (Gov't official)?

2. How much should clerk charge for say 1000 printed names, and how much for written names each, say fifty or more or less? I thought it had been decided that the Clerk of the Peace is the custodian.

1 and 2. Section 10 of the Franchise Act, 1898 (Dominion) provides that "within ten days after the final revision of every list of voters for the purposes of provincial elections, it shall be the duty of the custodian thereof to transmit to the clerk of the crown in chancery, by registered mail, a copy of such list, etc." It has been settled that the clerk of the peace is the custodian of the voters' lists within the meaning of this section and the fees to which he is entitled for the copy so furnished, are prescribed by subsection 1 of the section.

Delayed Collection of Drain Tax.

434—J. M.—Will you kindly let me know if the taxes on a drain by-law can be collected this year, which have been forgotten to be put on collector's roll last year? By-law is all right in every particular.

We are of opinion that the levy for drainage purposes inadvertently omitted from the collectors' roll last year, cannot be placed on the roll for the current year, in addition to the levy for the latter year. Some of the properties liable may have, in the meantime, changed hands, with the reasonable assumption on the part of the purchasers that all taxes (including the drain tax) have been paid and the parties liable under the by-law cannot be required to pay in any one year, double the amount of the annual levy, provided for in the by-law.

Time for Inspection of Ditches and Watercourse Drain by Engineer.

435—C. R. W.—An award under the provisions of the Ditches and Watercourses' Act, was made by the township engineer, dated April 1901 The time specified therein for the completion of all the work was September 21st. 1901 at furthest. No appeals were made by the interested parties. Several of the owners did not complete the work in accordance with the award in the time specified, and it is not yet completed, the engineer not having received a notice to inspect within six months as required by section 28 as amended (62nd. Vic. Chap. 28, section 3).

1. Is the six months clause merely directory, and would it be legal for the engineer now to inspect and have the work completed under the above section?

2. Would the decision in Rose vs. Village of Morrisburg (28 O. R. 245) "that even the lapse of two years did not debar the engineer from acting under section (28" be of any assistance in deciding the above question, or would you consider the amendment (62nd, Vic. Chap. 28 section 3) was made in consequence of said decision?

3. Would the last amendment to section 28 (2nd Ed. VII Chap 12, section 26) make it legal for the engineer to now inspect and let this work and have it completed?

4. If it is legal for the engineer now to inspect and have the above work completed as provided in section 28, how far back could we take awards and enforce completion in the same way. For instance, could we take an award that the time limit for completing the work expired in 1898?

5. Is the municipality liable in any way if the engineer proceeds with the work?

1. The clause providing for the inspection by the engineer within six months from the time fixed for the completion of the ditch was repealed by section 26 of chapter 12, 2 Ed. VII., Ont. Statutes, 1902, and no provision was made by the repealing Act preserving its effect on pending cases and therefore the engineer may, under the authority of Rose vs. Morrisburgh, legally inspect and take all steps prescribed by the Act to have the drain completed.

2. Yes, as we have stated in our reply to question No. 1. The amendment (62 Vic., chap. 28, section 3) to this subsection may have been enacted in consequence of the decision in Rose vs. Morrisburgh, but this amendment was repealed by section 26 of chap. 11 of 2 Ed. VII., and the language of the subsection is now practically the same as it was when the decision was given.

3. Yes.

4. Following the dicta of the Chancellor on page 249, 28 O. R, we are of the opinion that the engineer could make an inspection with a view to the completion of the work, the time for which expired in 1898.

5. No.

Election of County Councillors—Date of Filing Resignation.

436—A SUBSCRIBER. — 1. What date and hour will the County Council Nomination be held this year, 1902?

2. Must the mover and seconder be residents and also ratepayers in the County Council Division for which they nominate candidates?

3. What length of time is given for candidates to withdraw their nomination, and must it be signed by a witness?

1. Monday, the 22nd day of December (see section 135 of the Municipal Act), between the hours of one and two o'clock in the afternoon (see clause (a) of subsection 2 of section 132.)

2. The mover and seconder must be electors, that is, persons entitled to vote at the elections.

3. Subsection 1 of section 135 of the Act provides that "any person nominated may resign either at the nomination meeting or during the following day." This subsection also provides that "if such resignation is after the meeting, it shall signed and witnessed in the manner prescribed for resignations under section 129 of the Act, and shall be forthwith delivered to the nominating officer."

Statute Labor in Village.

437—T. W. S.—A is living at home in a village, and is assessed for a vacant lot valued at $100. The rate of taxation has been named at 18 mills on the dollar. A pays frontage tax for sidewalk. The two taxes taken together would amount to over $2 00, but the general tax is, as you will see, only $1.80.

As per Assessment Act, Chapter 224, section 7 is A liable for $1.00 Statute Labor tax seeing that the general tax does not amount to $2.00. I consider the sidewalk tax to be a private debt, and not to be added to the general tax to make up a possible $2.00 tax.

We cannot agree with this view of the matter. The section referred to does not say that every male inhabitant of a village whose "general" taxes do not amount to $2 shall, instead of statute labor, be taxed at $1 yearly therefor, but simply states that this result will follow if his *taxes* do not amount to $2. A frontage rate is a "tax," therefore, if the general rate on his assessment and the frontage rate together make this man's total taxes over $2 he is exempt under section 97 from the $1 statute labor or tax."

Legal Preliminaries to Passing of Drainage By-Law.

438—R. M.—A petition was presented to the council asking for a new drain to be constructed under the Ontario Drainage Act, said petition at the time of presentation only contained an equal number of names to those who have not signed said petition in the area sought to be drained.

1. Does it not require a majority of the ratepayers owners, in the area to be drained to sign the petition before the council can legally accept and act upon said petition?

2. Can the Council accept said petition and act on it on the ground that at the time of adopting the engineer's report that by then instructing the reeve to sign said petition and that it then would contain a majority of one?

3. One of the owners of one lot in the area to be drained is a married woman. The assessor left her name off the last assessment roll and the Court of Revision did not notice the omission, and is now passed and final. How would said lot count, for or against said petition?

4. The lot in question above is on the

assessment roll as rented by the husband of the foregoing married woman, appearing as tenant, does that debar him from signing said petition legally?

5 When a municipality has been served with plans and profiles of a new drain under the Ontario Drainage Act by the initiating municipality, how long has the first municipality to hold the Court of Revision in within th rty days from the time of service of plans and profiles?

1. The petition should be signed by a majority 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 lands to be benefited within the described area, before the council can legally act upon the petition. (Section 3 of Chapter 226, R. S. O., 1897, the Drainage Act.)

2. Yes, the latter part of section 17 of the act provides that "should any of the roads of the municipality be assessed, the council may, by resolution, authorize the head or acting head of the municipality, to sign the petition for the muni ipality, and such signature shall count as that of one person benefited in favor of the petition." This signature can be affixed at the meeting at which the engineer's report is considered and adopted. (See section 17 of the Act)

3. Since the name of this owner is not on the last revised assessment roll of the municipality she cannot legally sign the petition, and, since the land is within the described area to be benefited by the construction of the drain, the name of the owner will count as one against the petition.

4. This man being on the assessment roll as a TENANT, cannot legally sign and be a party to the petition, Under section 3 of the act it ls only OWNERS within the meaning of that section and sub-section 7 of section 2 of the act, who can legally sign the petition.

5. The latter part of section 62 of the act provides that in case of a municipality having been served with a copy of the report of the engineer etc., the council of such municipality "shall hold the Court of Revision for the adjustment of assessments upon its own ratepayers in the manner therein before provided" (that is in section 24 and following sections of the act). Section 62 also provides that "the council of the municipality so served, shall in the same manner as nearly as may be and with such other provisions as would have been proper if a majority of the owners of lands to be taxed had petitioned as provided by section 3 of this act, pass a by-law etc." This by-law will have to be published in the manner provided by section 21 of the act, and the Court of Revision thereon should be held not earlier than twenty, nor later than thirty days from the day on which the by-law was first published, or from the date of completing the services or mailing of a printed copy of the by-law as the case may be, as provided by section 33 of the act.

Nuisance Caused by Discharge of Sewage—Inspection of Cow Byres and Slaughter Houses.

439—SUBSCRIBER.—Municipality A, discharges it sewage on to municipality B, causing a veritable nuisance by polluting stream rendering the water unfit for use to live stock and also rendering the adjacent pasture lands unsafe for cattle, in fact several cases of death have occured among cattle, the cause being attributed to the sewage.

1. Should the individual ratepayers affected by said nuisance take steps to abate the nuisance or should Board of Health or council take the matter in hand? What is the proper procedure to take to abate the nuisance?

2. Council has seen fit to have a periodic inspection of cow byres and slaughter houses, and cause a fee to be collected from those engaged in either business. Has council the right or power to impose a fee on slaughter houses and cow byres, and subject them to certain rules and regulations?

1. The ratepayers affected by this nuisance should lay the matter before the local Board of Health, and the latter should investigate, and if satisfied, that the nuisance complained of exists, should no ify the offending municipality to abate it. If the last-named municipality neglect or refuse to do this, all the circumstances should be reported by the Local to the Provincial Board of Health, as this appears to be a case involving considerations of difficulty, owing to the fact that the abatement of the nuisance will involve the expenditure or loss of a considerable sum of money, (see section 73 of the Public Health Act, R. S. O., 1897. chap. 248). It is not stated whether the sewerage system complained of has been approved of by the Provincial Board of Health under sub-section 2 of section 30 of the act. If it has the provisions of section 30 of the act, will have to be observed.

2. It is not stated whether these slaughter houses and cow byres were established and are being conducted by private parties with the consent of the council of the municipality, obtained under section 72 of the act, or under the provisions of chap. 250. R. S. O., 1897. If the former there is no provision enabling the council to charge owners of these slaughter houses an inspection fee. If the latter, the local Board of Health is empowered to impose fees which will cover costs of inspecting, and otherwise regulating these institutions.

Levy in Union School Section Partly in Organized Township and Partly in Unorganized Territory.

440—CLERK.—We have a union school section in our municipality composed of a part of this organized municipality and part of an unorganized township. The assessment was equalized by the respective assessors and settled by arbitration on the 21st day of June 1901, as follows:—68⅓% for the organized portion, and 31⅔% for the unorganized. Last year, 1901, we gave a grant to each school in the municipality of $150, except the union school, to which we gave a proportionate grant of $102.50. The trustees of the union school claim that we should have given them the full grant of $150, and threaten to take action against us if we only give them the proportionate grant as in 1901.

1. Have we interpreted the statutes correctly in regard to grants to union school?

2. If not, how much should we have given the union school?

It is doutbful whether the school act provides for a case of this kind. Subsection 2 of section 70 of the school act provides as follows: "In the case of union school sections the municipal council of each municipality of which the union school section is composed, shall levy and collect upon the taxable property of the respective municipalities the said sum in the proportion fixed by the equalization provided under section 54 of this act." Section 54 does not appear to fit this case, because it requires the assessors of the two municipalities to make the equalization between the different parts of the union school section, but there is no assessor of the unorganized municipality, and therefor we do not see how the equalization can be made. Subsection 2 of section 70 in the case of union school sections, requires the council of each municipality to levy the sum fixed by the equalization provided by section 54, but if the latter section does not apply to the case there is no authority to make any equalization, and if there is no equalization, we do not see how the council of the organized municipality can be called upon to levy anything. We may say further that it was not in any case intended to impose any greater burden upon an organized municipality where the other municipality is an unorganized one than if both were organized municipalities and therefore we cannot see how the trustees can ask for more than appears to have been offered in this case.

Service of Copies of Drainage By-Law.

441—J. McC.—Whose duty is it to serve copy of drainage by-law printed in sheet form on assessed parties?

Section 22 of the Drainage Act (R. S. O. 1897, chap. 226) does not specify whose duty it is to serve these notices. It merely provides that. instead of publishing the by-law as directed by section 21 of the Act, the council may, at its option, direct that a copy of the by-law, etc., be served upon each of the assessed owners, etc. The council may, therefore, employ any person whom they may see fit, to serve these copies, etc., and whatever the council has to pay the person who effects such services, is properly chargeable against the drainage account, as part of the cost of the construction of the drainage works.

Rights of Bell Telephone Co., to Use of Streets in Town.

442—W. H. C.—The Bell Telephone Co. are now building a trunk line from Orillia to Bracebridge. They will soon reach this municipality and the council is anxious to know just what right or powers the Telephone Co. has as to erection of poles on our streets. Also what powers we have as a council to compel them to place their poles where we may desire. They have written asking us to appoint an inspector. Can we not by by-law confer on him the power to see that the poles are erected where we choose. We have a local telephone service now.

Sub-section 4 of section 559 of the Municipal Act, empowers councils of cities, town and villages to pass by-laws "for regulating the erection and maintenance of electric light, telegraph and telephone poles and wires within their limits," and by the statutes relating to the Bell Telephone Co.,(43 Vic. c. 67 s. 3 (Canada) 45 Vic. c. 95. s. 2. (Canada) 45 Vic. c. 71 (Ontario) s. 2) provision is made as to the height of poles and wires in cities, towns and villages, the location of poles and the opening up of streets for the erection of poles or for carrying wires underground, and it is provided that this shall be done under the direction and supervision of the city, town or village engineer, or of such other officer as the council or corporation may appoint and in such a manner as the council or corporation may direct. Your council has therefore, power to pass such a by-law as you suggest. Under the above legistation it was considered that the Bell Telephone Co., had the right to use the highways of a municipality for the purpose of erecting their poles and wires, without first obtaining the consent of the council the eof. But a recent decision of Mr. Justice Street's (reported on page 95 of the Municipal World for 1902 June issue) it is held that the Co. must obtain the consent of the council before they can make use of the highways of the municipality for the purpose of erecting their poles and wires. The Company has appealed this case, but no judgment has yet been given.

Duties of Engineer and Clerk Under the Ditches and Watercourses Act.

443—H. M. – A landowner under the Ditches and Watercourses act makes a requisition for the township engineer to give him an outlet for surplus water. The engineer attends and after 9 or 10 months sends the township clerk his award. The clerk receives the award the 29th day of August and delivers the notices of having received the award upon the 15th September. The council tries to carry out the provisions of the award, but receives notice from a landowner's solicitor that they will be held responsible for any damage caused by carrying out the award's provisions.

1. As the engineer did not comply with sub-section 2 of section 16 of the Act requiring him to send his award within 30 days, was his award legal and would the council be able to collect pay for his services? Under the circumstances would the council be justified in paying him his account for services rendered?

2. The clerk as per by-law passed by council is paid for services rendered under the Act and section 18 states that on the filing of the award he shall forthwith notify each person affected thereby. Would receiving the award 29th August and notifying the parties 15th September be considered "forthwith"?

3. As the landowner requiring the outlet has been deprived of the use of land for one year, has he any right to damages? If so, is it against the engineer or clerk or both or municipality?

4. Is the municipality in any way liable for the failure of the engineer and clerk to comply with the law?

5. Our by-law engaging the clerk states that he will be held responsible for any loss sustained through his negligence or incapacity if the landowner brings a suit against the municipality, could we collect from the clerk?

6. The council appoints a township engineer, provides by by-law for payment of clerk's services und r the D. & W. Act, keeps printed forms, pays the engineer and collects when necessary. Are they responsible for the acts of a clerk after the landowner makes requisition? Is it not outside a council's duties and the landowners responsible for the carrying out of the Act after the council has provided the means enabling him to ditch?

1. In the case of Macfarlane v. Miller (26, O. R. S., 516) it was held that the provision in sub-section 6 of section 22 of the Ditch s and Watercourses Act that "it shall be the duty of the judge to hear and determine the appeal or appeals within two months after receiving notice thereof, etc.," is merely directory, and we are of opinion that a similiar construction would be put upon the word "shall" in sub section 2 of section 16 that is if the engineer did not file his award within the 30 days as directed, the fact that he filed it subsequently will not invalidate his award or deprive him of his right to receive pay for his services, or prevent the council from collecting the amount as provided in the Act.

2. When the statutes require an act to be done forthwith, it means that it should be done in such a time as would be considered reasonable uuder the circumstances. We do not think that the clerk notified the parties to this award within a reasonable time after it was filed with him, as, owing to the delay these parties were deprived of the right to appeal against the award given them by sub-section 1 of section 22 of the Act.

3. If the landowner can show that the neglect of duty of the clerk or engineer was the principal cause of his damage he can recover, but it seems doubtful whether he can show that either as against the engineer or the clerk in this case. As far as the municipality is concerned it is not liable at all.

4. No. Mr. Dillon in his work on municipal corporations says:—"If the duty though devolved by law upon an officer elected or appointed by the corporation, is not a corporate duty, the officers of the corporation performing it do not act for the corporation and hence the corporation, unless expressly declared to be so by statute, is not liable for the omission to perform it, or for the manner in which it is performed," and Mr. Justice Osler in the case of Seymour v Township of Maidstone (Clarke & Scully's drainage cases, page 317) says at page 320, "the engineer is an independent officer, appointed, no doubt by the council, but appointed in fulfilment of a statutory duty cast upon them, and not to carry out the instructions of the council, but *those of the persons who require the drain to be made.* His duties are fixed and prescribed by the statute. The council exercise no judgment, give him no instructions, and have no control over his proceedings." In other words the clerk and engineer in performing their duties under the provisions of the Ditches and Watercourses Act are not acting as corporate officers, but are the agents or in the employ of the persons desiring the drain to be constructed.

5. In view of the fact that the municipality is not liable for any damages which may have been caused by the negligence of the clerk it is unnecessary to express any opinion as to the effect of the by law referred to.

6. Neither the council nor the municipality is responsible for what is done by the clerk or engineer in carrying out the provisions of the Ditches and Watercourses Act pursuant to a requisition filed with the clerk under section 13 of the Act.

Council Should not Build or Open Drain on Highway for Private Individual.

444—J. F. C.—Can the council of a township be compelled by law to open a drain on the highway, being dug and enclosed some twenty-six years ago and is now stopped up; has been repaired from time to time since then by council. This drain is on the highway just where the ditch should be, and is covered over for the purpose of sidewalk as it runs through the village, runs parallel with road for about one hundred yards. The water has been banked up on two or three parties in village and drowned out their potato garden, and also filled their cellars on account of drain being blocked. Can parties injured come on council for damages? This drain being opened and repaired by council.

The council cannot be legally compelled to open up this drain, nor can they be held responsible in damages to persons injured by the penning back of water, if they refuse to do so. If the council originally dug this drain along the highway for the purpose of draining the lands of private individuals, it did what it ought not to have done and should not now open it up and keep it clean. The parties who are suffering or are likely to suffer injury, owing to the closing up of this drain, should take proceedings under the Ditches and Watercoures' Act to have a drain properly constructed in the vicinity, and the rights and interests of all persons concerned finally adjusted.

Township Treasurer's Statement—Crossig Over Road Ditch—Payment of Expenses of Abating Nuisance.

445—SUBSCRIBER.— 1. Is it the duty of the township treasurer to make an itemized statement of all moneys expended in the township in making his financial statement?

2 Is it the duty of the township to replace a bridge leading from a farm over a ditch about 20 feet wide, to the road. The ditch is along the side of the road and on the road allowance. The bridge was taken away by high water and the drain it was over is now in the hands of the referee, and a steel bridge allowed in the engineer's report when the drain was dug before there was no bridge allowed it was built by the party owning the farm

3. A had a horse die; B notified the Board of Health physician and he sent the clerk to notify A to bury it. Can township council place the expenses on collector's roll, or must they recover by process of Common Law?

1. We do not know what statement is meant. Section 291 of the Municipal Act requires the treasurer to keep a cash book in which all items or accounts affecting the

municipality are to be entered as directed in this section, and this cash book shall, at all times be open for inspection by any member of the council or the auditors. By section 292 "Every treasurer shall prepare and submit to the council, half-yearly a correct statement of the moneys at the credit of the corporation whose officer he is," and the treasurer should render all the assistance necessary in the preparation of the statement required by sub-section 6 of section 304 of the act. This statement should be in detail and itemized.

2. We gather that the council has passed a by-law providing for the construction, cleaning out or improvement of the drain over which this bridge is to be erected, and that the report of the engineer embodied in the by-law, makes this bridge a part of the drainage works. This being the case, it should be paid for by the parties assessed for the construction of the drainage works. We refrain from giving a definite opinion, however, as to this question, until we have had an opportunity of perusing the by-law, engineer's report, and judgment of the referee.

3. Section 71 of the Public Health Act provides that "all reasonable costs and expenses incurred in abating a nuisance shall be deemed to be money paid for the use and at the request of the person by whose act, default or sufferance the nuisance was caused, and such costs and expenses shall be recovered by the Municipal Council or local Board of Health or person incurring the same, under ordinary process of law." If A buried the horse we cannot see any difficulty because in that case he would only be doing his duty and he would not have any claim against anybody for the expense incurred in so doing.

Effect of By-Law Abolishing Dog Tax.

446—C. B.—Our council on August 11th 1902 repealed the by-law abolishing a tax on dogs, thereby giving effect to the statutory law imposing such tax, and in compliance with said authority I placed on the collector's roll opposite such persons as were assessed for dogs on the assessment roll of the current year 1902. Now a dispute has arisen as to whether the council can collect such a tax on account of not having passed the by-law (giving effect to statutes) before the assessment was made. Some of the ratepayers have obtained legal advice in the matter and have stated that they have been instructed not to pay such tax, as the by-law to repeal by-law abolishing dog tax cannot take effect unless such by-law was passed previous to 1902 assessment, although assessor placed on assessment roll the number of dogs owned or harbored by persons assessed. Will you kindly give me your opinion with regard to question submitted?

We assume that the assessment roll for your municipality was completed and returned by the assessor within the time limited by the statute, that is the 30th of April, 1902. This being the case, the by-law abolishing the dog tax was in force in the municipality all the time the assessor was making his assessment and up to and after the date of his returning the roll. During all that time there was no such thing as dog tax in the municipality and the assessor, therefore, had no right or authority to assess any dogs and place them on his roll. In preparing his collector's roll, the clerk has the right to place thereon only such dogs as are lawfully entered on the assessment roll. Since this dog tax was not lawfully entered on the assessment roll, it should not be entered on the collector's roll, and the persons opposite whose names it is entered cannot be compelled to pay the tax. The by-law passed in August, 1902, can have no force or effect, so far as the dog tax for 1902 is concerned, but will be effective in 1903 and subsequent years.

Council Should Build This Approach.

447—S. R. W.—In grading road our council dug a ditch about two feet deep in front of gate. Can owner compel council to put in a crossing for him.

It has been held that a municipality is not bound to provide a crossing to enable an owner of land to reach the highway, but this case, according to a recent decision appears to come within the principle laid down in Youmans v. County of Wellington (4. A. R. 301) where the law is thus propounded; the owners of property abutting upon a public highway are entitled to compensation from the municipality under the Municipal Act, for injury sustained by reason of the municipality, having for the public convenience, raised the highway in such a manner as to cut off the ingress and egress to and from their property abutting on the highway, which they had formerly enjoyed, and to make a new approach necessary, according to this decision it appears, that where a man's approach to a highway is destroyed by work done on the highway for its improvement so as to require a new approach, he is entitled to compensation and as that compensation would be measured by the cost of making a new approach, it would amount in dollars and cents to the same thing as if the council restored the crossing.

Repayment of Surplus Drainage Moneys.—Drainage Debentures in Statement of Assets and Liabilities.

448.—STUDENT.—1. In question 376 August number the printing and publishing of the by-law, the engineer's expenses and the clerk's fees, cost the estimated amount. I understand your reply, had the act been complied with, but I fail to understand how Jno. Brown is to be remunerated in this case except by a cash settlement. He paid his last assessment in 1901. It seems to me that the council are using said drainage money to meet current expenses, thus lessening the amount of borrowed money (in the eyes of the ratepayers). You see the whole of the estimated cost remained in the treasury for over twenty months. In the same township another drain was constructed in 1889, yet the ratepayers have not received any rebate. It seems to me that the council are taking unjust advantages of those who are so unfortunate as to be assessed for the drain. I would like to know what steps Jno. Brown must take in this case. Are the members of the council in any way responsible for not complying with the Drainage Act?

2. When drainage debentures appear in the liabilities, should a corresponding amount charged against the land affected by the drain appear in the assets? (or in other words, drainage debentures do not affect the general liabilities.)

1. Subsection (3) of section 66 of the Drainage Act provides that any by-law passed which provides more than sufficient funds for the completion of the work shall be amended and that the surplus money shall be applied by the council of the municipality pro rata according to the assessment in payment of the rates imposed by it for the work in each and every year after the completion of the work. As we understand the facts of this case the by-law was not amended as required by the foregoing sub-section or if so the money was not at any rate applied in the manner provided. There is a principle of law that a person who voluntarily pays a tax which he is not bound by law to pay in ignorance of the law cannot recover back the tax so paid and it might be contended that this principle applied in this case, but we do not think so because the act makes the municipality a trustee of the surplus money and imposes upon the council the duty of applying it in the reduction of the rates imposed for the work and if the council neglect to apply it in the manner provided and the ratepayers pay more than enough to pay for the cost of the work the surplus belongs to the ratepayers and ought to be paid to them in cash. Another reason why the above principle cannot apply is that the ratepayers were probably in ignorance of the fact that the whole of the rates which they were called upon to pay was not required and therefore that the payments made by them were not made simply in ignorance of law but in ignorance of the facts.

2. Drainage debentures are a liability of the municipality. A statement of assets should show the amount on hand for payment of debentures issued and the statement of liabilities should specify the amount of debentures outstanding. These statements should be classified and distinguish between debentures issued for general and special purposes, any one interested will then have full information in reference to debenture indebtedness. It is usual to omit debentures repayable by special levy on properties benefited when discussing the financial position of a municipality, but they are never the less a liability until the money is collected in the special manner provided in the by-law and the debentures paid.

The electors of the township of Sandwich West recently defeated a by-law granting a bonus of $5,000 to the Sandwich, Windsor and Amherstburg Electric Railway to extend its line to Amherstburg.

* * *

A suit has been been entered against the bondsmen of ex-Treasurer John Halliday of the township of Elizabethtown for $12,000 by the council of that township

Legal Department.

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

McLean v. Robertson.

Judgement in action tried without jury at Gore Bay. The plaintiffs, suing on behalf of themselves and all the other ratepayers of school section 2 of the Township of Allan, in the district of Manitoulin, claimed a declaration that the legal school site of the section is upon lot 18 in the 9th concession of Allan (known as the "new site"), and relief consequential upon such declaration. The defendants, who were two of the present trustees (sued in that capacity and personally as well), and the Public School Board of the section, maintained that the legal school site is upon lot 18 in the 7th concession, known as the "old site." At the annual meeting of ratepayers held in December, 1899, it was determined that a new school building should be erected. At a meeting of the trustees held on the 9th of March, 1900, a resolution was passed selecting the "new site" as the school site for the section, and directing the Secretary to call a ratepayers' meeting for the 17th of March to consider and vote upon the suitability of this site. A ratepayers' meeting was accordingly held on the 17 of March. The minutes of this meeting were as follows:—"March 17, 1900: The following is the minutes of a special meeting of the ratepayers' of School Section No. 2, in the school house, at the hour of 2 o'clock, for the purpose of voting on a site selected by the trustees for the erection of a new school house, said site belonging to W. H. Brett, and situated on the southwest corner of lot 18 concession 9. Moved in amendment by Thomas Robertson, seconded by Thomas Wilson, that Neil McLean act as chairman. Lost. Original motion, moved by Neil McLean, seconded by Herbert Gilroy, that Ben Vine be chairman. Carried. Moved in amendment by Thomas Robertson, seconded by Thomas Wilson, that James Wm. Kerr be secretary. Carried. Moved by Neil Mclean, seconded by W. H Brett, that a division of the house be taken on the question. Carried. Moved by Robert Brett, seconded by Neil McLean, that this meeting adjourn Carried. Benjamin Vine, chairman. James Wm. Kerr, secretary." It was contended for plaintiff that the minutes were defective, and parol evidence was given, subject to objection, as to what actually took place at the meeting. Held, that the great weight of the parol testimony, if admissible, was that a motion was made that the "new site" be chosen; that such motion was duly explained both by the mover and by the chairman, and was submitted to and carried by the meeting. The minutes were not read over to the meeting or in any way formally adopted by it as the record of its transactions Held, that, in the absence of any statutory provision declaring the minutes to be the sole evidence competent to prove the transactions at ratepayers' meetings, parol evidence was admissible (Miles v. Bough, 3 Q. B. 855, 872), and the evidence given established the fact that a motion for the selection of the "new site" was carried. Three of the dissentients prepared a complaint of the proceedings at this meeting to be sent to the inspector under section 14, sub-section 8, of the Public Schools Act. Held, that this complaint was made to late, not having reached the inspector within twenty days after the meeting. The inspector, however, acted under the power conferred by section 83, sub-section 1, and called a special meeting of ratepayers for the 1st of September, at which meeting the majority chose the "old site." The inspector assumed that the necessary conditions then existed to bring into operation sub-section 2 of section 31, providing for an arbitration. The ratepayers' meeting named one White as arbitrator. The trustees declined to appoint an arbitrator. The inspector and White entered upon an arbitration and published an alleged award in favor of the "old site." White stating that he agreed in all the conclusions arrived at, but declined to join in making an award. Held, that the meeting of 1st September was not within section 31, and the conditions upon which an arbitration could proceed never existed. Sub-section 2 of section 32 applies to an arbitration between trustees and a hostile majority of ratepayers. But here the statutory equivalent of a submission never existed, and to such an objection effect must be given at any time and under any circumstances. In re Cartwright School Trustees, 4 O. L. R. 272, followed. See also McGugan v. School Board of Southwold, 17 O. R. 428, 429. While the inspector was taking the steps above detailed, the board of trustees purchased the "new site" and completed their building. They moved the school furniture into the structure in November, 1900. An attempt to restrain them by injunction had been made in April, but the action did not proceed after a motion for an interim injunction had been refused. The plaintiffs ineffectually sought to found an estoppel upon the dismissal of this motion and the subsequent abandonment of the suit. At the annual meeting in December, 1900, the friends of the "old site" were in a majority, and elected one of their party a trustee. The new board at their first meeting, held in the old school house, resolved to move the school furniture back to this building, which they did. Three ratepayers then instituted proceedings for a mandamus and injunction to compel the return of this furniture to the new building. A motion was made before the local Judge, and upon a consent to the motion being finally disposed of by him being given, he adjudged that the "new site" was the legal school site, and the first meeting of the trustees of 1901 illegal, and its resolutions void, because the meeting was held in contravention of the direction of section 16, sub-section 1, of R. S. O., ch. 292, that the first meeting of the trustees shall be held "at the school house of the section." The Board of Trustees was not a party to that proceeding. It did not appear that any writ of summons had issued. No order was drawn up or signed. None of the papers purporting to be filed upon the motion were stamped Held, that the estoppel alleged by plaintiffs was not established, and a subsequent proceeding against the secretary, taken before the district Judge as persona designata under section 109, also fell short of anything in the nature of an estoppel or res judicata against defendants. The trustees acquiesced for the time in the view taken by the local Judge, and returned the furniture to the new building, where the school was carried on until the summer of 1901. In April, 1901, however, at a duly convened meeting of trustees a resolution was passed that the "old site" be selected as the school site for the section, and that a meeting of ratepayers be held on the 20th of April to consider such selection. This meeting was held, and the "old site" was adopted by a majority of seven. Before this the statute of 1901, 1 Edw. VII., ch. 39, became law. Held, as to this meeting (1) that, although the school site had been fixed by the action of the trustees and ratepayers in March, 1900, and a building erected on the site so fixed, it was competent for the ratepayers, a year later, to revert to the former site. Wallace v. Township of Lobo, 11 O. R. 648, applied. (2) That in reverting to the old site there was no bad faith, nor was the doing so capricious, if the court could be asked to review the action of the ratepayers upon such a ground. (3) That there was no ambiguity in the resolution proposed to the meeting. The trustees acted prudently, and in the best interests of the section in deferring the actual physical removal until the vacation. (4) That it does not come within the scope of the action to declare, nor is there evidence upon which it can be declared, that the return to the old building is unreasonable and dangerous to the health and welfare of the pupils because of its bad condition. (5) That upon an investigation into the qualifications of the persons voting at the meeting, the resolution in favor of reverting to the old site was carried by a majority of one out of all the duly qualified voters who voted. Quaere, whether the vote is subject to scrutiny in this action, but if not, the same result follows upon a greater majority. Action dismissed. Plaintiffs to pay defendants' costs of the action, including costs of motions for and to continue interlocutory injunction, and pay defendants' costs of the counter-claim.

Town of Whitby v. G. T. R. Co.

Judgment on motion by plaintiff' pursuant to leave given in the judgment of this court (1 O. L. R. 480) on the appeal from the judgment of Boyd, C. (32 O. R. 99), for leave to amend so as to claim a remedy (if any) against defendants by reason of the breach of the prohibition contained in 45 Vict. ch. 67, sec. 37 (O.), which provides that "the workshops now existing at the Town of Whitby, on the Whitby section, shall not be removed by the Consolidated Company without the consent of the Council of the corporation of the Town of Whitby." Held that it cannot be doubted the provisions of the above section were introduced to protect the plaintiffs against the removal of the workshops at the sole will of the Midland Railway Company, and the defendants have succeeded to the position of that company, and assume and become liable to its obligations. The workshops having been removed partly by each company and no injunction sought or obtained, the plaintiffs are not left without a remedy, but ought to be allowed to show in this action such damages as have fairly resulted from the breach, such as loss of taxes, as long as the building would last, but those damages cannot be assessed upon the basis of the prohibition being against the shutting down of or the reducing the extent of the work carried on in the workshops. Some of the bases as to damages are indicated in Brussels v. Ronald, 11 A. R. 605, St. Thomas v. Credit Valley, 11 O. R. 673, but the plaintiffs should not be tied down to these or claims of a similar kind if there are any others that may appear to be fair and reasonable damages to them as a corporation. Order made allowing plaintiffs to amend. Reference to Master at Whitby as to damages upon plaintiffs' election to take it within one month. Costs to and including judgment to defendants. Further directions and subsequent costs reserved. If election not made motion dismissed with costs.

Re Medler & Arnot and City of Toronto.

Judgment on appeal by Medler and Arnot from an award of arbitrators and on cross-appeal by the corporation as to an allowance of $100 for damages. The appellants allege that their lands on Berkeley street, in the city of Toronto, have been injuriously affected by the laying of several tracks and rails for shunting purposes at the foot of the street, and by the closing of the street pursuant to an agreement known as to the tripartite agreement between the city and the Grand Trunk and Canadian Pacific Railway Companies and ratified by 55 Vict. chap. 90, section 2 (O). Held, that the city cannot be held liable in damages, because prior to the tripartite agreement the Railway Committee of the Privy Council had granted, on February 23,892, leave to the railway companies to construct their lines along Mill, Parliament and Berkeley streets, and permitted a deviation of Berkeley street, and that leave has been ratified by 56 Vict., ch. 48; nor does section 2 of the former act make the city liable, because the injury complained of is not within the meaning of that clause, as a liability could only arise where any person's "lands are injuriously affected," and here they are not, the injury not being to the land, but consisting in personal inconvenience or discomfort to the owners; Caledonian v. Ogilvie, 2 Macq. 229. Becketts' Case, L. R. 3 C. P. at p. 94; Pawell v. Toronto H. & B. R. W. Co. 25 A. R. 209, nor are appellants entitled to damages by reason of the loss from filling in the lots south of the new windmill line, because they have no title to the water lots in question; nor should the appellants be allowed damages for the closing of Berkeley street, because their lands do not abut thereon; Falls v. Tilsonburg, 23 C. P. 167. Held, also, that the arbitrators had no discretion to direct the costs, including stenographers' fees, etc., amounting to $2,000 to be paid by the city. Appeal dismissed with costs and cross-appeal allowed.

Thompson v. Township of Yarmouth.

Judgment in the action brought at St. Thomas by plaintiff on behalf of himself and other ratepayers. The plaintiff alleges a contract or quasi-contract between himself and other ratepayers and the corporation of the Township of Yarmouth, made on or about January 16, 1892, by which the defendant corporation agreed to maintain and repair Hughes street bridge, to be used as an ingress to and exit from St. Thomas. The plaintiff seeks specific performance of this contract and a declaration that the defendant corporation is liable to maintain and repair the approaches to Hughes street bridge, and a mandamus compelling the defendant corporation to repair and maintain same or in the alternative the plaintiff claims the return of certain moneys which he paid to the defendants towards a fund to purchase an approach to the bridge. Held, that the plaintiff cannot maintain this action, because individually he has no interest in the matter except as a ratepayer of the township. An indictment is probably the appropriate remedy. Held, further, that the defendant corporation cannot lawfully enter into the contract alleged by the plaintiff, and that the representations which the plaintiff claims were made to him and the conversations in 1891 with the then Reeve and Deputy Reeve were not of such a character as to bind the defendant corporation. Action dismissed with costs. Thirty days' stay.

Rex v. St. Pierre

Judgment on motion by defendant to make absolute a rule *nisi* quashing a conviction of defendant by the police magistrate for the City of Ottawa for offering goods for sale contrary to a transient traders' by-law of the city of Ottawa. Held, that there being no statutory provision as regards transient traders similar to that as regards hawkers, that the description is to include those who carry or expose samples or patterns of goods to be delivered afterwards, the defendant does not come under the category of transient traders. No goods were offered for sale. Samples of goods were exhibited suitable for clothing, and the transaction was carried out by the choice of some particular pattern in Ottawa, notification of which was sent to Montreal, whereupon the garment was made out of that material and forwarded to the person giving the order at Ottawa, who then made payment on delivery. The collocation of the words in the statute as to sale or offering for sale by transient traders implies some exhibition and visible presentation of the goods dealt in, such as occurs in sales by auction. the whole trading being carried on by the occupant of fixed premises within the municipality. Neither in terms nor in substance was there an offering of goods for sale within the municipality. Nevertheless the effect of this method of dealing may be to affect prejudicially the business of tax-paying tailors and clothiers of Ottawa. According to the cases certiorari lies if the magistrate has no juri diction over the matter adjudicated. That is, there was no power to pass a by-law or to convict under the transient traders' clauses in the municipal act in respect to a person living at a hotel and taking orders for clothing to be made out of material corresponding with samples exhibited. Rule absolute quashing conviction without costs.

Mann v. City of St. Thomas.

Judgment in action tried without a jury at St. Thomas. Action by James Mann to recover $1,000 damages for injuries (dislocation of shoulder) received on January 11, 1902, by a fall upon an icy sidewalk at the corner of Talbot street and Woodworth avenue, in the City of St. Thomas. The plaintiff charged that the defendants were guilty of gross negligence in allowing the sidewalk to be out of repair. Held, that having regard to the place where the accident happened the state of the weather and other surrounding circumstances, there was not that "gross negligence" which must exist to fasten liability on defendants. Ince v. City of Toronto, 27 A. R. 410, 31 S. C. R. 323, referred to. There was a very much stronger case against defendants in M. Quillan v. Town of St. Marys, 31 O. R. 401. If the finding were for the plaintiff the damages would not be sufficient to carry costs on the High Court scale. Action dismissed with costs.

Re Toronto Public School Board and City of Toronto.

Judgment on appeal by the city corporation from the order of a Divisional Court (2 O. L. R. 727), varying an order of Street J., in chambers, upon an application by the School Board for a mandamus to the city corporation to levy certain sums of money alleged by the School Board to be required for school purposes for the year 1901, and granting such application in respect of most of the items of expenditure estimated by the applicants. The principal points decided by the Divisional Court were that it is only when it is made to appear that the expenditure would be clearly an illegal one, or ultra vires the School Board, that the Council is justified in refusing to raise the sum required by the board, and that all that the Council has a right to ask is that an "estimate" shall show that the board has in good faith estimated the amounts required to meet the expenses of the schools for the current year, and the purposes for which the sums are required, in such a way as to indicate that they are purposes for which the board has a right to expend the money of the ratepayers, and when that has been done the duty is imposed upon the Council of raising by taxation the sums required according to the estimate. Judgment below affirmed substantially for the reasons given by Meredith, C. J., in the court below. Appeal dismissed with costs.

Madill v. Township of Caledon.

Judgment on appeal by defendants from judgment of Meredith, J., in action for damages for injuries sustained by plaintiff, who fell owing to a hole 13 inches deep, nine inches wide, and 3 feet in length, which had existed for several months in the sidewalk upon the highway of the 3rd line, Caledon West, in the Hamlet of Alton. Held, that the judgment below should be affirmed. The evidence establishes beyond question that the highway is one for the maintenance of which, in good repair, the defendants are responsible. Their liability to keep it in repair is admitted as regards the central portion or portion which vehicles travel, but it is contended that it does not extend to the side or portion on which the sidewalk is shown to be, but that part is as much a part of the original road allowance as the centre part, and may be lawfully used by persons travelling on foot, and had been so used for twenty years, and it is impossible to say that it is not part of the public highway in the keeping or control of defendants. It is not necessary to determine the origin of the sidewalk. If placed there by defendants, or being there, was assumed by them, their liability is clear. If not so placed or assumed by them they allowed it to remain, and its condition of non-repair was an obstruction to the safe use of the travelled way, which it was their duty to remove, and by reason of their neglect the highway was out of repair.

O'Hearn v. Town of Port Arthur.

Judgment on appeal by defendants from judgment of Britton, J, upon the findings of a jury in an action by plaintiff, a teamster in Town of Port Arthur, for damages for bodily injuries caused by being run into by a street car of defendants owing to alleged negligence, running at a rapid and dangerous speed. The jury found that the speed of the car on the occasion of the accident was excessive, that the motorman was negligent in not sounding the gong and that the plaintiff could not have avoided the accident nor be justly accused of ordinary negligence, and assessed the damages at $200. Held, that the plaintiff was guilty of contributory negligence in attempting to cross the defendants' electric street railway without looking to see if he might safely cross. Danger v. London Street R. Co. 30 O. R. 493, followed. Appeal allowed and action dismissed with costs, if asked, on the lower scale,

McGarr v. Town of Prescott.

Judgment on appeal by defendants from judgment of Ferguson, J. (1 O. W. R. 53), in favor of plaintiff in action for damages for injuries sustained by her owing to non-repair of a board sidewalk on Ann street, in the Town of Prescott. The sidewalk was four feet wide, the planks running crosswise. One plank, about ten inches wide, was missing, leaving a hole six to eight inches deep. The accident occured at 8.30 p. m. of 7th July, 1901. The trial Judge found upon the evidence that the walk was in a dangerous condition from the 29th June, 1901, and that having regard to other circumstances, the population of the town, the old age and worn out condition of the sidewalk and the travel on the street, the defendants ought to have known of its state. He assessed the damages for the plaintiff's injuries at $1,500. Appeal dismissed with costs, but amount of damages reduced to $900.

McDonnell v. City of Toronto.

Judgment on appeal by plaintiff from judgment of Robertson, J., in action for a declaration that the assessment of plaintiff's property for local improvement (part of cost of opening up Sunnyside avenue, in the City of Toronto), for the years 1892, 1893, 1894, 1896 and 1897, was illegal and void; that defendant corporation have no right to distrain for such taxes; and that they have now no right to collect the said taxes by action or in any other way, and that the same are not a charge on plaintiffs' lands on Indian road. Appeal allowed, with costs and judgment below varied by declaring that the local improvement rates for 1896 and 1897 are due and payable by plaintiff and chargeable under the defendants' by-law No. 3,012 against plaintiff and her lands, and varying paragraphs 3 and 5 of the judgment accordingly. No costs to either party up to trial. McLennan J. A.

Macdonell v. City of Toronto.

Judgment on special case. The plaintiff is tne "owner" within section 668 of the Municipal Act, of a parcel of land in the City of Toronto, between Cecil and Baldwin streets. Nine persons, including plaintiff, are assessed as owners of property in the same block, fronting on Huron street, and "the City of Toronto" is on the roll in respect of two parcels in the same block, with the word "exempt" opposite the name. Six of the persons assessed as owners have petitioned the council for an asphalt pavement on Huron street, between Cecil and Baldwin streets, as a local improvement under section 668 of the Municipal Act. The value of the lands and buildings of these six is according to the roll, $14,553, while that of the lands and buildings of the three others, including the plaintiff, $13, 959, and the value of the vacant lots of the city is $3,060. Held, that under these circumstances, the petition has been signed by two-thirds in number of the owners, and one-half in value of the real property to be benefited. As to the proportion of value, the buildings must be taken into account as well as the lands, and the city is not to be regarded as an owner within section 668, not being a "taxable person," and being improperly mentioned in the roll, and should not be counted in reckoning the number of owners or in ascertaining the proportion of value. Judgment for defendants with costs.

Ruttan v Burk.

Judgment in action brought by plaintiff to have it declared that the sale of certain lands in Port Arthur for alleged arrears of taxes for 1892, 1893 and 1894 was illegal and void. The by-law of the municipality No. 354, imposing the taxes and fixing the rate, was passed October 18th, 1892. It was also objected that the plaintiff has no status to maintain the action. The learned judge referred to assessment act of 1892, latter part of section 140 and to section 160, and held that what these sections really mean is that the taxes for the year 1892 must be declared to have been due before they were imposed by the said by-law (354), and in this view a a part of the taxes for which these lands were sold was in arrear for three years, and again the Legislature by 63 Vic., ch. 86, validated sales of lands for taxes in Port Arthur prior to January 1, 1890, consequently the sale was a good sale. Held, also, that, in this view of the sale it is unnecessary to consider the question raised of the status of the plaintiff in the action and his right to maintain it. Action dismissed with costs.

A by-law to raise by the issue of debentures the sum of $50,000 to consolidate the floating debt of the town of North Bay, etc., was voted on by the electors of that town recently and carried by a majority of 46.