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MISSING

THE MUNICIPAL WORLD

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

Vol. 6. No. 4.

ST. THOMAS, ONTARIO, APRIL, 1896.

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Legal, Educational, Municipal and Other Appointments.

APRIL.

1. Clerks of counties, cities and towns separated from counties to make return of population to Educational Department.—Public School Act, Section 129.
Last day for Free Library Board to report estimates to the Council.—Free Library Act, Section 6.
Last day for petitions for Tavern and Shop Licenses to be presented.—License Act, Sections 11 and 31.
Last day for removal of snow fences erected by Councils of townships, cities, towns or villages.—Snow Fences Act, Section 3.
From this date no person compelled to remain on markets to sell after 9 a. m.—Municipal Act, Section 497 (6).
Last day for Boards of Park Management to report their estimates to the Council.—Public Parks Act, Section 17.
3. Good Friday.
7. Last day for Treasurers of Local Municipalities to furnish County Treasurer with statement of all unpaid taxes and school rates.—Assessment Act, Section 145.
8. Last day for Collector to return to Treasurer the names of persons in arrears for water rates in Municipalities.—Municipal Waterworks Act, Section 21.
13. High School open (third term).—High School Act, Section 42. Public and Separate Schools in cities, towns and incorporated villages open after Easter holidays.—P. S. Act, Section 173 (2).—S. S. Act, Section 79 (2).
15. Reports on Night Schools, due to Education Department (session 1895-6).
20. Last day for non-resident land holders to give notice to the clerk of ownership of lands to avoid assessment as lands of non-residents.—Assessment Act, Section 3.
25. Last day for Clerk to make up and deliver the assessor's list of persons requiring their names to be entered in the roll.—Assessment Act, Section 3.
30. Last day for the completion of roll by assessor.
Last day for non-residents to complain of assessment to proper Municipal Council.—Assessment Act, Section 77.
Last day for License Commissioners to pass regulations, etc.—Liquor License Act, Section 4.

MAY.

1. Last day for Treasurers to furnish Bureau of Industries, on form furnished by Department, statistics regarding finances of their municipalities.—Municipal Act, Sec. 252.
Last day for passing by-laws to alter School Section boundaries.—Public School Act, Section 81.
County Treasurers to complete and balance their books, changing lands with arrears of taxes.—Assessment Act, Section 152.
Arbor Day.

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The Municipal World

PUBLISHED MONTHLY

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

K. W. MCKAY, EDITOR,

A. W. CAMPBELL, C. E.,
J. M. GLENN, LL.B.

Associate
Editors

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ST. THOMAS, APRIL 1, 1896.

The Essex County Council, at special session, have, at last, finally decided on the improvement of the County buildings at Sandwich. Windsor and Walkerville made a strong fight with a view to securing the erection of the buildings within their limits.

* * *

The town council of Pembroke, looking to the consideration of the municipal insurance question, authorized their assessor to ascertain the amount of fire insurance and premiums paid thereon in the town; and for this purpose provided him with a special book, in which to make the entries, and increased his salary accordingly.

* * *

We are pleased to notice that a bill has been introduced to consolidate the laws relating to the registration of births, deaths and marriages. This bill embodies most of the recommendations of Provincial Inspector Hamilton referred to in our last issue. The amount of the fee to be paid to the division registrars was left blank in the bill, but will, no doubt, be increased if the bill is passed as additional duties are imposed in the way of keeping a permanent register.

* * *

We are in receipt of a printed statement of receipts and expenditures of the town of Fort William for the year ending 31st December, 1895, of which Mr. E. S. Rutledge is treasurer.

Few municipalities present its ratepayers with a more comprehensive financial statement than this appears to be. A complete classification of the various accounts is an important feature most satisfactory to inquiring ratepayers. We agree with the

Fort William Journal when it states "the report is certainly a good one, and one that reflects credit on the council and on the treasurer who evidently has exercised great care and labor in its compilation.

* * *

The question drawer this month is larger than that of any former issue of the WORLD. We do not know what space may be required for this department in the future, but would suggest that if our correspondents would make themselves more familiar with the statutes, many questions would not be asked, and we would have more space to devote to extended answers, and for other interesting matter.

A number of questions have been received for answer by mail, but when no stamped envelope is enclosed we will be heard from only through the paper.

* * *

The present session of the legislature will be noted for the many radical changes proposed to be made in our municipal laws.

Commencing with the next issue of the WORLD we will publish particulars of the new legislation and comment thereon. It is most important that councils should become thoroughly conversant with new laws, and for this purpose they cannot do better than order the MUNICIPAL WORLD to be sent to each member and official. The yearly rate is small, but the benefits to be derived from the WORLD by the most experienced official will amply repay all municipalities for the expenditure.

* * *

The agitation for municipal fire insurance has found its way into the Ontario legislature, and on motion of Mr. Conmee, of Algoma, a committee will enquire and report as to the number of fire insurance companies, the amount of stock paid up by stockholders; the total amount of insurance in stock companies, in cash mutual and straight mutual companies; the percentage invested in (1) mercantile, (2) manufacturing, (3) all other risks; the total amount of cash premiums actually collected; the average rate of premium per \$1,000; the total amount of losses paid in fifteen years; the percentage of amount actually paid to the insured in cases of total loss, or to what extent has over insurance prevailed; the total amount paid for commissions and brokerage, other expenses and bonuses; a comparison of the relative cost to be insured in each class; the desirability and feasibility of establishing bureaus and municipal fire insurance.

A member of the Government stated "that if the insurance companies are not more fair and moderate in their charges there will be a thorough investigation into their doings." The complaints of exorbitant insurance rates charged by the companies who form the Association of under-

writers, have been heard throughout the land for some time. When the report of the committee is received we will be in a position to say whether the complaints are reasonable or not.

County Councils.

Since our last issue the County Council Bill therein referred to has been withdrawn and a new bill providing for the direct election of councillors has been submitted. This provides for the division of counties into districts, each of which, at the annual municipal elections, will elect two members of the county council by direct vote. The former proposition was that members of the county council should be elected by the Reeves and deputy-Reeves. The bill also provides that county councillors are to be elected for two years, and that the division of the counties into districts shall be determined by two commissions, one for the eastern, and one for the western counties of the province.

The bill as reprinted for committee of the whole determines the size of councils as follows:

- a. If the population of the county is 25,000 or less, of not less than eight members.
- b. If the population is more than 25,000, but less than 40,000, of not less than ten members nor more than twelve members.
- c. If the population is 40,000 or more, but less than 60,000, of not less than twelve members nor more than fourteen members.
- d. If the population is 60,000 or more, of not less than sixteen members or more than eighteen members.

There are a great many provisions of the bill with which we do not entirely agree, but as it has been hastily drafted, it will, no doubt, be carefully discussed in committee, and be finally passed, so as to provide for the reduction of the number of members of the county council in an equitable manner.

Some doubt has been expressed as to the advisability of passing the bill this session, or before the various county councils have had an opportunity of passing an opinion on it, but as most of our readers will remember, a proposed county council bill was submitted to all the councils a few years ago, and at that time numerous suggestions were received, and in framing the present bill, these have been considered. In addition to this the various representatives are in constant correspondence with their constituents, and the information received in this way and added to their own experience will, no doubt, result in the passage of a satisfactory bill.

"Neglect" is the one thing that makes most roads bad.

Adam was the first man, but Macadam stands first as a road-maker.

Farmer (reading ad.) — "Ninety-six calendars for five cents! I wonder if they couldn't make it a hundred!"

Through the Council to Parliament.

Public servants, like other servants, need training. More than that, the public, like any other master, naturally desires to know what kind of a workman a candidate for an important place in the national household has shown himself to be in posts of minor responsibility.

Other things being equal, then, the man who has served the public well as a junior representative—say, as an alderman—has far the best right to serve that same public as a senior representative—say, a member of Parliament. It would be an excellent custom, and one that would tend to the improvement of every branch of the service, if the path to parliament were generally understood to lie through the city council. By this means, men would be induced to serve in the council who otherwise could not be persuaded to give the community the benefit of their assistance in this field of limited fame. We need the best that our citizenship can afford at the city hall, and the lure of parliamentary honors hung over the exit from the council chamber would mightily help us to get it.

Then by permitting only tried and practical men—men who have proved their worth under our own eyes—to go to Ottawa, we would ensure a better deputation from this district to the Dominion Parliament. At this crisis we should choose our members of parliament carefully and should select only those whom we know well. The business of impressing one's views on a public assembly requires learning as well as any other business. It is not enough to be an orator. The interests of a community would suffer if left to a representative who knew nothing of the means by which legislative bodies are properly influenced. The training in the city council in this respect can be bettered nowhere. A man might "orate" ineffectively for ever at Ottawa, without learning half so much about the high art of passing legislation as a term at the city hall, would teach him.—*Montreal Star.*

Treasurers' Duties.

I.

The Consolidated Municipal Act, 1892, as amended in 1893, reads as follows: 250 a. The provisions contained in this section, shall, on and after the first day of January, 1894, be in force in every county, city, town and incorporated village in this province, except in so far as they shall be altered, amended or declared not to be in force in the municipality by the council thereof.

1. The treasurer shall keep a book to be known as the cash book, on the left hand page of which he shall enter in consecutive order all sums of money received by him, the dates of the receipt thereof, the names of the persons from whom, and on what account the same were received and the amounts thereof, and on

the right-hand page of which he shall in like order enter all moneys paid out by him, the dates of the payment thereof, the persons to whom, and on what account the same were paid, and the amounts thereof.

2. The cash book shall at all times be open for inspection by any member of the council and by the auditors, and shall be produced and exhibited by the treasurer at all meetings of the council at which he shall be directed to produce it, and at the times of such meetings it shall show the balance on hand in two items—that is to say; first, the balance deposited to the credit of the municipality; second, the balance in the hands of the treasurer, and the treasurer shall also produce and exhibit at every such meeting the proper book verifying the balance so deposited.

3. No entry other than a cash entry shall be made in the cash book, but the treasurer shall keep a book to be known as the journal, in which he shall duly enter all debits and credits not consisting of cash.

4. The term "cash" shall mean lawful currency of Canada, cheques and such other representatives of cash as are usually received and credited as cash by the chartered banks of Canada.

5. The treasurer shall open an account in the name of the municipality in such of the chartered banks of Canada or at such other place of deposit as shall be approved of by the council, and shall deposit all moneys which shall be received by him to the credit of such account.

6. The cash-book and journal shall be provided at the expense, and shall be the property of the municipality.

The Municipal Amendment Act, 1894, also provides:

7. The provisions in this section contained shall apply to and be in force in every township, the municipal council of which so enacts by by-law passed for that purpose.

THE TREASURER'S CASH-BOOK.
RECEIPTS, DR.

	Cash.	Deposit.	Total.
1894			
Jan. 1 By balance on hand	\$ 56 00	\$ 100 00	\$ 156 00
License fund			78 10
" 4 By inspector	78 10		
Collector		1,300 00	1,500 00
By taxes	200 00		
" 11 Deposit		78 10	
" 15 By cash for office	150 00		
	\$ 484 10	\$ 1,478 10	\$ 1,734 10
Feb. 1 By balance	\$ 383 00	\$ 1,262 10	\$ 1,645 10

EXPENDITURES, CR.

	Cash.	Check.	Total.
1894			
Jan. 2 Road and Bridge Account.			\$ 13 00
To H. Axford	\$ 13 00		
Expense Acc't			39 00
" 2 To S. Roe		\$ 39 00	
" 11 To cash deposited	78 10		
Dog fund			37 00
" 13 To J. Smith	10 00		
" 15 To check cash for office		150 00	
	\$ 101 10	\$ 216 00	\$ 89 00
Balance	383 00	1,262 10	1,645 10
	\$ 484 10	\$ 1,478 10	\$ 1,734 00

The above is an example of cash-book pages with entries as required by the

Municipal Amendment Act, 1893. The page of receipts, by first entry, shows balance in treasurer's hands to be \$156, of which \$100 is on deposit in a bank and \$56 cash in office.

The second entry shows an ordinary receipt in cash, while the third entry shows the receipt of money deposited to the credit of the treasurer at the bank, and also a payment on same account to him at his office on same date. The fourth entry shows deposit of money received (an entry on expenditure page shows this as a cash payment). The fifth entry shows receipt of cash from bank account as per cheque of same date, entered in expenditure page.

The expenditure's first entry shows ordinary cash payment; second entry shows ordinary payment by cheque on bank; third entry shows payment of cash in office to be deposited (see entry in receipts of deposit); fourth entry shows payment partly by cash and partly by cheque on bank; fifth entry shows treasurer's cheque on bank account, which is to increase cash in office.

A cash-book, kept in this manner, may be balanced at any time by adding the three columns of receipts and expenditures and deducting one from the other, when it will show correctly cash in office and on deposit at bank, which, together, should equal total balance.

The right hand, or total columns, contain the entries to correspond with vouchers and stub of receipt book, and are the only amounts to be transferred to the ledger.

Good Roads.

The Peterborough Review in considering our reference to the address delivered by Mr. Brooks at the South Brant Farmers' Institute, on the question of Good Roads, says:

"In the days when this country was young and the residents in the townships were opening up new country, the statute labor system undoubtedly commended itself as the simplest and the best adapted to the conditions then present. But, as Mr. Brooks remarks, the system of road-making and road maintenance has not advanced with other things, for if such had been the case the statute labor system would have been a thing of the past in many municipalities where it is still in practice. In this respect we in Canada are behind European countries which possibly do not equal us in other respects, have not progressed as we have, or developed as regards methods of government, systems of public works, etc., as we have. Money and time have been invested under the statute labor system without permanent improvement to the highway."

Good drainage, top and bottom, will do much toward making a road good and keeping it so.

The Ontario Government has decided to grant the petition for the annexation of Allandale to the town of Barrie. The new ward will be called Allandale No. 6, and steps will at once be taken to have Barrie created a city.

Width of Paved Roadway in Streets of Cities and Towns.

The most serious obstacle in the way of securing well-paved streets in our cities and towns is the great cost of such improvements and the unwillingness of the people to bear the burden of taxes and assessments necessary to pay for them. It is, of course, a fact that such burdens are rather fancied than real since in nine cases out of ten a well-paved street is a good business investment for the property-owners along it, but it is very difficult to get the average citizen to see it in that light; and while he can but admit that well-paved streets are a blessing he usually regards the collection of assessment for such improvements an infringement on his liberty, or a species of legalized confiscation of his property.

It being universally admitted that well-paved streets are—barring the fact that they must be paid for—desirable, and in fact necessary, for the comfort of urban residents it becomes an interesting problem how to reconcile the warring elements of cost and comfort, or in other words how to secure well-paved streets at a reasonable cost.

Unfortunately good pavements of whatever kind, like most other good things, are expensive and the property-owner is not generally able to withstand the temptation to favor an inferior article because it is cheap. As a consequence few cities have escaped the curse of miles of so-called pavement constructed in the shabbiest manner out of the poorest materials, having no other virtue than low first cost, but proving in the end so expensive that only the wealthiest communities can afford them. As one possible solution of the problem, how to secure well-paved streets at a reasonable cost the possibility of reducing the width of the roadway is suggested.

Most of our cities and towns have been laid out with streets of liberal width. This is particularly true of those parts of cities devoted to residence purposes. Wide streets are desirable for the free admission of air and light and for their æsthetic effects. But the primary and principal function of streets is to afford means of intercommunication between the different parts of a city, and aside from the considerations named above, the width of any street should be determined by the requirements of such intercommunication, or in other words, by the amount of travel it is required to accommodate. Judged by this standard any observant person must admit that the majority of the suburban and residence streets of our cities are unnecessarily wide. Viewed from this standpoint it seems preposterous to provide a pavement forty or fifty feet wide to accommodate the few light and infrequent vehicles of the residents, and the occasional trips of the milk, ice and grocery wagons that supply the people with the necessities of urban life.

The question will naturally arise, why not, while securing the benefits of wide streets, make the paved portion of them conform to the requirements of travel?

Quite extensive observation has convinced us that a roadway, from twenty to twenty-six feet wide, is ample to accommodate the travel that passes over the great majority of residential and suburban streets. There are, of course, in every city a number of principal roads or driveways where wide roadways are necessary, but if one will consider the matter, he will be surprised at the small number of such heavily travelled streets, outside the business portion of any city; and if he will take pains to observe the amount of travel passing over streets, other than such main arteries, he will be surprised at the smallness of its volume.

It may be stated that the average practice is to make the roadway three-fifths of the total width of the street. This gives for a sixty foot street, a roadway thirty-six feet wide, and it is customary when the street is to be improved to have the whole width of the roadway paved regardless of whether it is or is not necessary to properly accommodate the travel to which the street is to be subjected. It seems to us that the practice is a needless extravagance and a waste of public funds. In the case of at least four out of five such streets, not principal driveways or popular boulevards, a paved roadway 22 feet wide will be found amply sufficient to meet all the requirements. The arguments in favor of reducing the width of roadway on such a street from thirty-six to twenty-two may be briefly stated as follows:

1. The first cost of paving the street is reduced over one-half, and because of such reduction it will be found easier to get the property owners to consent to the construction of a first-class pavement.

2. The cost of cleaning or sprinkling the streets is reduced over one-half, or in case it is not cleaned, there is less than one-half the surface to supply dust and dirt to be carried into the houses by the wind.

3. While the cost of maintenance and repairs might not be reduced in proportion to the width, since such cost in the case of pavements not subject to natural decay is a function of the amount of travel over them, there can be no doubt that the cost of such maintenance and repairs would be greatly reduced.

4. The narrow pavement leaves a wide space on each side of the street, which, after providing for ample sidewalks, may be sodded and planted with trees, practically adding to the front depth of abutting lots.

5. There will be ample space between the curb and sidewalk in which to lay all sewer, water and gas pipes, and where they will be readily accessible for repairs without cutting into and disturbing the paved roadway. This is a most important consideration which we need not discuss in detail. As this plan contemplates plac-

ing a line of such pipes on each side of the street, it may be claimed that the cost of such pipes would be doubled. This would not be true, since not only would the pipes be smaller and cost less to lay, but the house connections would all be materially shortened and their cost reduced, and the saving on the large number of these connections would probably more than balance the cost of the double lines of pipes.

6. A paved roadway twenty-two feet wide will allow two lines of vehicles to meet and pass each other freely. It is objected that teams could not be turned round in such a street. This is not correct so far as ordinary vehicles used in the city are concerned, but it must be admitted that lumber wagons and cumbersome vehicles cannot turn at all points of the street, but if circular curbs of say twelve feet radius are used at the corners, there will be ample room to turn at the street intersections, and in exceptional cases where vehicles have long couplings, even if it is found necessary to go around a square to make the turn it would not be a serious inconvenience.

Many people who oppose innovation, whether it be meritorious or not, will resist the making of such narrow driveways simply because it is not the good old way. If the plan is found to possess the merits claimed above, and no more serious objections to it appear than now occur to us, it is certain—like all other meritorious things—to be adopted in the end. It is not, of course, claimed that the idea is a new one, or that it originated with us, but it has not heretofore received the attention it deserves. After a number of years experience with streets of this class we find them to possess all the merits which we have claimed for them and have no hesitation in recommending their adoption.

All Should Have It.

In moving a resolution ordering a copy of the MUNICIPAL WORLD for each member of council, the Reeve of Uxbridge stated:

"That all other municipalities in the county provided the members of their councils with a copy of the above periodical, and he considered that the councillors should receive a copy in order that they might study the best interests of the town. It was to be distinctly understood, however, that the papers were to be the property of the council, and members should only receive a copy of the same while sitting at the council board.

Every farmer should take "a half day off" and plant trees along his highway. And then look after them.

Fix the road leading past your farm. If it is too much for you to do alone, insist on having the neighbors, the township, or the county assist you.

Windsor has reduced its water rates to 15 cents for 1,000 gallons for the first 20,000, and 12 cents for every 1,000 gallons thereafter.

QUESTION DRAWER.

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

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

Communications requiring immediate attention will be answered free by post, on receipt of a stamped addressed envelope. All questions answered will be published.

Dog By-laws—Statute Labor Commutation.

95.—J. H. P.—1. Can a municipal council pass a by-law requiring "all dogs to wear a tag, and any dog found away from home and without his master or someone in charge, may be destroyed on sight" without the person so destroying such dog being liable for damages?

2. Can a municipal council pass a by-law compelling all statute labor on one or more clearly defined roads, to be commuted at fifty cents per day, while the remainder of the municipality remains under the old pathmaster system at seventy-five cents per day?

1. Yes, a municipal council has the right to provide by by-law, that a dog running at large contrary to the by-law may be killed. See sub-section 15 and 16 of section 489, Consolidated Municipal Act 1892.

2. Yes, see section 29 Municipal Amendment Act 1895, and section 94 Consolidated Assessment Act.

Payment of Trustees and Councillors—in Village.

96.—L. K.—1. Can the trustee board of a village legally vote themselves \$15.00 per year for their services?

2. Is it legal for a village council to vote themselves some remuneration for their services as councillors, or would it be legal if done by by-law?

1. No.
2. No. The head of the council may be remunerated. See section 232 Consolidated Municipal Act.

By-laws—License Fees.

97.—C. M. B.—If the council of an incorporated village fail to pass a by-law before March 1st, fixing amount of hotel licenses for the year, is it legal for the license inspector to levy same amount on the hotel as in the previous year?

Section 41 and 44 of chapter 194 R. S. O., 1887, gives the license duties payable in the absence of a by-law. Section 42, sub-section 1, gives the council power to pass a by-law before 1st of March increasing the duties, and sub-section 2 of same section states that such by-law shall remain in force until repealed. If your council never passed a by-law, the statutory duties must be paid. If on the other hand your council has already passed a by-law, the fees fixed by such by-law are payable so long as the by-law remains unrepealed.

Fences—Unoccupied Lot.

98.—J. K. W.—The English Church Synod loaned money on lot B, which is an unoccupied

wood lot, and had to foreclose and buy it in. Mr. Snowdon owns A, and Mr. Carley owns C; both men have fenced their share of fence between them and B. Now then Snowdon's cattle go across lot B, and into Carley's field on lot C. Has Snowdon, or can he compel this Synod to put up their share of line fence? Lot B is unoccupied.

No, not until lot B is occupied.

Statute Labor and Snow Roads.

99.—J. D. H.—1. Are the ratepayers of a township compelled, when ordered out by a pathmaster, to open roads when traffic is blocked by snow storms, and if they do not respond, what action can be taken to compel them to do so?

2. Parties contend they are not liable to statute labor when they are not assessed for present year, although present year's assessor is appointed by council, but has not commenced his duties, or only partly got through his assessment. Are they liable or not?

3. The council has made it a rule, verbally, to let said work, breaking roads, go as statute labor; but some claim that as no by-law passed in council to that effect they should not do statute labor at this time of the year, as it should be done in June, and therefore they should be paid by council for their work. Is the council right in counting the work to statute labor, or would they have to pass a by-law to that effect. Legally have they the power to pass such a by-law?

1. The council of every township may pass by-laws for the making and keeping open of township roads during the season of sleighing in each year, and for appointing pathmasters to perform that duty, who shall have full power to call out persons liable to perform statute labor within their municipalities to assist in keeping roads open.

2. Yes, they are liable.

3. The council has power to pass such a by-law under section 521, Consolidated Municipal Act, 1892. Without a by-law the council would not have the right to compel the performance of the work.

No Pay for Sheep Killed.

100.—M. W. P.—In asking opinion re dog-tax, I did not mention the fact, that the council passed the by-law, of 8th August, 1891, to dispense with the dog-tax, before any dog-tax had been collected. This being the fact, is the council liable to pay for sheep killed by dogs within last three or four months?

No.

Councillor Liable—Statute Labor Rate May be Changed.

101.—D. C.—1. A councillor that has been duly elected and fails to take his declaration of office, or attend a meeting of council, how long can they hold their seat, or what is the course to pursue?

2. The Assessment Act provides for so much statute labor for so much assessment. Now, can a council by by-law, either reduce or increase the amount of statute labor to be performed?

1. He is liable to a penalty of not less than \$8 and not more than \$80 and costs if he does not within 20 days after knowing of his election, make the declaration of office. See Section 277, Consolidated Municipal Act, 1892. If having taken the declaration of office, be absent himself from the meetings of the council for three months without being authorized so to do by resolution of the council, entered

in its minutes, the office becomes vacant.

2. Yes.

Authority of Councillors over Pathmasters.

102.—T. E. J.—Has a newly elected councillor for the first time, power to change pathmasters the first year, if they are not discharging their duties faithfully without the consent of the reeve? The township is in wards.

Section 479, Consolidated Municipal Act, 1892, impowers councils to pass by-laws for the appointment or removal of the officers therein mentioned. No member of the council has power to dismiss or discharge a pathmaster.

Church Parsonage Not Exempt.

103.—W. D.—In an unincorporated village plot a church and a parsonage house being the residence of the officiating clergyman, and built upon two lots adjoining; in extent one acre, and deeded to the Bishop of the Diocese. Is the parsonage lot exempt from taxation within the meaning of section 7, s. s. 3, Consolidated Assessment Act?

No. Sub-section 25, of section 7, chapter 193, R. S. O., 1887, expressly exempted the parsonage, but that section was repealed by chapter 55, 1890.

By-laws re Dogs.

104.—SUBSCRIBER.—Has a municipal council power to pass a by-law, to have all dogs in the village tied up or muzzled, and all dogs found in the corporation without being muzzled to be shot.

Supposing a farmer comes in with his dog, would the council be liable, if they had his dog shot?

Is there anything in the statutes which provides that a dog cannot be killed, if he is within a certain distance of his owner, and not in any mischief?

To justify killing a dog it must be shown that he was running at large, contrary to the by-law. The council has power to pass a by-law for restraining and regulating the running at large of dogs, and for killing dogs running at large contrary to the by-law. See sub-section 15 and 16 of section 489, Consolidated Municipal Act, 1892.

A Women May be Clerk.

105.—A. C. S.—Can a women lawfully hold the office of township clerk in the Province of Ontario.

There is no objection to appointing a woman to the position of clerk of a municipality.

One or Two Sureties—Assessment Appeals.

106.—R. M.—1. Is it necessary for a collector or treasurer in a rural municipality to give two bondsmen or is one sufficient?

2. At the Court of Revision where there is one appeal against the assessment, can the court alter any other assessment not appealed against?

1. One surety for a municipal treasurer or collector is sufficient, if satisfactory to the council.

2. Not without extending time for making complaints, and then only when the assessment is appealed against. See sub-section 18, of section 64, Consolidated Assessment Act.

No Percentage on Unpaid Taxes in Township When Returned

107.—J. C.—In our township we have a by-law for adding five per cent. to all unpaid taxes after 14th December. Should we also add the five per cent. to the taxes returned to county treasurer as unpaid?

No.

To Abolish the Township Board—Wards—Polling Places.

108.—W. T.—1. The schools of our township, are under the management of a school board. We wish to abolish the board, and divide the township into school sections. Give a full account of how to proceed in this matter?

2. Under what conditions, and how, can a township be divided into wards?

3. Would it be necessary for a polling place in each ward?

1. Section 63 of the Public Schools Act, 1891, provides the procedure necessary to abolish the township board, and to form school sections.

2. Petition of majority of qualified electors to council, to divide township into wards. Council must then pass by-law, to give effect to petition within one month thereafter. See section 94, Consolidated Municipal Act, 1892.

3. Yes. See section 489, Consolidated Municipal Act, sub-section 1.

Nominal Assessment on Appeal to Court of Revision.

109.—J. N.—Last year a pork packing establishment was built here, and the council passed a by-law exempting it from taxation for ten years, except school tax. Our assessor placed it on last year's assessment roll, at the value of sixty-five thousand dollars. The company appealed to the court of revision, and stated that it was understood between themselves and the council, that it was to be assessed for school purposes at a nominal value of \$1000. The court could find nothing in the agreement or the by-law, nor did any one remember such an agreement having been made. The court, however, in consideration of the great benefit of the industry to the town, reduced the assessment to the nominal value of \$10,000. The company was not satisfied with that, and applied to the council, who did not interfere, but told them to appeal to the judge, but this they declined to do, so it remained at that amount. Now I hear they are going to try the same thing again, and try to get it reduced to ten thousand dollars at this year's court.

Now the question I wish to ask, is, has the court of revision the power to reduce this to a nominal sum, or did they exceed their powers, and what course should they adopt when the appeal comes before them again? We should like this question settled, so as not to be coming up every year.

If any ratepayer is dissatisfied with the valuation placed on the property, by the assessor, he should appeal to the court of revision, and if dissatisfied with their decision, then to the county judge. We think the court of revision should have put the property at its cash value, the same as other property in the municipality. Section 26, Consolidated Assessment Act, requires that property should be estimated at its actual cash value, and unless the court of revision honestly thought that the assessor erred in his valuation, his assessment ought to have been confirmed.

When Lands Occupied or not Occupied.

110.—TREASURER.—Will MUNICIPAL WORLD please answer question 93 more definitely? I

do not know what "clerk" meant by the question, unless it was, is non-resident land assessed to John Smith (as owner), on the resident roll, to be considered "occupied" or "not occupied"?

The question, whether land is "occupied" or "not occupied," is a question of fact, not to be determined by looking on the roll, but by looking on the land itself. Section 141, Consolidated Assessment Act, makes it the duty of the assessor, to distinguish between lands occupied and unoccupied under the circumstances therein mentioned, and to notify both the occupant and the owners, that such lands are liable to be sold for arrears of taxes.

There seems to be a double duty imposed upon clerks of local municipalities by sections 141 and 143 of the Assessment Act. One section requires the clerk to forward to the county treasurer copy of the return received from the assessor, and section 143 requires the clerk to check over the list received from the treasurer with the assessment roll preparatory to making out the occupied return. This is necessary to insure a complete return, and to ascertain that all lots entered in the treasurer's list are, first, returned as unoccupied, or, second, if occupied, that they are properly assessed, and, third, if incorrectly described, whether occupied or unoccupied, that the necessary corrections have been made.

Co-Auctioneer and Auditor—Poll Tax Collector.

111.—RATEPAYER.—1. Does being a county auctioneer or court crier for the county, disqualify a person for the county auditorship?

2. Should the collector of statute labor tax be appointed annually?

1. Yes.

2. Yes.

Tenant or Owner Both Liable for Taxes.

112.—E. E.—I think you must have made a mistake in substituting the letter B instead of A, in the answer to question No. 89 for the month of March WORLD. To make it plain to you, I may say, has the tax collector a right to return the taxes against the property, when there is enough chattels of the tenants to pay the taxes, although the collector holds a mortgage on said chattels, which he closes as I have mentioned.

Sub-section 3 of section 20, of the Consolidated Assessment Act, reads as follows:

3. No ratepayer shall be counted more than once in returns, and lists required by law for municipal purposes; and the taxes may be recovered from either the owner, tenant, or occupant, or from any future owner, tenant or occupant saving his recourse against any other person.

Auditor and Arbitrator.

113.—J. C. B.—Can an auditor of the same township (not being a ratepayer or interested in a union school section) legally act as an arbitrator under sub-section of section 87 of Public Schools Act?

Yes.

Petition to Alter Union School Section.

114.—J. C. B.—To bring about an alteration of a union school section, under sub-section 1, of section 87, of the Public Schools Act, there being three municipalities in connection, is it

necessary to have a petition signed by five ratepayers from each of the three municipalities join on one petition to each council, or will five ratepayers from each municipality to their own council be sufficient?

The necessary fifteen ratepayers should all sign each petition. In the case, of trustees of school section No. 6 vs. township of York, March 14th, 1895, not reported, the Chancellor said: "I express the opinion, that there should be a joint petition signed by ten, and presented to each municipality." There were two municipalities concerned in this case.

By-Laws re Dog Tax.

115.—P. P.—In 1895, the municipal council, upon a petition of twenty-five ratepayers, passed a by-law dispensing with the tax on dogs and bitches for the year 1895.

At the January session of the county council, a by-law was passed directing the assessors of each municipality to assess all dogs.

1. Has the county council authority to pass such by-law, and if so, where found?

2. Have the municipal council, upon petition of twenty-five ratepayers, a right to pass a by-law to dispense with a tax on dogs, when the county council has passed a by-law to have them assessed?

1. No.

2. Yes. The act to impose a tax on dogs, chapter 214, R. S. O., 1887, as amended by chapter 62, section 1, of 53 Vic. requires an annual levy of one dollar for a dog and two dollars for a bitch. Section 2, chapter 62, empowers the council of any city, town, township or incorporated village to pass a by-law dispensing with the tax on the petition of twenty-five ratepayers. Unless such a by-law is passed it is the duty of the assessor under the act to assess the owners of dogs.

New Union School Section Funds.

116.—A CLERK.—The 11th May, 1895, a union school section was formed by arbitrators in the usual way. No appeal was made against the award during one month after the making thereof, and said award was enforced the 25th December, 1895.

By this award the boundaries of four sections were affected.

The 22nd day of June, 1895 (more than one month after the making of said award, 11th May,) the assessors met to equalize the assessment.

They equalized for 1895 as if that U. S. S. did not exist, and for 1896 and 1897 as if said U. S. S. was in existence.

Now the secretary-treasurers of the four S. S. so affected sent in 1895 to the clerks their usual requisition for the levy of money for school purposes for the year 1896 as if said award did not exist.

The money was raised and paid to the respective secretary-treasurers.

Now that U. S. S. so formed the 11th May, 1895, and enforced the 25th December, 1895, and elected trustees the 26th December, 1895, and opened a school house in January, 1896, and received all the children included in its territory; of course the secretary-treasurer of that new U. S. S. got the money raised to maintain the S. S. No. 10, presently included in the one, and asked the trustees of the other sections so affected by said award, to hand him the money they have raised respectively, in 1895 on those portions of land now being part of the new U. S. S. for the maintenance of schools in 1896. Said trustees of sections so affected refused to do it. What can the trustees of the new U. S. S. do?

If the trustees of sections interested are unable to agree, the claims of the new section should be adjusted by arbitration as provided in section 83.

Hospital Maintenance—Liability.

117.—J. D.—A daughter of a ratepayer of the township of A applied to the mayor of the town of B, and was admitted to the hospital, where she remained for eleven weeks. The council of B paid the account and have requested the township A to refund them the amount.

1. Is council of A legally bound to pay said account?
2. If so, can the said council compel the father of said girl to refund it to them?
3. Or has the council of B a right to look to the father for said amount instead of the council of A.

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

Committees—Chairman—Authority.

118.—A SUBSCRIBER.—I am chairman of the poor relief committee of the town council. I want to resign from the committee, but not from the council. 1. If I hand in my resignation in writing, what words shall I use? 2. When I resign, can the council make me continue to act? 3. As chairman of the poor relief committee I gave poor relief to a poor destitute woman to pay for taking her sixteen year old boy to the hospital—\$3.00. The mayor and reeve said I should have first seen the mayor, also to have had the consent of the rest of the poor relief committee. (I thought I had their consent.) Please state how I should have acted in the matter? Should the business transacted in committee of poor relief meetings be written down with pen and ink?

1. Write a letter to the council stating that you will not act as a member of the committee and they can do as they like about it.
2. There is no liability incurred by non-attendance at committee meetings.
3. The work of the committee is a subject for regulation by by-law of the council. Unless specially authorized a chairman, except at meetings, is in the same position as an ordinary member.

Taxes—Tenant or Owner.

INQUIRER.—I notice question, No. 60, in the last issue of THE MUNICIPAL WORLD signed J.B. I see the answer to that question says, "Yes, from either A or B." Now, the view I take of that is, that the tenant's goods are not responsible for the taxes. Sec. 124, Consolidated Statutes of 1892, also the Revised Statutes of 1887, say that it is the party who ought to pay the taxes is the responsible party, and I don't see how the tenant would be compelled to pay the same under the circumstances of the case. I consider question 63 quite a different case, and cannot see why a tenant under rent would refuse, as he has a right to do so, the receipt of which will pass as cash to the landlord.

See question No. 112 in this issue.

Clerk may Perform Other Duties

A COUNCILLOR.—Is it legal for a clerk of a municipality to do any work for the council outside of the clerkship?

Section 279, Consolidated Municipal Act, states "That all officers shall, in addition to the duties assigned to them in the Act, perform all other duties required of them by any other statute or by the by-laws of the council."

List of Voters on By-law.

121.—F.J.C.—I am at a loss how to proceed to comply with section 309, Municipal Act, 1892, and therefore apply for information.

1. Can a leaseholder, under said section, vote, unless his name is on the voters list, furnished to the deputy-returning officer?

2. If not, then, how is the clerk to find what persons have the necessary lease? If his, or her name is not required to be on the said voters list, then what steps must he or she take in order to vote?

3. Our assessment roll does not say who are leaseholders, and who are not, and therefore I have nothing to guide me.

1. No.

2. See sections 303 and 308. Supply deputy-returning officers with voters list, containing names of all owners and tenants appearing by the last revised assessment roll, to be entitled to vote. The names may be copied from the voters list, if it is based on the last revised assessment roll, and contains names of all owners and tenants.

3. Leaseholders or tenants should be distinguished from owners. The clerk is only required to furnish lists of those appearing on the last revised assessment roll, etc.

Width of Accomodation Roads.

122.—J. B.—When an accomodation road has been in use as a public road for over twenty years, without any fencing or statue labor being done on it, can a right of way sixty feet wide be claimed?

The right of way, cannot exceed, what has been actually used by the public as a road.

Town Hall—Who May Use.

123.—J. C.—Has the council of any municipality, the right to lease the town hall, belonging to the township, to any order or society, giving them the privilege of holding their meetings as long as they have an order or society at the village where town hall is located, upon the said order or society agreeing to do certain improvements to the said hall?

Sub-section 10, of section 521, Consolidated Municipal Act, specifies the meetings, which may be held in a town hall. This implies that there is strictly no right to let a town hall for other purposes. It is, nevertheless, a common practice, to lease town halls for other purposes, and so far we have not heard any objections. So long as a hall is not leased for improper purpose, and a fair rental is received, no ratepayer should complain.

Trustee's Resignation—Nomination—Declaration at Close of Poll.

124.—R. E. B.—I. In the January number of the MUNICIPAL WORLD, in replying to M. E. you say that "a person nominated for school trustee can resign on the day following his nomination." I cannot find anything in the School Act to justify this. A few years ago the late Judge Drew of this county upset the school election in the village of Clifford upon the ground that the chairman of the school meeting had accepted the resignation of some of the nominees. The judge's decision was that if more than the requisite number of candidates were proposed all had to go to the polls.

2. Sub-section 2, of section 155, Consolidated Municipal Act requires the deputy returning officer to make a declaration "that the voters list was used in the manner prescribed by law, and the entries required to be made therein and the entries required to be made therein correctly made, said declaration shall be annexed to the voters' list, etc. Does not this section refer to the poll book used at the election and not the printed voters' list?"

1. Section 103, sub-section 3, provides for the election of public school trustees of any city, town, incorporated village or township by ballot, and states that such election is to be held at the same time and place and by the same returning officer or officers and conducted in the same manner as the municipal nominations and elections of aldermen or councillors are conducted. In cities, towns and incorporated villages where the election is not conducted by ballot. Section 102, sub-section 3, of the Public School Act, applies, and is in accordance with Judge Drew's decision.

In townships divided into sections, see section 24, which makes it the duty of the secretary of a school meeting to notify each person of his election as trustee, and unless such person delivers a notice to the contrary effect within twenty days, he shall be considered as having accepted the office. This implies the right of a person to disclaim or resign at any time within the twenty days. If he accepts the office he may resign with the consent in writing of his colleagues in office.

2. The section has been amended, and refers to the Voters' List and Poll Book. See section 8, Municipal Amendment Act, 1895.

Statute Labor Ratio.

125.—J.C.C.—This township has no incorporated villages in it. Though there are three or four localities sufficiently thickly settled to be called villages, but all are under jurisdiction of township council for all municipal purposes. A few years ago one of these villages, Fonhill, applied to council and secured passage of a by-law under which it was set apart as a separate road beat. Its statute labor all commuted in the regular collector's roll (at \$1.00 per day upon basis of scale in force for whole township) and the money paid over to commissioners appointed under the by-law who expend the same in the improvement of the streets, sidewalks, etc., in that particular beat. Now our council propose to pass a by-law under which the whole township (except Fonhill) shall commute at 50 cents per day upon same scale as heretofore. The position of things will then be that in a part of our township (Fonhill) statute labor will be commuted at \$1.00 per day, and in balance of township under proposed by-law at 50 cents per day.

1. Has the council power to exact commutation at one price per day in a part of township and at a different rate per day in another part of same township? If so, please quote the sections that authorize it.

2. Has a township council power to adopt a different statute labor scale than that given in section 93, Consolidated Assessment Act, 1892.

3. If yes, must the amended scale be based upon that scale, i. e., be just a certain ratio or percentage higher or lower than said scale as the case may be?

4. If no, and that scale is unsuited to what is required, then must each person's statute labor be calculated and based upon his actual assessment upon assessment roll as is implied by the latter clause of section 93 (1) "the number of days' labor to which each person is liable shall be in proportion to the amount at which he is assessed?"

5. Above or below what unit or basis or scale has a township council power under section 521 (3) of Con. Mun. Act to increase or reduce the number of days' labor to which each person shall be liable?

6. If so increased or decreased under subsection 3 then would each persons labor be based upon (to quote therefrom) "the amounts at which they

are assessed" upon Assessment Roll which would be the same method as indicated in question four above?

7. What is the meaning of last three words or said subsection "or otherwise respectively?"

8. How does the whole of subsection 3 affect sec. 93 of Assessment Act quoted above?

1. We think the council has power to do what is proposed to be done under section 94, Consolidated Assessment Act. This section gives the council power to direct by by-law that a sum not exceeding \$1 per day shall be paid for the whole or any part of the township. See also section 29, Municipal Amendment Act, 1895, which authorizes the reducing or varying statute labor in defined localities.

2. Yes.

3. No.

4. Yes.

5. As they may by by-law decide.

6. Yes.

7. See answer to question 83 in March number.

8. Section 521 of the Municipal Act authorizes council by by-law to fix ratio of service as they may deem advisable. If no by-law is passed the ratio is fixed by section 93 applies.

Statute Labor—Choses in Action—Locaters' Taxes—Jurisdiction of Collector.

126.—J. W.—1. If A be assessed for two lots, nine and ten, concession 6, which by admeasurement, 216 acres. The assessed value of said lots being \$216. Under sub-section 2, section 100, chapter 48, V. 55, how many days statute labor will A be liable to perform?

2. Please define "choses in action," V. 55, chapter 48, section 33, sub-section 3?

3. A, locates a certain lot, but does not fulfil his duties as locatee. After some years, B applied to have A's location of said lot cancelled, and to be located in his (A's) stead. B's application is granted in both particulars. In consequence, of B occupying the said lot, the district treasurer returns arrears of taxes, which accrued against the lot while it was in A's name. B paid the arrears under protest, and now demands that the same be refunded. Can he compel the township to refund the said arrears?

4. Is it legal for a collector of taxes for municipality A, to go into an adjoining municipality, B, and destrain for taxes charged against a person for property in municipality A, who lives in municipality B? Both municipalities are in the district of Parry Sound.

1. Four days, under scale set forth in section 93.

2. A chose in action, is the right which a person has in personal property, when he has not possession of it. Blackstone says: "Property in chattels personal" may be either in possession, which is when a man hath not only the right to enjoy, but hath the actual enjoyment of the thing; or else it is in action, where a man hath only a half right, without any occupation or enjoyment." Money due in bond, note or other contract, damages due for breach of covenant for the detention of chattels, or for torts are instances of choses in action.

3. No.

4. No.

No Dog Tax—No Sheep Fund—Pathmaster's Term—Resolutions of Council.

127.—STAFFORD.—About five years ago, a municipal council determined to collect a dog

tax, but on a petition of twenty-five or more ratepayers being sent into council, the council agreed not to collect the dog tax, but did not pass a by-law to that effect.

Since that time, the council has paid for sheep killed by dogs. If the council now pass a by-law abolishing the dog tax,

1. Can the council be compelled to pay for sheep killed by dogs, after the passing of the by-law, and during the existence of such by-law?

2. How long does a pathmaster hold office?

3. Should all motions in council be made in writing?

1. No. Unless there was a balance to the credit of the dog tax fund, at the time of the passing of the by-law. The liability of the municipality would be limited to such balance.

2. Until his successor is appointed

3. Yes.

Petition—By-Law—Snow Roads—Liability.

128.—R. A. T.—1. Is a council compelled to submit a by-law in aid of an electric radial railway on petition of fifty resident ratepayers, although they may know the vast majority is opposed?

2. Would they be justified in refusing if presented with a petition signed by a very large number opposing it?

3. As spring is nearly here, can council be compelled to shovel out all roads to the ground to admit of large loads being taken through? One road I know of is passable, but no heavy loads can get through. As soon as thaw comes some parts of roads will be utterly impassable unless they are shovelled to the ground. Is a council justified in spending money to open them, or let the sun do the work?

4. Are they liable for damages because heavy loads cannot be drawn through?

1. Yes, but should demand cash deposits to cover all expenses before doing so.

2. Yes.

3. The township council may pass by-law under section 521, Consolidated Municipal Act, but apart from this section the council would be justified in expending a reasonable sum for the purpose mentioned.

4. No, but the municipality would be liable as damages for any accident caused by the road being out of repair.

Watercourses—Culverts.

129.—J. W.—Some years ago a ditch was dug along a concession line under the Municipal Drainage Act. In digging this ditch some water runs were cut off, that formerly crossed the road to the north, which now causes a great flow along the ditch referred to on the south side of the road, and flooding some lands in high water. Can a culvert or culverts be put across the road to allow the water to cross the road to the north as formerly?

The council may direct that culverts be put across the road, but a private individual has no right to do so. The remedy of the private individual in this case would appear to be under the Ditches and Watercourses Act.

Tenders for Collection of Taxes.

130.—T. H.—Is it legal for the municipal council to receive tenders for the collection of taxes of the township?

Section 278, Consolidated Municipal Act, sub-section 2, reads: No municipal council shall assume to make any appointment to office, or any arrangement

for the discharge of the duties thereof, by tender or to applicants at the lowest remuneration.

Waterworks Repairs.

131.—WATERWORKS.—Under the Local Improvement Act, a number of ratepayers in the township of A. laid a three-inch water-pipe in front of their properties, each paying for the number of feet laid according to number of feet frontage that they owned.

Said water-main connects with the town of B. The pipe burst. How is the cost of repairing it to be charged—nothing having been said about repairs in the by-law?

2. At the terminus of the pipe C. wants to attach a three-fourth inch pipe. Can he do so without contributing to laying the main line?

1. Before answering this question we require fuller information as to by-law passed for laying the pipe in the township and particulars of agreement with the town of B.

2. We think not.

By-Law—Licenses—Vote (n).

132.—SUBSCRIBER.—By virtue of chapter 50, section 18, of an act passed by the legislative assembly of the Province of Ontario, in the 53rd year of Her Majesty's reign, in re liquor license laws. The ratepayers petitioned the council to pass a by-law prohibiting the granting of a license to any person in the township.

The council accordingly drafted a by-law and appealed to the ratepayers for their decision. At the poll some thirty-nine voted for the by-law and but two persons voted against it. Now it is claimed that because two-third of the ratepayers did not turn out and vote for the by-law that it is not carried. Of course it was published over a month in a local paper. Will you kindly give your ruling on this question?

A majority of those voting is sufficient.

County Bridges—Approaches.

133.—REEVE—1. What is the legal meaning of a bridge?

2. If a marsh half a mile wide has a road across, all being a solid road-bed filled in but about 20 feet of a bridge spanning the channel, the marsh at certain seasons being covered with water, would the said road be termed a bridge or an approach?

3. If a running stream, being river, lake, pond, etc., over 100 feet wide have a solid road-side on either or both sides reducing the span or bridge to 25 feet, would the said roadway be a bridge or an approach?

4. Must every bridge 100 feet and over and the approaches 100 feet each side of bridge be kept up by the county, or is it optional unless said bridge is assumed by by-law?

5. Must every such bridge be assumed by by-law?

1. By "bridge" is meant the structure necessary for passage over a river, lake or pond.

2. The approach is that part necessary to get from the road on the bridge.

3. It is an approach.

4. The county is bound to keep up certain bridges. It may assume others, and when it does assume any bridge by by-law it must then keep up the approaches for 100 feet, in case of assumed bridges, as well as those under its jurisdiction by statute.

5. If the county desires to assume any bridge not within its jurisdiction by statute it is necessary to do so by by-law.

School Audit.

134.—C. A.—1. Has the municipal council of an incorporated village the right to demand the school audit to be submitted to them and to be printed along with the municipal audit? This is a union school section, part of it is in the adjoining township.

2. The act requires the municipal auditors to audit the school accounts. As the township contributes a portion of the school monies, which auditors shall audit the accounts?

1. Yes. See sub-sections 11 & 12, section 107, Pub. Schools Act.

2. In the case of township board and high schools the municipal auditors audit the accounts. See Sub-sec. 2, section 59, Public Schools Act, 1891. Sub-section 2 of section 36 High Schools Act. In other cases the accounts are audited by school auditors. See sections 37, 38 & 39 of Act of 1891.

School Trustee Meetings.

135.—G. G.—Is it legal for two of the trustees of a school section to call a meeting to do business of importance without notifying the other trustees? The meeting is just of the trustees.

Sections 35 and 36 of the Public Schools Act read as follows:

35. Notice of all meetings shall be given by the secretary-treasurer to each of the trustees, or by any one of the trustees to the others, by notifying them personally or in writing, or by sending a written notice to their residences.

36. No act or proceeding of a rural school corporation which is not adopted at a regular or special meeting, at which at least two trustees are present, shall be valid or binding on any person affected thereby, unless notice of such meeting has been given as required by this act, and unless a minute of such act or proceeding is made in writing and signed by two of the trustees.

Clerk or Treasurer.

136.—TOWNSHIP CLERK.—1. In last issue of MUNICIPAL WORLD W. J. K. is given to understand that one person "cannot properly hold the dual position of clerk and treasurer of a municipality," and reference is made to section 271, Consolidated Municipal Act. It is not the universal practice, but in a great many instances those positions are held dually, and with all due respect for the opinions of the editor, the writer cannot see how the holding of those two positions under one coat is incompatible with the section of the Municipal Act referred to.

2. In the same issue T. U. is told that "a municipal by-law making it lawful for certain cattle to run at large in the municipality is a legal enactment." Kindly give the section conferring the authority. The writer has held the same views, but he has heard prominent legal minds express grave doubts as to whether the authority existed, although the word "regulate" would appear to cover the ground.

1. The question as to whether the same person can legally hold the offices of both clerk and treasurer of a municipality is one that we have given every consideration, and have answered many times in the negative. We think there is no doubt that under section 271 separate declarations are required for the two offices. That a clerk taking the declaration of office as

such has a contract with his municipality, and in order to qualify for the office of treasurer, he would have to subscribe to a declaration which reads as follows:—"That I have not by myself or partner either directly or indirectly any interest in any contract with or on behalf of the said corporation, save and except that arising out of my office or position as treasurer."

Other papers have answered the question differently. *The Mail and Empire* as follows: "We see no reason why a person appointed to fill both the office of township clerk and township treasurer could not make the declaration provided by section 271 of the Municipal Act. This declaration would not of itself prevent the same person from accepting both offices. And although it might be inexpedient or unsafe to appoint the same person to both offices yet we see nothing in the act to prevent it."

The *London Free Press* as follows: "There is nothing in section 271 which would debar the same person from being clerk and treasurer of a township.

The declaration reads that "I, A. B., solemnly promise and declare that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of (inserting the name of the office), to which I have been (or appointed) in this township (or as the case may be), and that I have not received, and will not receive, any payment or reward, or promise of such, for the exercise of any partiality or malversation or other undue execution of the said office, and that I have not by myself or partner, either directly or indirectly, any interest in any contract with or on behalf of said corporation (when declaration is made by clerk, treasurer, assessor, collector, engineer, clerk of works or street overseer, the words following:) Save and except that arising out of my office or position as clerk, as the case may be." Now, there is nothing in this declaration to prevent the same person from holding the position of clerk and treasurer. Only that the clerk would have to take a separate declaration for clerk and also for treasurer."

Where lawyers differ, the judges decide. There has been no decision directly on this point that we are aware of, and while we believe that in many municipalities it is more convenient to have both offices held by the same person, we have no alternative but to give our interpretation of the law as we find it.

2. Section 490, sub section 2, Consolidated Municipal Act, 1892.

Ditches and Watercourses Act—Seven-Lot Limit.

137.—A. N.—Section 5, of the Ditches and Watercourses Act says that every ditch to be constructed under this act shall be continued to a sufficient outlet, but shall not pass through or into more than seven original township lots, without a resolution of council authorizing the further extension, etc.

1. Is this the actual limit of work to be undertaken under this act without a resolution of council, or is it the limit of work to be undertaken at one time under one requisition,

or is it possible to continue the ditch further back at a future time under a new requisition?

2. Does the seven lot limit apply to the deepening and widening of a ditch which has been constructed under this act or any act for which this act has been substituted. Can construction be construed to mean deepening and widening, or is it original opening only as set forth in definitions section 3, of Ditches and Watercourses Act?

A ditch under this act cannot be constructed through more than seven lots without the petition and resolution provided by section 5.

2. The seven lot limit applies to the deepening and widening of a ditch which existed at the time of the passing of the act of 1895. See section 33. Construction means the original opening or making as defined by section 3.

Sewers—River Pollution—Prevention.

138.—T. C. D.—The town of Galt lies in the municipality of North Dumfries, and through the said town of Galt the Grand River runs, continuing on through the municipality of the said township of North Dumfries.

Now the town of Galt proposes to make a sewer drain through the said town, and empty or run the same into the Grand River, (understand they can do so inside the corporation limits).

Now the people in the township are very much opposed to the river being polluted by such sewage, especially those living on the banks of the same.

1. Can the council of North Dumfries stop the Galt council from digging such drain in the Galt corporation?

2. If it can be stopped, what course will we have to pursue?

1. No.

2. Those persons who own lands which extend to the river, are entitled to have the water flow without it being polluted, unless there is some statute which authorizes the act which causes the pollution. The town of Galt has the right to construct sewers, and if the proper formalities are observed it cannot be restrained from constructing necessary sewers, and the injured party must seek compensation under the arbitration clauses of the Municipal Act. We do not see how the Dumfries council can prevent Galt from constructing the sewer.

The Public Health Act, 1895, provides that the Provincial Board of health is required to report upon proposed sewers, and to ascertain whether they are likely to prove prejudicial to the health of the inhabitants or the municipality constructing the same, or of any other municipality liable to be affected thereby. Write to Dr. Bryce, Secretary Parliament Buildings, Toronto, stating objections.

Lien on Indigent's Property.

139.—M. E.—What course can the council of a municipality adopt in order to acquire a lien on real estate owned and occupied by an indigent person, who desires assistance from the council in order to keep her family of small children with her?

Take a mortgage or deed. See 56 Vic., chapter 35, section 13.

Qualification—Insolvent Company.

140.—D. R.—1. If a man take a seat in council and qualifies on mill stock and that

stock company becomes insolvent can he hold his office?

2. Not having done so, is the business transacted by that council during the period of his office legal?

1. Yes.
2. Yes.

Keeping Roads in Repair—Mail Stage.

141.—J. H.—1. What power has a councillor in regards keeping roads in repair? Should one of the main roads become impassable through a snowstorm for say three days. A councillor turns out with his team engages a man in the name of the township, takes the man's bills to the council board, the council throws it to one side. Now, has a councillor power out of the council chamber to employ help to fix dangerous places, or must he risk waiting the sitting of the council, or must he fix the dangerous places and foot the bills himself?

2. Are they obliged to keep the road open for the mail stage, and let the other roads remain blocked up to the disadvantage of the public.

1. A councillor is not supposed to be interested in any contract. If he has authority to order work, and the account is a proper one, it may be collected in the usual way. Pathmasters are generally authorized to repair dangerous places in the roads without waiting for special orders and to utilize statute labor. The councillor's authority depends on the custom, circumstances or the rules and regulations of the council.

2. No. There is nothing in the Municipal Act referring specially to stage roads.

Charging for Duties as Committeeman.

142.—A SUBSCRIBER.—If a member of one of the town council committees (not a special committee) goes to a town, some miles away from his own town, and does necessary business for the council, as one of the committee, can he charge for his day, (or time) i. e., is it legal to charge for this time.

Councils have a right to delegate their members to attend to the business of the municipality, and may order the payment of the expenses incurred.

Statute Labor.

143.—J. C. B.—A pathmaster legally appointed in 1895, neglects to ask ratepayers (liable to perform statute labor) to perform any work, or return them to the clerk in time to have them entered on the collectors roll that year. (a) Can the pathmaster appointed for 1896, demand the labor not performed in 1895, with the labor for 1896; (b) and if they refuse, return them undone before the 15th August?

2. Can the council, legally collect the arrears of 1895, they not being demanded in 1895?

1. (a) Yes. (b) No.
2. No.

Poll Clerk—M. F.—Statute Labor—Railway Drainage.

144.—R. R. C.—1. Would it be proper for a clerk, to take the poll at municipal elections in a small municipality, without a poll clerk, or any other person in the polling booth with him?

2. Would it be proper to place all persons, who are on the roll as M. F., but are not assessed for property, on the first part of voters' list?

3. Would it be proper to rate a man for statute labor, as follows: (Where the amount required is fifty per cent. higher than the amount laid down in the statute)? A man has one parcel of land seventy acres, assessed at \$300, and another

parcel containing 150 acres, in another road division, assessed at \$360. His statute labor is nine days?

4. In case a railway company, in making their road bed, had placed embankments in the waterway, or had dug out large trenches here and there, which fill up and the water remains stagnant, or should they in any way obstruct surface water, what can the parties do about it, who are injured thereby? Who must bear the expenses of letting off the obstructed water, or filling up, or letting the water out of the pools, where it remains all summer creating offensive odors?

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

4. Assuming that the railway company is not guilty of negligence, the remedy of the injured parties, is under the arbitration clauses of the Railway Act, but the proceedings must be commenced within six months from committing the act causing the injury. There is no remedy, however, for penning back mere surface water, which does not flow in any defined channel. Where water flows in a defined channel, the owner of the land is entitled to compensation for any injury caused by any interference with the flow of water through such channel. See also sections 56 to 61, of Public Health Act.

Nomination of Councillors.

145.—INQUIRER.—At the nomination of councillors, is the returning officer bound to receive nominations of parties that are not assessed on the assessment roll, as high as the statute calls for? The law says \$200 Freehold, or \$400 Leasehold, for the district of Parry Sound.
Yes.

Corporation Funds—Place of Deposit.

146.—COUNCILLOR.—1. Is it the duty of the council to pass a resolution to instruct the treasurer to place the money of the corporation in some chartered bank?

2. If so, and the council fail to so instruct, and the money is lost, there being no safe provided, can said council be legally held responsible?

1. In counties, cities, towns and villages the treasurers are required to open an account in the name of the municipality in such of the chartered banks of Canada or such other place of deposit as shall be approved of by the council, and shall deposit the monies that shall be received by him to the credit of such account. See Municipal Amendment Act, 1893, section 5. Township councils are also required to approve of the place of deposit when they pass by-law as provided in Municipal Act, 1894, section 4.

2. It is the duty of the treasurer, without instructions from the council to keep the moneys of the corporation in a safe place, and if they are lost through his negligence he is responsible. When a chartered bank is not convenient to the treasurer, the council ought to furnish him with a safe.

Voting on Bonus By-Law.

147.—E. J. C.—What is the proper meaning to apply to the word "majority" as used in section 4, chapter 82, Ontario Statutes, 1893? We vote upon a bonus by-law on the 10th of April, 1896. Now, suppose there are 600 rate-

payers entitled to cast votes on that question, and that 450 vote "yes" and 150 vote "nay." Now, does the word "majority" as above used mean the 450 votes, or does it mean the difference between the 450 "for" and the 150 "against," which would be 300? For the purpose of this certificate should the two-thirds be calculated from the whole vote cast in favor of the by-law or only from the difference between the yeas and nays?

Under section 3 of the act, 56 Vic. chap. 82, the vote of two-thirds in the affirmative of the ratepayers entitled to vote shall be necessary in order to the carrying of the by-law, and you are required to further certify whether or not, as shown by the Voters' List, such majority appears to be two-thirds of all voters who are entitled to vote on the by-law. If 600 ratepayers are entitled to vote on the by-law and 400 vote in favor of it, the by-law would be carried.

Township Treasurer—Shortage—Separate School Supporters—Dike—Coast Roads.

148.—M. T. B.—1. (A) Can township treasurer be discharged from office without releasing his bondsmen? (B) Or if released, can Council come back to them for any shortage that may be discovered while said treasurer held office?

2. Can a separate school supporter withdraw portion of property and put it in public school section other than the one it originally belonged to before the separate school section was formed, providing the original public school trustees wish to hold it?

3. Some fifty years ago there was a public road along the coast or shore of Detroit River and Lake St. Clair. But on account of the water rising a few miles of it had to be abandoned and diverted back to the higher land. However, the water had receded several feet and there is also a dike constructed for the purpose of keeping off the river from the base of the dike since it has been constructed some seven years ago, excepting once when Detroit River was jammed with ice, and then only in places. Now three-quarters of the land owners along said dike have petitioned the council to have this coast road re-established by leveling down this dike one-half and making the road thereon. Can the council grant the petitioners the road on this dike?

4. (A) Some portions of this dike touched the original roadway. Will by-law have to be passed to re-establish.

(B) Should council accept the land for roadway gratuitous as intended by petitioners?

5. The objections that some have to this road is on account of danger of large ditch on side. Will township be responsible if caution boards are erected and properly worded as a warning as to reckless driving, etc.

6. What is the law re coast roads?

7. What proceedings must be taken in order to quash by-law if passed?

8. Can petitioners force the re-establishment of this road, and what course must they take to do so?

9. Some years ago a reeve purchased road allowance adjoining his farm, it is said without passing by-law or giving proper notice of sale. It is now desired to re-open said road; can it be done?

10. (A) Can a reeve deed himself township property while in office?

(B) Give the law in this matter.

1. Yes. The treasurer may be discharged and the securities will remain liable according to the bond drawn to the time of his discharge.

2. Yes, if he gives proper notice of withdrawing property from separate school

section and the council pass by-law placing it in another section as provided in Public School Act.

3. We should have further information showing under what authority and by whom dike was constructed, before answering.

- 4. (A) Yes. (B) Yes.
- 5. Yes.
- 6. Same as for ordinary highways.
- 7. Place the matter in the hands of a solicitor.
- 8. No.
- 9. Yes.
- 10. No.

Trustees Rates—Surplus.

149.—B. J. O.—Enclosed find auditors statement for A. D., 1894. Is that final or go back for years and re-audit the financial statement (they do not wish to) but a rival auditor for 1895 accounts, takes up a case against me as clerk for giving on the collector's roll an overplus of some \$50 on twenty-three school sections in sums from a few cents to \$6 in one case. I used Lytles tables and the tenth of a mill is as near as they come. This gave the overplus to the general fund or rather the auditors did not seem to notice it. The treasurer knew it and put balance to general account as the assessment was of course unequal on different sections and for schools, causes an enquiry now?

Section 7, of 58 Vic., amends section 109, of the Public Schools Act, 1891, by adding thereto the following as sub-section 4:

(4) In all cases and at all times, the municipal council shall have power, and it shall be their duty to correct in subsequent collections any errors or omissions that may have been made within the preceding three years, the collection of the school rate, duly imposed or intended so to be, to the end that no property shall escape from its proportion of the rate, and that no property shall be compelled to pay more than its proper proportion of such rate.

We think that where a larger amount is raised in any year than that mentioned in the trustees requisition, that the full amount raised should be paid to the section.

The Public Schools Act, section 118 reads: "All sums levied and collected by the municipal council of any township for school purposes shall be paid over to the secretary-treasurer of the board of trustees, without any deduction whatever, on or before the 15th day of December in each year."

We would recommend you to submit a statement showing: first, the amount of requisition received from each school section during the last three years; second, the amount of money raised; third, the amount paid to each school. That the balances, if any, should be placed in separate accounts to the credit of each section, and that the treasurer of the section be notified. That previous to the 15th December, this year, you furnish the secretary-treasurers of each section with an order on the treasurer to be signed by

the trustees, said order to be filled in with the amount collected for 1896, together with any balance that may be to the credit of the section on the treasurer's books. The treasurer should also be furnished with a statement showing the amount raised in each school section for 1896. There is no authority for placing the balance of the trustees rates to the general fund.

Pedlars' or Showmen's Licenses.

150.—A. W.—Has an agricultural society which is incorporated, the right to license pedlars or showman, when exhibition is held in a town where they have a by-law regulating licenses? The grounds are our own, the town has no claim on them.

Yes, under section 84, Agricultural and Arts Act, R. S. O. 1887.

Vote on Special Bonus By-Law.

151.—T. T.—We have made application to the Legislature of the Province of Ontario for an act to empower the corporation of the town of Midland to submit a by-law to the people for the purpose and with the object of granting aid to the amount of \$10,000, by way of bonus, to a syndicate, for the purpose of erecting and carrying on in the town of Midland, for ten years, a factory for manufacturing wooden wares, etc.

Will you please answer, through your valuable paper, how you interpret the act regarding the vote to be taken? Some of our council take it to be two-thirds of the total freehold votes; others, again, take it to mean two-thirds of the total available votes. My reason for asking this question is that about 100 of the voters of our town are at present in the lumber camps and elsewhere. Also, can debentures in this case be issued for any other period of years than the number for which bonus is granted?

We have no copy of the act before the Legislature, but see answer to question 147, this issue, which will no doubt apply.

Tax Arrears Refunded.

152.—J. S.—One Barker entered his name for location of lots 18 and 19, concession 7, Faraday, in 1890 or 1891. He cleared some land, built a log house, and after a year or two abandoned the lots, and is said to have left the Province. The municipality carried the taxes from one year to another till last fall, when four years' taxes were due, including taxes of 1895.

The collector was notified in December, 1895, by one Gould, who claimed to have purchased Barker's claim, that there was a quantity of hay sufficient to pay all taxes due on the place, and that unless the hay was held for the taxes he (Gould) would not be responsible for them. It is doubtful, however, if Gould had any legal claim on the place. The collector was also requested, by ratepayers in the school section in which the property was situated, to collect the back taxes from the hay. He accordingly seized the hay and collected \$28 taxes and about \$5 costs from one Tait, who paid the amount under protest, alleging that he had paid \$2.50 to the former collector for the hay before it was cut, but the reeve and those of the councillors, who were seen, considered that the former collector had no right to sell uncut hay at all, and certainly not at private sale.

The matter was, however, laid before the township solicitor, who held that as the council or its officials had not returned the lands to the county treasurer in each year, as the law required, that they had forfeited their claim, as no warrant except that of the county treasurer, would be sufficient to collect the taxes of former years.

As regards the taxes of the current year, he was of the opinion that they could not be collected, as no notice of assessment had been sent to Barker or anyone else, and the lands, having been continually assessed to Barker and not placed on a non-resident roll, were not legally assessed, and that the council in seizing the hay were trespassers as against Tait. He therefore advised the council to pay Tait the full amount and interest.

The council met on the 20th inst., and were not entirely satisfied that they had a right to refund the taxes for the present year, as they thought that the equities of the case were in their favor, Tait being a self confessed trespasser, he having abandoned his claim as purchaser from the former collector, which was inconsistent with the new aspect of the case.

They wish to ask whether, in your opinion, the man Tait, as a confessed trespasser, has a better claim than the township as regards the taxes of 1895? The council has paid Tait in full, but under protest so far as the taxes of 1895 are concerned.

We are of the same opinion as the solicitor.

Separate School Supporter—Notice.

153.—A. M.—Re section 40, chapter 227, R. S. O., 1887, Mike, along with others, gives notice attested by witness on the 29th day of February, 1896, that he wishes to discontinue his support to the public school and wants to be assessed as a separate school supporter. (Notice being by registered letter and was received on the 29th, but was signed on the 25th.) A few moments after the letter is received by me, Mike appears and makes a statement that he did not understand thoroughly the nature of the requisition and that he wished to withdraw it, and still support the public school as formerly. Where will Mike be placed to be legal? I think you will understand the case. If not, I will gladly give more information. There is a diversity of opinion here, some think he will have to be a separate school supporter for 1896 and that the notice will stand (that is the verbal one) as per section 47, above recited act, and place him as a public school supporter for 1897.

We think that when you received the notice it became the property of the municipality, and should not be given up. Under the circumstances, you could consider Mike's statement and refuse to act on the notice, and Mike should be required to sign a statement that the notice was obtained by misrepresentation, and that he wished to withdraw it. If the notice is not acted upon, parties interested may appeal to the court of revision to have him assessed as a separate school supporter. We would advise that unless Mike's statement in writing substantiating his verbal statement be obtained, that you have no alternative but to issue certificate and enter his name in index-book for the guidance of the assessor. If certificate has not been granted, this statement from Mike should be obtained at once to justify you in refusing to issue it. Under section 47, notice in writing is required before the second Wednesday in January from separate school supporters desiring to be assessed as public school supporters.

Public or Private Bridge.

154.—T. D. R.—Can a Municipal Council compel the owner of a mill flume to keep a proper covering or bridge over the flume where it crosses the street, the flume having been built before the street was laid out. If

the flume was not in use then only the main bridge over the river would have to be kept in repair as the water now passing through the flume would be directed to the natural channel. Is the corporation compelled to keep up the two bridges under the circumstances?

Unless there is a special agreement referring to the matter, the municipality will have to maintain the bridge.

Resolution or By-Law.

155—A. B.—1. What difference is there in the force and effect of a resolution passed by a Municipal Council signed by the reeve or other presiding officers, and sealed with the corporation seal, and a by law passed for the same purpose (provided that the statutes do not direct that such action shall be confirmed by by-law?

2. What difference is there in the disposal of penalties imposed by magistrates in case three similar cases were tried, one under authority of a municipal by-law, one under authority of provincial statutes, and one under authority of the Dominion Code? (All being within the jurisdiction of municipal legislation.)

1. Assuming that the thing can be done by resolution without a by-law there is no difference. The act of the council by resolution is lawful. It cannot therefore be strengthened by means of a by-law. Section 282, Consolidated Municipal Act, 1892, provides that the power of the council when not otherwise authorized or provided for, shall be exercised by by-law. Unless it is clear that a resolution is sufficient the council should act by by-law. A resolution signed by the head or presiding officer of a corporation and the Clerk with the corporate seal attached is in effect a by-law.

2. We do not understand this question. State a case, and we will be better able to give the necessary information.

Algoma Voters—Percentage when to be Added.

156—CLERK.—1. Has a ratepayer to be assessed for \$100 in Algoma to be placed on the voters list, and to vote?

2. Assessment Act states, that collectors roll must be returned before February 1st. The council extended the time till August. On May the 1st, the treasurer added ten per cent., and the collector went on collecting. Some of the resident ratepayers put the collector off till after the ten per cent. was added, and when they paid their taxes, would not pay the ten per cent., saying I was a resident here, and you should have seized, and sold, before the ten per cent. was added. Can the ten per cent. be collected, and how?

1. No. After the first election, every male freeholder and resident householder on the revised assessment roll, upon which voters list is based, may vote.

2. No. Not until roll is finally returned to treasurer, by the collector.

Tax Sale—Purchase by Municipality.

157—E. B.—Taxes accrued against a saw-mill property in 1888, and next it was assessed non-resident, being not occupied, and then for 1890 was assessed to owner and taxes for year paid, and in 1891 the arrears were sent for collection with the years added, and returned as nothing to distraint or get from property, and 1892 was assessed to owner and that year's taxes paid and arrears still left unpaid. Then the owner gave the property over to the man who put the engine and machinery into the

mill, and collector seized and offered for sale, and postponed the sale. The owner, in the meantime, had been playing a double game in giving over to an assignee, and then solicitor, for creditor and assignee, asked the council to put off the sale, as they would see it paid, and was put up at auction afterwards and sold to owner's wife, and he agreed to square up the taxes if he got time, and never did it, and in the year 1894 we allowed it to go to sale, and the municipality bought it in, and now he threatens the council with a suit if we do not compromise with him for about half the amount. Can we not sell this property if not paid in full at the expiration of twelve months?

If all proceedings leading up to the sale were regular, and the purchase by the municipality was made at an adjourned sale, as provided in section 170, Consolidated Assessment Act, it is the duty of the council to sell the lands within three years, subject to right of redemption within one year from date of sale, as provided in section 180.

Poll Tax.

158—VILLAGE CLERK.—In your issue of January in reply to councillor you imply that because a person is assessed on the assessment roll in any municipality in Ontario so long as his taxes amount to \$2 or over he will not be liable to the statute labor tax under section 88 of the Assessment Act in any other municipality in which he is not assessed and is otherwise liable to poll tax.

Does this answer not read out of section 88 the words, "upon the assessment roll of the city, town or village," and if it is necessary to work an exemption that the party be assessed in the city, town or village in which he is an inhabitant, how can an assessment elsewhere, exempt? If a statute or section thereof operate unjustly, is this any reason for varying from the ordinary rules of interpretation?

In the case you mention would it not be equally as unjust to assess one of the residents of London who owns property and pays taxes there and moves to St. Thomas for a vacant lot owned by him in the latter city?

A is assessed in a village for \$150, the total rate is fifteen mills, and paying \$2.25 taxes he is exempt from poll tax. B is assessed in the same village to the extent of \$100. His taxes on his assessment only amounting to \$1.50. The collector adds \$1 for poll-tax making the total sum to be paid by him in taxes \$2.50.

B owns less property than A but is obliged to pay more taxes. Can any construction be placed upon section 88 of the Assessment Act to prevent this unjust operation?

We admit that where the language of the legislature is clear, effect must be given to it though it may operate unjustly, but the opinion expressed by us was not based upon the argument that any other construction would operate unjustly. We still adhere to the opinion given in the January number.

Statute Labor—Bounty for Foxes.

159—O. I.—1. Can a resident ratepayer be compelled to do statute labor if he tenders the money to the pathmaster at the rate of \$1 per day for the amount of days he has to perform?

2. Is it legal for a clerk to take down the name of a candidate for councillor on the motion of one ratepayer, having no seconder?

3. If not legal what is the penalty?

4. Can a municipality be compelled to pay bounty for foxes killed within their respective municipalities. If so, how much is it?

1. No.

2. No.

3. No Penalty.

No. By-law may be passed to pay bounty not exceeding \$5. See 56 Vic. chapter 35, section 14.

Column Six, Assessment Roll.

160—F. J. C.—On page 35, MUNICIPAL WORLD for this month, in answer to A B, you say, "If this person happens not to be the owner, then the names of the owner must be entered in column six" of the assessment roll.

Now, section 17 and 18, Assessment Act, 1892, requires, if I understand them, that real estate shall be assessed to both owner and tenant or occupant, and sub-section 1 of section 20, same act, says the assessor, "shall place both names within brackets on the roll—and both names shall be numbered on the roll."

Now, if one of these names is to be placed in column two, and the other in column six, how are you going to place them in brackets and number them? It appears to me, that both names are to be placed in column two, and numbered in consecutive order. And if the owners name is placed in column two, what is the use of putting it in column six?

Column six is used, under circumstances mentioned in section 19, Consolidated Assessment Act.

Separate School Taxes

161—C. H. R.—1. Section 20, Assessment Act seems to me the exception and not the rule. When the owner requests the assessor to assess a house to him personally, is the assessor bound to put the tenant's name down as well? If so, under what section?

2. If property assessed against owner or tenant, the latter being a Separate School supporter, owner paying the taxes, what portion of the taxes, if any, goes to Separate School?

3. (a) Can a tenant, who does not pay any taxes, legally give the notice to the Clerk that he is a Separate School supporter? (b) Must he not be a ratepayer?

4. Can a tenant, whose name is not on the Assessor's Roll, and who pays no taxes, claim to have his name put on the voter's list in part 1?

5. Can a monthly tenant, who pays no taxes, direct the school taxes to go to R. C. Separate School?

1. Section 17, Consolidated municipal Act.

2. The whole Separate School tax subject to the provisions of the following: Section 51, chap. 227, R. S. O., and Sec. 1, chap. 60 of 55th. Vic.

3. (a) Yes. (b) No.

4. No.

5. Yes. See answer to question 2 above.

Clerk's Notice—Trustee's Requisition.

162—A. B.—Please point out the section of the Public Schools Act requiring the clerk to send notice to trustees with blank requisition on council for school moneys.

The clerk is not required to send notice to trustees with blank requisition. We recommend all clerks to make it part of their duty, in order to secure a complete and uniform return from each section. Sec. 2, chap. 38, 56 Vic., requires clerks to send each secretary-treasurer annual school census, and by having notice accompanying blank requisition include this, no extra work is required in sending them out.

Collection of Percentage on Taxes.

163.—CLERK.—In Algoma, our municipality fixed the 1st day of February, 1896, as the date for the collector to return his roll, (not as the date when the taxes should be paid.) On January 20th, 1896, the council met, and extended the time by-law, for the collector to return his roll until the 15th day of April, and added five per cent. to all the taxes not paid on or before the 1st day of February, as provided for in sub-section 2, of section 53, chapter 193, R. S. O., 1887, without giving any notice to the ratepayers. The collector has given the ratepayers notice by insertion in the local papers, that he does not intend to wait until the 15th day of April for the taxes, but, that they must be paid on or before the 1st day of March, otherwise he will levy by distress of goods and chattels.

1. Can the council legally collect the five per cent. above mentioned, without notice?
2. Can the collector levy by distress of goods and chattels, immediately after the first day of March, and not wait until the fifteenth day of April?

3. Re your answer to question 3, of enquiry 23, of your January number, 1896. In the Manitoulin, which is situated in the district of Algoma, do not the municipal councils have the same power as county councils?

1. No.
2. Yes. The collector may distrain for taxes, but in order to collect percentage, as well, two weeks previous demand, according to section 123 and 124, is necessary, during which two weeks, the taxpayers may pay their taxes, without the five per cent. addition. To avoid difficulties, we would suggest, that by-laws imposing a percentage for non-payment of taxes, under section 53, should be passed before the collector receives the roll, so that in giving first notice, all may be informed of the percentage to be collected with all taxes remaining unpaid after a certain date.
2. Yes.

Current Expenses—Percentage.

164.—1896.—1. The collector's roll of a township contains the total sum of \$8,000, made up as follows: General levy, \$2,000; school levy, \$2,000; special levy to meet annual payment on debentures, \$4,000. The total assessed value of the township is \$400,000. The by-law for the levying and collecting of rates recites for township purposes five mills on the dollar, and for school purposes five mills on the dollar. What are the current expenses of the township?

2. A municipal council passes a by-law imposing on all taxes unpaid on the 14th of December a percentage charge of one per cent. per month, to run for a period of five months. First, does section 132, Consolidated Assessment Act, grant this power to municipal councils? Second, can the collector distrain for rates while such (or during period) by-law is in force?
3. If such by-law has prevented the collector collecting the rates by the 1st of February could he and his sureties be held responsible after that date, the by-law imposing such charge having been passed after the collector had received his roll?

1. Current expenses is the sum required to pay the cost of municipal government for the year. The amount is no doubt included in general levy \$2,000.

2. We do not consider the by-law valid. Sub-section 2, of section 53, gives the council of a township where no day has been appointed for payment, authority to impose by by-law an additional percentage charge not exceeding five per cent. on

those taxes which shall not have been paid on or before the 14th December in each year. The by-law in question is inconsistent with section 132. We cannot see anything to prevent the collector distraining at any time, having given fourteen days previous demand. The by-law does not profess to extend the time of payment of the taxes beyond the 14th December.

3. Nothing appears to have happened to release either the collector or his sureties.

Dead Voters.

165.—F.J.C.—In regard to the voter's list to be used when voting for our bonus by-law on the 10th of next month, have I the legal right to strike from the voter's list persons whom I know to be dead, or have good reasons to believe they are dead?

You have no alternative but to prepare a voter's list containing the names of all persons appearing by the last revised assessment roll to be entitled under the provisions of sections 308 and 309 of this act to vote in each of the wards or polling sub-divisions. The Clerk is not supposed to consider whether a voter is dead or not.

By-Law—Rescinding.

166.—J. M.—1. To repeal or rescind a by-law is it necessary to pass a by-law or is a resolution of the council sufficient?

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

A by-law should have been passed.

An Assessor's Pay.

WHILE HE IS ENGAGED IN EQUALIZING THE SCHOOL SECTIONS—AN AUTHORITATIVE OPINION ON THE SUBJECT.

(Chatham Banner.)

The question having been raised as to whether, when a township assessor is being engaged in equalizing the union school section's proportions, this is a part of his regular duties or not, and the remuneration for such services, if any, he may be entitled to. Also, as to who is to pay him and what rate per day he is to get for such services, the inspector of West Kent submitted the matter to the minister of education and has received the following reply. As to the pay for a referee or arbitrator, it is usually \$4 per day. The answer is an interesting one:

Robt. Park, Esq., school inspector, Chatham.

DEAR SIR,—I am directed by the minister of education to state in reply to your letter of 17th instant, that the work of the assessors becomes that of referees or arbitrators when engaged in equalizing the union school sections proportions, and their payment should be from the funds of the union section.—Your obedient servant.

JOHN MILLAR,
Deputy Minister.

Toronto, Feb. 20, 1896.

Snow Fence Question.

During this month councils should consider the snow fence question. They are now in a position to remember the disadvantages occasioned by drifts, and the places where the greatest difficulty is experienced. Every effort should be made to induce owners of fences causing drifts to replace them with wire. A reasonable expenditure to secure this will more than pay them up by the saving statute labor now utilized to keep the roads open in many townships.

A correspondent to the Stratford Herald refers to this question as follows:

"As we hear so much of good vs. bad roads in summer, I thought it would not be amiss to suggest something by way of improvement of roads in winter, as we are snowed in now. I wonder if the present difficulty could not be remedied by the construction of wire fences along the roads. I think this would have the desired effect. But people will say you cannot compel one to build wire fences. No; but by giving proper inducements you could get people to build them. Now, I think if the council, or county council, or whoever the proper authorities are, passed a by-law allowing people to build their fences out say six or eight feet on condition that they build wire fences, I think the desired result would follow. They say statute labor is played out, and I will not say it isn't. Doing all one's statute labor in the winter shovelling snow, as I know some people have to do, is certainly out of date. I think if the roads were a little narrower, well graded up in the centre, with a nice straight wire fence running along each side, the appearance would be improved. What good are the road sides anyway? They simply grow weeds and thistles, and serve for the accumulation of rubbish."

If better roads would be of no advantage, would worse ones be a disadvantage?

The spring rains are near at hand, when farmers will climb fences to town and back.

An unusual sort of Township Councilor has been discovered in Geo. Erown, of Binbrook. He was re-elected to the Binbrook Township Council last January, but because his majority was smaller than at the previous election he tendered his resignation.

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