# THE MUNICIPAL WORLD

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## Calendar for November and December, 1901.

### Legal, Educational, Municipal and Other Appointments.

NOVEMBER.

1. Last day for transmission by local clerks to County Treasurer of taxes on lands of non-residents.—Assessment Act, section 132.
   Last day for transmission of Tree Inspector's Report to Provincial Treasurer, —Tree Planting Act, section 5.

5. Make retu n of c ntagious diseases to Registrar-General.—R. S. O., chap. 44 section 11.

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

15. Report of Medical Health Officer due to Local Board of Health.—Public Health Act, schedule B, Section 1.
    Day for closing Court of Revision in cities, towns and incorporated villages when assessment taken between 1st July and 30th September.—Assessment Act, Section 58.
    On and after this date councils of townships, cities, towns or villages may enter on lands and erect snow fences.—Snow Fences Act, Section 3.

30. Last day for municipality to pass by-laws withdrawing from Union Health District.—Public Health Act, Section 50.
    Chairman of Board of Health to report to the council on or before this date.—Public Health Act, Schedule B, Section 3.

DECEMBER.

1. Last day for appointment of School Auditors by Public and Separate School Trustees.—Public Schools Act, s. 22, (1); Separate Schools Act, s. 28, (5.)
   Municipal Clerk to transmit to County Inspector statement showing whether or not any county rate for Public School purposes has been placed upon Collector's Roll against Separate School supporter.—Public School Act, Section 72 (1;) Separate School Act, Section 52.
   Last day for Councils to hear and determine appeal where persons added to Collector's Roll by Clerk of Municipality.—Assessment Act, Sec. 166.

11. Last day for Public and Separate School Trustees to fix places for nomination of Trustees.—Public School Act, s. 60 (2); Separate Schools Act, s.31, (5)
    Returning officers to be named by resolution of the Public School Board (before second Wednesday in December.)—Public School Act, sec. 60, (2)

14. Last day for payment of taxes by voters in local municipalities passing by-laws for that purpose.—Municipal Act, Section 535.
    Last day for Collectors to return their rolls and pay over proceeds, unless later time appointed by Council.—Assessment Act, Section 144.
    Local Assessment to be paid Separate School Trustees.—Separate School Act, Section 58.

15. Municipal Council to pay Secretary Treasurer Public School Boards all sums levied and collected in township.—Public School Act, Section 71.
    County Councils to pay Treasurer High School.—High School Act, s. 33.
    Councils of towns, villages and townships hold meeting.—Municipal Act, Section 304, (6.)

The Municipal World

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

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J. M. Glenn, K. C., LL.B. | Editors

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ST. THOMAS, NOVEMBER 1, 1901.

We have recently received a number of enquiries for the question drawer, to which no names were subscribed. We beg to notify our readers, that in the future we can answer no questions through these columns, unless they have appended to them the *bona fide* names and addresses of the persons by whom they are respectively sent.

* * *

Mr. C. G. O'Brian has succeeded Mr. E. P. Johnston as clerk of the village of L'Original.

* * *

The electors of the City of St. Thomas have passed a by-law granting a bonus of $20,000 to Messrs. Thomas Bros. of Norwich, to aid them in erecting and carrying on a brush, broom and woodenware factory in that city.

* * *

The city council, of Kingston, decided at a recent meeting to rent 22 voting machines, made according to the pattern invented by Mr. P. A. Macdonell, for use at the municipal elections in that city in January next.

* * *

A Milwaukee man has invented a voting machine which uses the ordinary ballots. As the paper passes through the machine, the voter indicates the candidate for whom he desires to vote and his choice is recorded. When the polls are closed the index to the machine shows just how many votes each candidate has received, and the record can be corroborated by the ballots which have been preserved as marked.

* * *

A decision of Judge McDougall with reference to certain hotelkeepers' assessment cases appealed to him from the Toronto court of revision, was handed out recently. His Honor upholds the contention of the assessment department that the only household goods in an hotel exempt from taxation are those in the personal use of the hotelkeeper and his family. Another point, however, raised by the solicitor for the hotelkeepers, is also sustained by the decision, namely, that it is unfair to assess an hotelkeeper for his personalty, and also to assess him on an income gained from that personalty.

* * *

A new edition of Webster's International Dictionary has just been issued by the G. & C. Merriam Co., of Springfield, Mass. It has deservedly received the highest commendation from educators, authors, professional men, and newspapers throughout Great Britain and her colonies and the United States of America. Having given it our careful perusal, we are pleased to add our mead of praise. It is an indispensable addition to the home, school and office. It is a never failing source of instruction and information, and in binding is rich, subtantial and ornamental.

* * *

### Collector's Bonds.

We extract the following from a news paper report of the proceedings at a recent meeting of a village council in Ontario :

"Moved and seconded and resolved, that the collector's roll for 1900 be accepted and the collector's bonds be cancelled which was so done."

We have repeatedly called the attention of municipal councils to the illegality and danger of this course. These bonds should be retained, *uncancelled*, by the clerk, among the municipal records. By doing otherwise councils are simply going out of their way to court trouble and loss.

### The Public Ownership Idea.

The question of municipal ownership of municipal services is being discussed almost continuously all over America and Europe, and the actual progress the idea is making is well shown in a general summary made by Edwin Barrit Smith in *Self-Culture*. He says :

Of the fifty largest cities in the United States, but nine now depend on private waterworks, these being San Francisco, New Orleans, Omaha, Denver, Indianapolis, New Haven, Paterson, Scranton and Memphis. While about 200 cities and villages have changed from private to public ownership, only about 20 have returned from public to private ownership. Over half the changes to public ownership have been made since 1890, and only about one third of the reverse changes within the same period. Gas plants are owned and operated by 168 English cities, 238 German cities, by Brussels and Amsterdam, and by 11 American cities. Electric lighting plants are owned and operated by nearly 300 American municipalities, by many English and Austrian cities, and by 12 German cities. Fully one-third of the English street railways are publicly owned and operated by the municipalities, notably in Glasgow, Leeds, Sheffield and London, and but few expiring franchises are renewed.

Toronto has her public waterworks system working well, and no person would be listened to who suggested a return to private ownership. There is a strong and growing public opinion in favor of municipalizing the gas service, while it is generally conceded that the city made a mistake—notwithstanding the enlightened bargain made—when the street railway was leased ten years ago. If it fell into the city's hands to-day it would not be turned over to the company on any terms.

The gas, electric light, electric power, telephone, telegraph, and transportation services all seem destined in the future to be publicly owned. As privately owned these services are used to confer fortunes upon the few instead of benefit upon the many, and the people are growing wiser than they were.—Toronto *Daily Star*.

### A Line Fence Appeal.

An interesting appeal from a fence-viewers' award was recently heard by His Honor Judge McDonald, county judge of Leeds. The particulars are as follows :

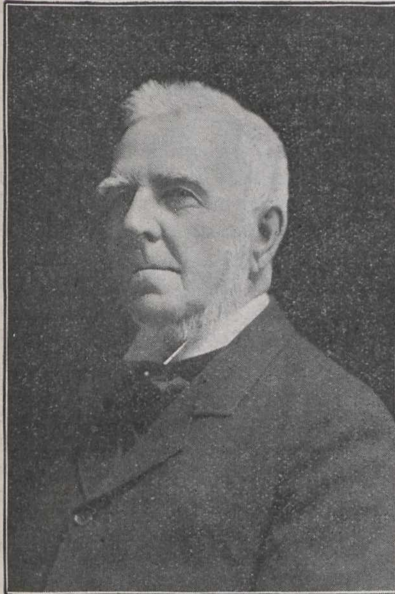
A. B. called upon three fenceviewers of his township under the Line Fences Act, to decide what share of a Line Fence between his land and that of his neighbor, C. D., should be built. Each of these parties had, in the past, fenced the land but for some time C. D. had allowed his share to become useless and had also ceased to use that part of the land adjoining his portion of the fence. After having examined the premises and considered the matter, the fenceviewers awarded that C. D. should build his share of the fence within thirteen days and pay all the costs of the proceedings, as A. B. had already built his share of the fence.

C. D. appealed from this award to the county judge on the ground that he did not occupy his land, that the fenceviewers had not ordered a lawful fence to be built, and that notice of the award was not given to him in time to enable him to build his share. His Honor, after having heard all the parties interested, their counsel and witnesses, set aside the fence-viewers' award and by his decision held that each party should pay his own costs. The reasons given by the presiding judge for deciding the appeal as above, were that C. D. did not occupy that portion of his land adjoining the fence and that the fence ordered by the award to be built was not what the township by law defined to be a lawful division fence.

# Municipal Officers of Ontario.

### Clerk, Township of Beverley.

Mr. McDonald was born in 1822 in Oneida County, New York State. In the fall of 1836 he came with his parents



MR. W. MCDONALD.

to the township of Beverley. His first municipal office was that of councillor for his township to which he was elected in 1857. He held this office for three successive years and the following two years he was elected reeve. In 1862 he was appointed clerk of the Divisi n Court and township clerk in 1863, when he left his farm and removed to the village of Rockton. He is a Justice of the Peace for the county, commissioner for taking affidavits and issuer of marriage licenses. In all his 43 years experience as municipal clerk he has been absent from but two meetings of his council, and then it was on account of illness.

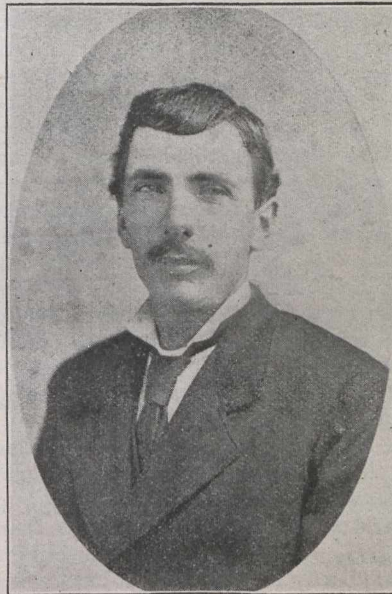
An Exchange says: For several months past the Chicago Chronicle has been advocating what it terms the simple tax, to take the place of the present system of raising public revenue. As defined by that paper, the simple tax means the exemption of personal property, or movable forms of wealth, and the raising of revenue from land and buildings.

It is wor h considering. The assessment of personalties has proven impracticable It is impossible to be gotten at. It cannot be seen. The assessor has the use of his eyes to assist him in se ting down the value of a farm, a village lot and the buildings thereon, but even the x-rays would be ineffectual in an attempt to dive down into the mysterious depths of the millionaire's purse.

The Orangeville council has passed a by-law allowing the elections next January to be taken by machinery. We venture the opinion that this innovation will result in dissatisfaction to the electorate at large. It is to be presumed that the man who invented a piece of clockwork to give votes to Tom, Dick and Harry is quite able to so arrange it as to give the majority of the votes to either, and all that will be required to secure any one's election will be to raise a trifle of money to bribe the machinist.--Ex.

### Clerk, Township of Sombra.

Mr. Bishop was born in the township of Orford, county of Kent, in the year 1853, and in 1873 removed to the town-



MR. O. BISHOP.

ship of Sombra. He was asssessor in 1881 and 1884 and was appointed clerk in January, 1885. He acted as Fishery Inspector over the north branch of the Sydenham River from 1891 to 1897 when the office was abolished; and was postmaster of Wilkesport from 1895 to 1898, in which latter year he resigned the office. He is a commissioner for taking affidavits in H. C. J., Agent for the Canada Company, Conveyancer, and is also engaged in farming.

### The Ward System as Viewed in Galt.

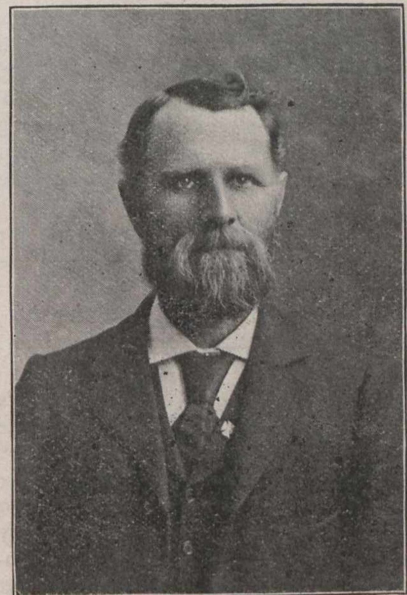
As regards the composition of the town council, public sentiment is undoubtedly veering around to the opinion that a return to the ward system and increased representation is absolutely necessary if every channel in which the town's interests travel is to be kept clear of debris.

The municipality's business is so complex, and at times so exacting, that unless an alderman has a great deal of leisure time on his hands he cannot fulfil the duties of his office to the satisfaction of the electors. He may have every qualification for the post, but if in the course of events he is called out daily during the season on town improvements he becomes weary of the inroads public life is making on the hours he should devote to his own business. With a board of aldermen of the present size representatives have too much committee work. Some of the aldermen are on three committees, and this state of things has not been beneficial to the town. It is not necessary, for the sake of argument, to state specifically the occasion when neglect by the aldermen has penalized the municipality for errors of omission. Suffice it to say that with business men making up the board it is impossible under the general system, with the limit of representation as it is, to get from them that attention which the municipality requires in order to avoid pitfalls and make steady progress along practical lines.

In all probability the electors will be asked before December to vote on a by-law authorizing the council to return to the ward system.—Galt *Reporter*.

### Clerk, Township of Lanark.

Mr. Rankin was born in the township of Lanark, on the farm which he still occupies, in December, 1849. His first municipal office was that of collector, to which he was appointed in 1870. He held this office for the ensuing five years. He was appointed clerk in the year 1875,



MR. A. RANKIN.

and has filled the position ever since. He has been secretary-treasurer of the township agricultural society since January, 1872. He is an issuer of marriage licenses, commissioner for taking affidavits, conveyancer, and is also engaged in farming.

### Gravenhurst Sun Awnings.

We are indebted to Mr. R. Kimber Johns, J. P., of Gravenhurst, for the following :

On the 4th June last, the town council passed a by-law as follows : First clause, regulating the height of seven feet between the lowest portion of the awning to sidewalk. Second clause, imposing a penalty of $1 to $25 for persons offending, with distress for non payment, and in default of distress twenty-one days' imprisonment. Third clause, the by-law to come into force from the passing thereof.

Several of the awnings, or their curtains, were found to be a few inches less than the seven feet. The town constable was ordered by some of the councillors to see that all storekeepers whose awnings were less than seven feet high, were notified, which the constable duly did, and on further instructions laid informations against seventeen of the storekeepers. These came before justices in two batches ; on first six two justices sat, and evidence duly taken. That for the defence was mostly on the grounds that their awnings were, as then fixed, had been so, some for several years, but none had been put up since the passing of the by-law. Judgments were reserved on these six until the o her eleven had been heard. When the eleven came before the justices, beside the two that had sat on the first batch, the other justices sat with them. When all the evidence was in, the justices retired to consider their judgment. One of those who sat upon all the cases was for dismissing all the charges, as no offence against the by-law had been shown, and further, the punishment mentioned and authorized in the by-law was not that enacted by section 557, s. s. 2, of the Municipal Act, the only clause under which councils can legislate in reference to awnings. The other three justices convicted ten of the storekeepers, dismissing the charge against one, and as the first court was divided, no conviction of the first six was made.

It was arranged that a test case for appeal to the District Judge should be submitted, and the following is the report of the same when it came up before Judge Mahaffy, as reported in the *Free Grant Gazette*, Bracebridge :

"On Saturday, at Judge Mahaffy's court, the matter of appeal in the test case of Child & Son, convicted by three of the Gravenhurst Justices of the Peace, for allowing their awnings to be less than seven feet from the sidewalk, contrary to a lately passed by-law of the Gravenhurst town council, was heard. The evidence disclosed that awnings had been placed as at the date of summons many months before the by-law was passed. Mr. Godson, of Gunn & Godson, appeared for the appellants, Mr. B. H. Ardagh for the corporarion. After hearing the arguments of the respective counsel, the judge gave a very lucid and careful summing up of the evidence that had been given by the witnesses at the justices' court, and also of the by-laws, quashed the conviction on the ground that the by-law did not do what the corporation council wanted, and was not retrospective. That to meet the desire of the council to remove any nuisance that some of the awnings may be, they should have taken the power to remove such at the expense of the owner or occupant of the premises to which the same are attached, so as to remove the nuisance for all time, instead of, as in this by-law, imposing fines the payment of which only enrich the coffers of the municipality without abating the public nuisance complained of. The corpora ion of Gravenhurst to pay costs of appeal. Nine other cases awaited the result of this appeal."

### Municipal Telephones in England.

Reference has already been made to the experiment of the town of Tunbridge Wells in establishing a municipal telephone system. The movement towards municipal telephones is active in Great Britain, and the Daily Mail states that Glasgow, Portsmouth, Hul, Bedford, Granthom, Brighton, Aberdeen, Huddersfield, Belfast, Sunderland and Swansea either have adopted or are considering the taking of such a step. Glasgow corporation is at present giving a free service and will begin to charge with 5,000 subscribers this month. In Norwich a local company has been formed. Liverpool, Dover, Eastbourne and Leicester are considering the subject. Manchester has so far made a muddle of it, says the Mail, but in Guernsey telephones have been in operation for over two years, there being no company to compete against.

The effect of competition at Turnbridge Wells has led the National Telephone Company to reduce its charges to £4 a year, and to give free service rather than take away instruments from subscribers whose subscriptions have run out. Yet the town council starts with double the number on its books that the company ever had in the ex hange area, and the telephones have been introduced in the neighboring villages for the first time.

In Glasgow the company charges £10 a year, and has about 8,000 subscribers. The municipality will charge five guineas, and will start with 500 subscribers. The difference in price will be sufficient, before long, to increase the subscribers, at the expense of the company, to 10,000. The two systems, in each case, will be distinct, and it may be necessary for subscribers to join both systems for some time, but as municipalities will have the better and the cheaper service they are expected to gain in the end.

In each instance the charges decided upon by the municipalities compare favorably with those of the company. Guernsey offers an unlimited service for £5 a year, Turnbridge Wells for £5, 17s. 6d., and Glasgow, as already stated, £5 5s., with alternative rates for those who only need to use a telephone occasionally. In Guernsey the average rate comes to about £3 a year, and the telephone is used more largely in proportion to the population than in any part of England. The government have also announced that in October they will begin to open the new Government metropolitan telephone service with the central exchange, so as to be able to serve a considerable area in London in the course of the autumn or early in 1902. The movement to break the monopoly of the National Telephone Company is evidently popular in Great Britain.—*Exchange.*

### How Glasgow Manages Things.

Glasgow has 315 miles of streets to keep clean ; and they are kept clean. It employs 1,300 men in the work, controls 1,800 acres of farm lands, and operates 900 street cars, 300 horses and a vast number of carts. All garbage and refuse is classified, and nothing that can be turned to use is destroyed. Iron, tin, paper, rags, manure, etc., are separated ; what cannot be otherwise utilized is made to serve as fuel, and thus 890 horse power is generated to light the city. The expenditure of the department last year was $365,000 and the revenue was $750,000. That sort of civic management pays.

And now the same city has just opened a municipal telephone system, providing for 20,000 subscribers. It is an underground system, and there are no homely poles obstructing or disfiguring the public thoroughfares, as we have in this country. We may boast of our amazing progress and modernness, but these old-fashioned people of the motherland know a few things too. For care and consideration of the public welfare and comfort John Bull is unsurpassed.—*Exchange.*

The Glasgow Scotchman's idea is to get full value for the money which he contributes to the common fund as a taxpayer. He believes in co-operation with his fellow citizens, and holding the view that public office is a public trust elevates to positions of responsibility men who make a study of civic problems. Glasgow is not radical ; it is merely progressive and eminently practical in municipal affairs. Gathering courage from the successes of the past the great Scottish city, when opportunity offers, branches out in a legitimate field and if it continues much longer acquiring public utilities and creating additional sources of public revenue its taxes should bear very lightly upon the shoulders of citizens.

Canadians should be just as ready to support progressive measures and to resist any species of civic control by and through which effort and money are wasted. Each Canadian town should aim to be a Glasgow in its own particular way.—*Ex.*

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It is estimated that about thirty miles of cement-concrete walks have been laid in Hamilton this year, at a cost of about $100,000.

# Engineering Department

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

### County Roads in Dufferin.

A most successful County Roads Convention was held at Shelburne, in the county of Dufferin, on the 20th of last month, and the provisions of the new Good Roads Act fully explained to a representative gathering of municipal representatives from every part of the county. Among others, addresses were delivered by Warden Reaburn; Reeve Banks of Shelburne; County Councillor R. A. Riky; Dr. Barr, M. P. P., and Mr. A. W. Campbell, Commissioner of Highways.

At the conclusion of the meeting, the following resolution was adopted:

"That this council is in favor of adopting a scheme for road improvement under the Act of the Ontario Legislature for that purpose, and that the Road and Bridge Committee prepare such a scheme and report at the next regular meeting of the council."

On motion, the clerk was instructed to write the clerk of each township in the county, giving a statement of the estimated amount to be expended in each township under the proposed road improvement scheme, and ask the council to designate the road which they would suggest as suitable to be improved under the scheme, and report. Such reply to be in the hands of the county council not later than the 15th of January next.

In a report of this meeting the Shelburne *Free Press* says:

"Three years ago a meeting of municipal officers was called to hear an address from Provincial Road Instructor A. Campbell. He was met by a small gathering of men, by no means representative of the territory surrounding Shelburne. He talked earnestly of the enormous losses to the municipalities in the past through the wasteful statute labor roadmaking system, and the immense improvement that could be gained through a properly organized system of county roads. He explained the first systems of roadmaking, the science of drainage, and the use of improved machinery, and pictured the direct benefits of well constructed roads, to those who use them. But he was listened to, for the most part, with amused incredibility as a faddist, and after being bombarded with questions for a time, he was dismissed with a smile and forgotten. Last Friday Mr. Campbell again addressed an audience in the council chamber and the difference in the meeting may be said to epitomize the story of the progress made in the intervening three years in the agitation for good roads. The gathering included not only all the county council but other municipal officers from every municipaltiy in the county and representatives from the neighboring county of Grey. The earnest attention of everyone present was given to every detail of the programme and the proposal to hand over the leading roads of the county to the care of the county council and to expend $66,000 in scientific road-building, was almost unanimously approved of.

The proposal approved of on Friday is the outcome of Mr. Campbell's aggressive agitation through press and platform for a more economical management of the highways, which reached its most practical stage in the passing of the Act in the legislature appropriating a million dollars of provincial funds to assist the farmers to improve roads, and laying down conditions and principles for its proper expenditure."

### Toronto's Railway Service.

The Toronto Street Railway is a continued source of anxiety to the citizens. The complaint is, insufficient cars, and consequent over-crowding, especially at busy hours of the day when people are going to and from work. Between five o'clock and half past six in the afternoon, when business men, clerks, workmen, and all kinds and classes of bread winners, together with thousands of shoppers, are leaving the centre of the city to reach their homes, the chief inconvenience is experienced. According to the terms of the franchise, the railway company is required to operate such a number of cars on each route as the city engineer may direct. The company, however, in spite of the terms of the franchise, has always reserved the right to modify the engineer's schedule. This is necessary, according to the views of the company, as a means of protecting the interests of the citizens of Toronto; a most valuable safeguard which the people of Toronto, in their ingratitude, are inclined to reject.

Recently the number of cars was considerably reduced under the unexpected plea that the citizens were demanding a faster service, and that by running the cars at a greater speed, the public would receive better accommodation.

This is obviously in the interest of the people. The railway company says it is. But human nature is everywhere the same, and wherever there is a possible excuse for complaint, there will be found men to make a disturbance. In this particular instance it may be due to the fact that the cars are more crowded than ever, and that it takes a longer time than heretofore to go from one part of the city to another, owing to the time lost in waiting for cars. At the same time the grumblers see in the new schedule a source of profit to the company. This, undoubtedly is hard to bear.

The scapegoat for these difficulties is alternately, the mayor, the city engineer, and the council. The railway company is, under all circumstances, the evil associate who at one time leads the city's innocents astray; at another time intimidates them into submission—chiefly the latter.

There is a remedy for all these difficulties but it may take some years to effect a cure. The cause lies behind all the effects, and is a lack of appreciation of the importance of municipal government, the ratepayer's indifference to municipal affairs except at such times as he feels aggrieved because of some personal inconvenience, or the payment of an increased tax-bill.

### Good Roads in Victoria County.

Pursuant to the call of Warden Graham of Victoria County, representatives of the various municipalities in the county, together with the members of the county council, met in the county council chamber in Lindsay on the twenty fourth of September last, for the purpose of considering the provisions of the Good Roads Act.

Warden Graham had visited the various councils in the county and presented a question of the wisdom of taking advantage of the provisions recently made by the Ontario legislature whereby $1,000,000 had been set aside to aid in the construction of good roads throughout the province. Objections having been raised to the proposition by some of the representatives in the municipalities, the warden considered it desirable that the Commissioner of Highways should be asked to explain away the difficulties raised, the main one being that of county control. Accordingly, the meeting was called, and every municipality in the county was represented.

The question of good roads was fully discussed. The new Good Roads Act was explained and its provisions shown to be of an elastic nature, giving the county and townships great liberty of action. At the conclusion of Mr. Campbell's address expressions of opinions were had from a number of the councillors present, and it was evident that the townships were heartily in favor of the plan.

The *Weekly Post*, referring editorially to this convention, says:

"In another column will be found a synopsis of the excellent address delivered Tuesday before the county council by Mr. A. W. Campbell, Provincial Good Roads Commissioner, in explanation of the provisions and application of the Good Roads Act recently passed by the Ontario government.

"The meeting was well attended by representatives from the various townships, and Mr. Campbell's clear, frank and thorough explanation of the Act made a deep impression on his hearers."

"The Good Roads Committee of the council devoted Wednesday to a careful consideration of the points brought out, and may report thereon in a few days.

Details may require further discussion, but everyone will earnestly hope that the good roads system will be endorsed in the near future. We want modern methods in road building, as in everything else."

### The English Telephone System.

The British Isles are in an exceedingly fortunate position as regards telephone and telegraph systems, inasmuch as these are in the hands of the government; and are not controlled as private monopolies, as in Canada, for the benefit of stockholders.

The management in England is under the Post Office Department. It has been the policy of the British government, with regard to the telephone system, to itself operate the trunk lines, those between towns and cities, but to give to companies, of which the National Telephone Company is the most important, the right to operate local systems within the towns and cities, these to be connected with the government system for "long distance" use.

Two municipalities, Turnbridge Wells and Glasgow, have just broken away still further from company control of the telephone, and municipal systems have been installed. This has not, however, been accomplished without a struggle, and the companies are combatting the new movement by reducing their rates.

The opening of the Tunbridge Wells system took place on July 27th last. The local area has been enlarged to bring in a number of villages, and extends 22 miles from north to south and 17 miles from east to west. For unlimited speech, day and night, the charge is £5. 17s. 6d. per year, and to suit the purposes of those whose requirements are only for a limited number of outward calls, there is a £3. 10s. rental plus ½d. per call; or £2. 10s. plus 1d. per outward call. The total number of lines in use will be about 500 to commence with.

The Glasgow municipal system was formally opened on August 29th last. There were, on that day, orders on the books for 5,382 instruments to be installed, but provision for the future will give accommodation in the switch-room for 20,000 subscribers. As with Tunbridge Wells, the area covered extends beyond the corporation limits, including a total area of 143 square miles.

The rates to be charged in Glasgow are fixed at £5. 5s. yearly for an unlimited number of calls, or, as an alternative, £3. 10s. per annum, and 1d, for each call made, this payment being for caller only.

A noticeable feature of the service given by these corporations is the superior class of telephone instruments used, and the provision made for the most perfect possible service. The Tunbridge Wells System is especially complete, and is such that a conversation cannot be overheard by an operator at the central office; connections can be made with very little delay, and when it is desired to "hold the line" two telephones may even be replaced temporarily without danger of being cut off.

The patents of the Bell Telephone Company having expired in Canada, a few independent lines have been installed, one at Rat Portage, and several farmer's lines in the Niagara peninsula. An agitation has been carried on in Toronto for either a municipal or independent telephone company to compete with the Bell Co., but action is necessarily slow in opposing well-established interests. The use of the telephone has heretofore been largely curtailed by excessive charges, but there is every likelihood that, in the near future, it will be universally regarded as one of the "modern conveniences" belonging to every house. To this end a reduction of rates is necessary, and if the history of other monopolies is of guidance, this can only be accomplished in the first instance, by competition, or public control.

### Street Grades.

The grades of streets necessarily depend mainly upon the topography of the site. Wherever possible, it is desirable that grades be uniform between cross streets.

In establishing grades for new streets through unimproved property, they may be laid with reference only to obtaining the most desirable gradients for the street within a proper limit of cost. But where improvements have already been made, and located with reference to the natural surface of the ground, it is frequently a matter of extreme difficulty to give a desirable grade to the streets without injury to adjoining properties. In such cases it becomes a question of how far individual interests shall be sacrificed to the general good. It may be said in this connection that adjustments to new grades are usually accomplished much more easily than would be anticipated, and when accomplished the possession of a desirable grade is of very considerable value to adjoining property. Too great timidity should not, therefore, be felt in regard to making necessary changes because of the fear of injuring property in the locality.

Where a grade is made continuous between intersecting streets would be nearly level, it is frequently necessary to put a summit in the middle of the block and give a light gradient downward in each direction to the cross-streets in order to provide for surface drainage. The amouut of slope necessary to provide for proper drainage depends upon the character of the surface and smoothness of the gutter. For a surface of earth or macadam the slope should not be less than about 1 in 100, and for paved streets from 1 in 200 to 1 in 250.

In some cases it may be possible to give sufficient slope to gutters to carry off the surface-water by making the gutter deeper at the ends than in the middle of the block without making a summit in the crown of the street. The curb in such case would be made level or of uniform gradient.

### The Care of Roads.

The most perfect system of roads in the world is that of France. Its essential features are: First, stone roads; second, engineering superintendence; third, a constant attendant for each three or four miles of road. Neither of the first two can give satisfactory results without the last. The last *can* give satisfactory results without the others. It is, in fact, the essential basis of the whole system.

The French system was not a slow development, but was forced by the Emperor Napoleon upon his unwilling subjects. The people soon learned to appreciate its value, however, in spite of its expense.

To introduce such a system here would require years of education, years of agitation and legislation. The better way is to attempt to grow into a similar system in a natural manner, adopting first that which is most essential and at the same time easiest to obtain. Railways and railway systems have not been built in a day. They are natural developments, a cheap line being first constructed and gradually perfected by expert attendants, as traffic requires. It would be folly for a railway company to build a well-appointed road and then leave it to take care of itself. It would be even more foolish for us to build good roads, trusting that the necessity for maintenance would afterwards develop a satisfactory system of maintenance. We have shown that we cannot take care of poor roads; why should we then be entrusted with good ones?

### Good Roads Meetings.

The past year has been a particularly notable one in respect to the good roads movement in Ontario. The people have shown, in the work actually done on the roads, a marked improvement on anything heretofore undertaken. The principles of roadmaking have been followed to a most extraordinary degree in many districts where previously roadmaking has been little better than the raking and scraping of mud.

Well-drained roads, well-crowned roads, roads metalled with clean gravel or broken stone, have become the ambition of many townships, more especially those where the statute labor system has been commuted and the responsibility for the condition of the roads placed upon a few permanent overseers.

Road meetings for the year have been numerous, among them being those held in Osgoode, Bosanquet, Warwick, Gananoque, Pembroke (township), Westmeath, Fitzroy, New Hamburg and Caledon. County conventions were also held in a number of places, the more important being the Victoria, Wentworth, York, Dufferin, Welland and Carleton meetings.

The season for meetings is now commencing with the close of the busy farm season, and a great many are being

arranged throughout the province. As there appears to be some uncertainty on the subject, it may be stated that the services of the Provincial Highway Commissioner in addressing road meetings called by municipal councils are without expense to municipalities.

### The Proposed Parkhill Waterworks.

The council of Parkhill has procured a report on a waterworks system for the town. It is proposed to obtain a supply from driven wells. Water does not rise to the surface of the ground from driven wells in the locality; and they are therefore not true artesian or "flowing" wells. It is designed to bring the water to the surface by means of the air lift, allowing it to flow by gravity to a receiving well, from which it will be pumped to the street mains and an elevated tank, or standpipe. The estimated cost of the system will be $25,000, and a by-law will be submitted to the ratepayers at the next municipal election to decide whether this amount will be raised by the issue of debentures, and a system of public water supply constructed.

### A Municipal Electric System in Almonte.

The town of Almonte will purchase the electric light works from the local company for the sum of $14,750 for the plant and $1200 on account of arbitration expenses. The company first asked $22,000 for the plant, but subsequently reduced their figure to $17,000. The town council, however, decided to submit the matter to arbitration, with the foregoing result. The sum of $30,000 will be raised by the issue of debentures, to cover the cost of the plant and proposed improvements and extensions. The company was said to be making 18 per cent. on its investment from the operation of the plant.

### Oshawa Waterworks.

With a report of the engineer, recommending waterworks for Oshawa, which would cost $150,000, possibly $175,000, the proposal to establish a system has not made rapid progress. The amount is regarded as excessive, and more than the town should invest The annual payment to meet thirty years debentures at 4% would be $8674.50. A gravity system was proposed, the water of springs about nine miles distant, to be collected and piped to the town.

Information on the question is still being sought by members of the council with a view to securing a system for less initial outlay. The town is three miles distant from Lake Ontario, and at an elevation of 300 feet above it, so that the cost of pumping together with the considerable length of main necessary between the town and the lake, does not present the lake as a favorable substitute. To combine with the pumping station an electric plant has been suggested as a means of lessening the annual cost of operation.

The creek flowing through the town is composed largely of spring water, having its source in the springs which it was proposed to utilize in the gravity system, and this, if treated by a proper method of filtration, might be utilized as a source of supply. A collecting gallery in the creek bed has also been suggested, such as is employed at St. Thomas, Brantford and other towns of the Province; and artesian wells are also being considered.

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The improvement of our roads, which so many of us so earnestly desire, cannot be too carefully and thoroughly studied. The best and most economical method or methods of construction and maintenance, the adaptation to the requirements of each region and of each special case, with due regard to the amount of present and future travel and to the money that may be properly spent for the purpose, the nature of the material to be used, the determination of grade and width, and above all, the permanent nature of the work, are fundamental points to be carefully weighed before decision. No detail is unimportant. It is hoped, that, on this subject at least, the period of temporary makeshifts is over, so that work done, however incomplete, may not need to be undone, but be the basis of further possible improvement in the furure.

We are no longer satisfied with the common dirt road, which served a useful purpose when no better was to be had; and yet in some districts, where population is sparse, it will still be the only practicable one. In many cases it may doubtless be materially improved at no greater outlay of money than the present annual cost, and with much indirect advantage to those using it. In its worst form and under the most unfavorable conditions of climate and soil it is barely endurable during eight or nine months, and is often nearly impassible for two or three months of the year. Its like may be found in certain parts of Russia, where the roads give easy communication only during four months of summer and four of winter.

Between the two wide extremes of the perfect park road and the worst mud road lie all possible degrees of goodness and badness.

A highway is a permanent work, and the laying out and building of it is a matter of corresponding importance. The problem should be studied with an accurate survey of the line of the road in hand, accompanied by full specifications and close estimates of the amount of each part and kind of work to be done Such preparatory work is the only safe basis for determining intelligently the several points at issue. Without it the whole thing is a matter of guesswork.

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Cement-concrete walks, costing $15,000, are to be laid in Port Colborne.

### Plumbing Inspection.

The Trades and Labor Congress recently in session at Brantford decided to petition the Provincial legislature that an Act be passed to compel municipalities to appoint competent plumbing inspectors, where waterworks and sewerage systems exist. That a rigorous plumbing inspection would effect much good, there can be little doubt. In Toronto the water leakage is prodigious, yet nothing is done to check it, the cost to the city for this useless waste being enormous. The same story of open and defective taps could be told of many another place, in varying degrees. Rarely are proper tests applied to sewer connections in any but the large cities, and the menace to health from this cause is serious. It should not be necessary to pass laws compelling municipalities to take a step so obviously in the public interest.

### Oil-Concrete Sidewalks.

(California Municipalities for September, 1901.)

THE MUNICIPAL WORLD speaks of the successful use of tar-concrete for sidewalk making. A similar material now available in California, is oil-concrete. Its use is yet in an experimental stage, but results encourage the belief that it will soon come into general use in villages and the outlying streets of larger cities—places where property values do not justify the use of more expensive materials.

The manner of making the walk is as follows: Place a 2 x 6 inch redwood curb along each edge of the walk. Wet and tramp the earth thoroughly between these curbs until the walk is raised to within one inch of its grade when finished. Fill in this one inch with earth thoroughly pulverized and dry. Heat crude mineral oil to at least 200 F. and thoroughly saturate the loose, dry top of the walk. The oil should be thoroughly worked into the earth, and in the course of a week or two a second, but lighter, application of heated oil should be made.

A gravelly clay appears to be better for such walks than loam or adobe. The result is a smooth and slightly elastic path, free from dust in dry weather, and if the walk be properly crowned along the centre, it will dry immediately after rains and answer every purpose in wet weather.

Its dark brown color commends its use where the sunlight is intense, as in the interior of California, and its slight elasticity makes it a more desirable walk for children to run to school over, than hard cement or brick.

By the same procedure a very satisfactory bicycle path is made.

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For several years the citizens of Bridgeburg have felt the need of waterworks. Plans are now being prepared, and the G. T. R. has offered the village $1,200 a year for fifteen years for water if a system is put in.

### The Berlin Sewer Farm.

The Provincial Board of Health has thoroughly examined the Berlin Sewer Farm, and has presented a lengthy report to the mayor. The report makes the following recommendations:

1. The town council should, by resolution, place the management of the farm under a regular engineer, and while accepting his suggestions, make him responsible for the conduct of the farm.

2. Require of the tannery owners, the construction of a roughing filter of coke on their own premises, whereby tanbark extract would be filtered out, and any arsenic present, removed by combinations with the small amounts of iron salts usually present in coke. The upper layer of the coke can, with the organic deposit left, be from time to time removed, and burnt in the furnaces. The soluble organic materials remaining in the effluent therefrom, can then be allowed into the sewerage and treated with the domestic sewerage.

3. Require a similar coke filter to be used for the removal of the tarry products of the gas works; these being hyrdo-carbons, may also be removed with the upper layer of coke and burnt in the furnace. The efflu nt therefrom, may be then received in the domestic sewerage.

4. Require the sewerage from the Rubber Works to be passed over a filter of powdered hæmatite, or over sand with lime added to the sewerage, whereby the sulphur compounds will be deposited as sulphites.

By these measures, in which it will be seen can only with difficulty, and then imperfectly, be applied after these have become mixed in the common sewerage, we have a sewerage similar to domestic sewerage, to be treated, and in which microbic decomposition can be set up readily. The results of these processes would have to be watched carefully, analysis of different effluents being carried on frequently.

5. Extend the septic tanks to at least twice their present capacity; it being remembered that the Exeter, Eng., tanks, for instance, are large enough to hold a whole day's sewerage. By this means, not only will the work of the decomposition be very greatly increased, but the expense of removing sludge from them will be lessened.

6. Multiply the artificial sand-bed filters to the extent necessary to give an effluent from them, as well as the several other beds which may receive occasionally charges of sewage of a standard equal to that already set forth as practical.

7. Cultivate flat beds frequently, so as to promote the nitrification of deposits by the thorough areating of the upper layers of the beds, and frequently pass the cultivator through the rows of cultivated crops, which may be grown in summer with profit.

8. Until such additions to the works as are here indicated, have been made, secure the use of such neighboring land upon which sewage may be pumped, and thus be prevented from flowing into the creek.

While the town has held the distinction of being the first in Ontario to have established sewage disposal works, it has, through the yearly changes of management under the different chairmen of committees, suffered necessarily from the want of continuity of plan in the development of the sewage farm; much too small amounts of money have been set apart for it, while the amount of sewage has greatly grown, and its character increased in complexity. The fortunate accident of no pumping at the sewage outfall, makes it an easy matter for the town to add to the expense of development, such an amount as the several suggested extensions may require; while the fact must not be overlooked that, like town waterworks, extension and development is always inevitable in a rapidly growing town like Berlin.

All of which is respectfully submitted.

### Municipal Ownership.

At no time in the history of the world has the want of municipal ownership been felt more than at the present time. Municipalities that have tried it have made a success of it. Why should our councillors give away for lifetime to some corporation a valaub'e franchise, such as a street railway privilege, a telephone monopoly, light or water privileges. Government ownership of railways, telegraph and telephone lines should be inaugurated as soon as possible. To give any wealthy corporation a monopoly is to crush certain small interests, to the great injury of the working man, and the wiping out of existence of the middle man. All legislation should be along the line of encouragement of government and municipal ownership. Take for example in the city of London, if the citizens were freed from taxation, or nearly so, by reason of the revenue derivable from the control of its street railway, its gas and electric lighting systems and telephones, what a boon it would be to the citizens, at least a great majority of them. How many more could afford to own their homes freed from incumbrances. Every movement along this line is for betterment of mankind and having this in view we advocate it.

### Port Arthur's Municipal Railway.

Port Arthur has recently passed a by-law authorizing the raising of $30,000 by the issue of debentures, to develop water power on Current River, near the town, the power to be used in the operation of the electric railway between Port Arthur and Fort William, and the electric lighting system, both of which are owned by the town.

### Sewage Disposal.

A by-law has been passed by the ratepayers of Stratford, authorizing the council to raise $20,000 by the issue of debentures, for the purpose of completing the sewage disposal system. Septic tanks and bacteria beds comprise the system in use, a similar method being used in Berlin, Ontario. Sewage disposal is becoming necessary in Woodstock, and septic tank treatment has been considered by the council.

City Engineer Rust, of Toronto, who last summer visited Europe for the purpose of studying sewage disposal there, has issued a report detailing the results of his investigation, as applicable to the city of Toronto. The septic tank is regarded by him as the most efficient method of breaking up sewage and preparing it for subsequent treatment by bacteria beds or other suitable means of filtration.

### Beeton Debentures.

A by-law was passed in Beeton last month authorizing an issue of debentures amounting to $7,000. Of this, $2,000 will be used to defray the cost of actions for damages; $2,000 will be expended on street improvements; and $3,000 will be applied to the extension of the municipal electric light plant.

### Thorold Improvements.

The Thorold municipal electric light plant is being extended, to provide capacity for 2,000 incandescent lamps. At the present time, twenty-five arc lamps of (nominal) 1200 candle power are used for street lighting, and 500 incandescent lamps of 16 candle power are supplied to customers, the rate being seven cents a light per week. A by-law was recently passed authorizing the council to raise $30,000 by the issue of debentures, to be expended on the construction of cement-concrete sidewalks.

### Niagara Falls Franchises.

A Niagara Falls, N. Y., Telephone Company has secured a franchise from the Town of Niagara Falls, Ontario, to establish an independent telephone system in the latter place; and similar rights have been granted the American Niagara Falls Gas Company to supp'y gas to the Canadian town, about seven miles of mains being laid for this purpose.

"You have a-telling me, John," said the old man, "that you're a'writin' of a poem—or something like that—on 'Injun summer.'"

"Yes, father—a sublime ode."

"But it's my opinion," continued the old man, "that a real, live, industrious Injun would take a tomahawk an' whirl in an' scalp some o' them trees into firewood, an' not set thar splutterin' ink over white paper with blue lines on it!"—*Atlanta Constitution.*

# Question Drawer.

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

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

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

### Authority to Issue Auctioneer's Licenses in Districts.

447.—W. J. S.—Will you please let me know who should issue an auctioneer's license, and is there a Provincial, county or district license?

Your municipality being a township in a district without county organization, section 34 of chapter 225, R. S. O., 1897, (an Act respecting the establishment of municipal institutions in territorial districts) supplies the necessary machinery in this case. It enacts that "except in the cases of townships and villages attached or belonging to a county for municipal purposes, the councils of TOWNSHIPS and incorporated villages in territorial districts shall have power to pass by-laws for the purposes mentioned in clauses 2, 3, 6, 7, 14 and 16 of section 583 of the Municipal Act." Clause 2 of section 583 of the Municipal Act makes provision for the passing of by-laws for licensing, regulating and governing auctioneers, etc.

### Adoption and Revision of Assessment Roll Under Section 42, Chap. 225, R. S. O., 1897.

448.—N. W. S.—The council at last meeting resolved themselves into a committee of the whole to revise and accept the assessment roll of 1901 for 1902. They proceeded to alter where considered necessary, the assessment of each person entered on the 1901 roll, and ordered the clerk to write up a new roll embodying the changes made, and send schedules to each person entered on roll; made the roll returnable in one month They took this action under chap. 225, sec. 42, sub-sec. 1 and 2, R. S. O., 1897.

1. Is the work legal?

2. If not legal, how should they proceed to adopt 1901 roll for 1902?

The action of the council in this case has been illegal. Sub-section 2, of section 42, is quite plain. The council may, by by-law, alter the time for making the assessment in the municipality, and it may also, *by by-law*, adopt the assessment of the preceding year as finally revised, as the assessment, etc., on which the rate of taxation for that year shall be levied. The council in this case did not do that, but they proceeded to revise the assessment roll for the present year, for the year 1902. The sub-section furnishes no authority for doing this.

### Disposition of Township School Orders—Owners of Traction Engines Should Strengthen Bridges Passed Over.

449 - W. H.—I wish to ask a few questions as to payment of moneys collected by township councils for union school sections formed of parts of adjoining townships, both townships being under municipal organization, each township having a council of its own.

1. Can a municipal council issue an order for its share of the $150 township grant due a union school section, and leave the order or keep the order laying in the hands of their township clerk?

2. The School law says, "in the case of rural schools all moneys collected shall be paid to the secretary-treasurer of the section on or before the 15th December." Now, is making out the order by the council and depositing it with the clerk of the township, fulfilling the requirements of the law?

3. What steps should the trustees of the school section take in order to secure the money due them since the 15th December, 1900? (They have already sent a note to the council asking for payment of the money).

4. Are the trustees required, by law, to send a man off into another township, 15 or 16 miles, to collect the school money from the township treasurer?

5. What should a municipal council do with a school order when it issues it?

6. In case the engine of a steam thresher of say 5,500 lbs. weight, owned in a township and travelling on the roads of the township, breaks through a bridge or crosslay, is the municipality of the township responsible for damages?

1. No. The order, when issued, should be delivered or forwarded to the secretary-treasurer of the union school section.

2. No. It should be sent to the secretary-treasurer of the union school section.

3. If the municipal council, whose duty it is to collect and pay over the school moneys under the Public School Act, neglect and refuse to do so, the Board of Public School Trustees may bring an action to recover the amount.

4 and 5. On the receipt of the order or cheque for the amount of the school moneys, the secretary-treasurer of the union school section, should present it to the proper township treasurer to be cashed; or if this is impossible or inconvenient, he should endorse it and forward it to such treasurer, whose duty it is to transmit him the amount in the cheapest and most expeditious manner possible.

6. No. Township municipalities are not bound to build and maintain bridges and culverts of sufficient strength to support the weight of a traction engine passing over them. Section 10 (1), chapter 242, R. S. O., 1897, requires persons to strengthen bridges and culverts over which they desire to take them at their own expense.

### Collector Can Distrain for Dog-Tax.

450.—J. M. D.—A person refusing to pay dog-tax, can the collector distrain for the same, "the person having sufficient property," or should he have the dog destroyed?

If the person liable does not pay the dog-tax on the collector's roll opposite his name, it should first be distrained for by the collector in the same manner as ordinary taxes, and if no distress or insufficient distress be found, the proceedings set forth in section 6 of chapter 271, R.S.O., 1897, should be resorted to

### A Case Under the Line Fences Act.

451.—J. J.—One of our ratepayers called out three fenceviewers to decide between himself and neighbor as to their line fence. The notices were sent to all the parties interested, and on the day appointed only two of the fenceviewers appeared at the line fence. They heard the parties and examined the fence and came to a decision on the matter, but they were doubtful of their having jurisdiction to decide in the absence of the third fenceviewer. The neighbor met the two fenceviewers in the clerk's office in the evening and the matter of jurisdiction was discussed there. The neighbor was asked whether they should wait until the third fenceviewer could meet them and give an award then, or would he accept the award of the two. He said he would accept their award. He waited until the award was written out and heard it read over by the clerk. Each of the disputants had to pay one-half of the cost of arbitration. The ratepayer who called out the fenceviewers has paid his half but the neighbor refuses to pay the other half on the grounds that the award of two fenceviewers is not binding or legal.

1 Is such an award legal when only two fenceviewers are present? No appeal has been made against the award.

2. Will that have any effect on the award?

3. The council has paid one-half of the costs, and has instructed the clerk to place the amount on the collector's roll for collection with the taxes. Is the council justified in its action under the circumstances?

1 and 2. We are of the opinion that the matters in dispute should have been arbitrated upon by *three* fenceviewers, (see section 4, subsections 1 and 2 of the Line Fences Act), but the award will be sufficiently signed if only two of them subscribe their signatures to it (see subsection 1 of section 7). In this case, however, since both parties to the dispute have assented to the award made by the two arbitrators and its terms, and it has not been appealed against within the time prescribed by the statute, it is now binding upon all parties concerned.

3. Yes, assuming that the council is acting in accordance with subsection 2 of section 12 of the Act.

### A Defaulting Contractor.

452.—W. C.—The township council let a contract for building two stone abutments for a steel bridge The work was to be finished by the 1st November. The council cannot very well extend the time any longer on account of the frosty weather. In the event of the contractor not having the work near completion by that time is the council liable for contractors hired help or any debt incurred by the contractor for materials for the said work? The council think it will not do to build the stone abutments in frosty weather and will stop the work when time is up. What is the best thing for a council to do in this case, the contractor having incurred a large debt for materials and hired help and has not much to show for it?

1. We do not think that the municipality is liable for the debts of the contractor.

2. The council should notify the contractor that if the bridge is not completed

by the time fixed, it will let the work to some other persons to complete it, and if they make default the council may relet it.

#### Erection New School House in Centre of Section.

**453**.—SUBSCRIBER.—Our school is far from being in the centre of the section, and is old and requires a new school. Would you be kind enough to let me know the legal way to have school in or near the centre of the section ?

If your school-house is old and unsuitable to the requirements of your school secti n, the trustees should cause a new one to be buil, as it is their duty to provide *adequate* accommodation for all the children of school age in the school section and to *build*, repair, furnish and keep in order the *school-houses*, furniture, fences and all the school property (see subsection 3 and 4 of section 65 of the Public Schools Act, 1901). If, in order to pay for the school-house, it is necessary to ra se money by the issue of debentures by the municipality for the purpose, the proposal for the loan sh uld first be submitted by the trustees to and sanctioned at a special meeting of the ratepayers of the section called for the pur ose (see section 74 of the Act). If the trustees are of the opinion that the school site should be changed to the centre of the section, section 34 of the Act gives them power to select a new school site, and enacts that they shall forthwi h call a special meeting of the ratepayers of the section to consider the site selected by them. The site so selected cannot be adopted without consent of a majority of ratepayers at special meeting, or unless settl d by arbit ation proceedings as provided in section 34, in case a majority of the ratepayers present at the special meeting differ as to the suitablility of the site selected by the trustees.

#### Regulation of the Running at Large and Conduct of Dogs.

**454**.—J. M.—1. What can be done in the way of suppressing a dog which has on several occasions attacked and bitten people who have gone to the house on business?

2. Can its owner be compelled to pay for damages sustained ?

3. Is it necessary that township councils should pass a by-law for the suppression of such dogs ?

4. Can the owner of such dogs be compelled to kill them, and if so what is the procedure ?

1. A person who is lawfully on the premises of the owner, if attacked by this dog may kill it, if necessary for his protection.

2. Yes, if he was aware of the vicious nature of the animal.

3. No. A municipal coun il has nothing to do with dogs while on their owners' premises.

4. No.

#### Method of Remedying Mistakes in Assessment Roll.

**455** —MUNICIPAL CLERK.—At the time of copying assessment roll by the assessor, a name was omitted from the roll. Said roll was confirmed at the Court of Revision by municipal council.

An appeal was made to the Court of Revision on Voters' Lists, before the Judge, to have the name entered as a voter, as an owner of property qualifying as a municipal voter. Said appeal was allowed and name added as such. Now the Judge refuses to grant order (Form 20) to allow the municipality to recover the taxes on the property.

1. Can the Judge be compelled to grant said order? (R. S. O., 1897, Vol. 1, chap. 7, sec. 40, page 82).

2. If such can be done, how would you advise to proceed ?

3. Would the reeve be the party to take up the matter, as the head of the municipality ?

When the assessor is making the assessment, he usually does it with indelible lead pencil and then makes a copy of the roll in ink for the use of the municipality, hence the term "copying assessment roll by assessor." The omission was not detected until after the assessment roll was confirmed at the Court of Revision for that purpose.

4. In case a property is omitted from the roll and no appeal is made to have owner's name placed on voters' list, would a municipal council have power to order the clerk to place the money on the collector's roll after the first of October? That is by passing a resolution to that effect.

5. In THE MUNICIPAL WORLD for October, in the calender for Oct. and Nov., you say Nov. 10th is the last day for Collector to demand taxes on lands omitted from the roll. Assessment Act, sec. 126. I do not understand that to apply. Kindly explain

1, 2 and 3. We ca not understand why the judge did not grant an order as provided by section 40, o the Voters' Lists Act. You do not state the reason, if any, why the judge refused o make an order under this section. It is not clear whether he can be compelled by mandamus to grant an ord r under section 40, for the reason that there is another remedy namely, the one provided by section 166, of the Assessment Act, which remedy we advise your council to take, because, even if you succeeded in getting a mandamus, there would, in all probability, be some costs which the council wou d have to pay beyond the costs which could be taxed if costs were given, and such extra costs might exceed the amount of the taxes chargeable against the property.

4. The property can be placed upon the roll under the authority of section 166, of the Assessment Act.

5. By a typographical error the wrong section is named in the calendar in the October number. It should have been 166 instead of 126.

#### Appointment and Removal of Municipal Officers.

**456**.—TP. C. N. P.—At the first meeting of our council, every year, we pass a by-law entitled "By-law to appoint and remove township officers, etc." worded as follows :

The council of the corporation of the Township of ——— hereby enacts and ordains that the persons herein named be and they are hereby appointed to the offices set forth opposite their respective name, in lieu of certain officers of said township, removed, viz.

| Name of officer removed. | Name of officer appointed. | Name of office. |
|---|---|---|
| John James. | Sam Smith. | Mun. Engineer. |

Does the above fill the requirements of law regarding the appointment and removal of township officers, or should there be one by-law to remove and one to appoint?

As a general rule it is not necessary to provide for the removal of the officers of the municipality, when or before appointing new ones. The appointment of the new officers is, in itself, a sufficient termination of the tenure of office of the former officials. But when the new officer to be appointed is the township engineer, under the Ditches and Watercourses Act, in view of the decision in Turtle vs. Township of Euphemia (reported on page 34 of the WORLD for 1900, March No.), a by-law should be passed by the council specially removing from office the former engineer before passing one appointing his successor. We do not think the language of your by-law shows sufficiently the intention to remove from office the former engineer. In the case of an engineer under the Ditches and Watercourses Act, he is entitled to notice of the by-law revoking his appointment, and we would advise that a copy of such by-law be delivered to him. See section 4 of the Ditches and Watercourses Act.

#### Qualification of Non-Resident Tenant.

**457**.—J. M. M.—A non-resident, "C," is assessed as tenant for lot 7, con. 4, for $1,000.

1. Does the law permit the clerk to place his name on the voters' list ?

2 If so, in which part?

If a tenant is otherwise qualified, he should not be left off the voters' list because he is at the time of making the list a non-resident. Unless this course is adopted many persons may be disqualified. The oath requires a tenant to swear that he was, on the day of the final revision of the assessment roll, a tenant. He is not required to swear that he was at that time a resident, but only that he has been a resident one month next before the election. He should, therefore, be put upon the list, so that if he should afterwards become a resident for one month before the election, he would be entitled to vote. We answered this question in the Septem, ber issue of 1899. Question No. 376. and the law has not been changed since.

#### Mode of Calculating Statute Labor on Lands Aggregating 200 Acres or More.

**458**.—J. R.—1. A is assessed for 240 acres in one road division and 100 acress in another, but on the 100 acres there is a tenant assessed with him. In computing statute labor, does sec. 109, (2) R. S. O., apply in this case, or should the work be computed on the 200 acres, the 40 and the 100 separately?

2. John Doe, owner, one-half acre—$500, in road division 1, E. F. tenant. John Doe, owner, one-half acre—$400 in road division 2, P. J., tenant. John Doe is a non resident but claims that section 109 (2) applies in his case. Is he right? In case he is right is there any way to make the tenants, E F. and P. J. perform statute labor? In this case, if Doe's contention be right, an owner and two tenants do only two days work instead of four, if computed separately.

1 and 2. We are of the opinion that section 109 (2) applies to both of these cases. We do not think that the fact that parts of the lands are rented and that the names of the tenant are bracketed with the names of the owners disentitle the owner to the benefit of the above section.

#### Closing and Diverting Part of a County Town Line.

**459**.—H. S. M.—On the county line between —— and ——, there is a bridge, over a marsh,

about 135 feet long, maintained by both counties. Bridge has been there at least fifty years. The two councils have decided to buy a road around the marsh and close the straight one up Can they be prevented from doing so, and by what means?

We are of the opinion that the council of the two counties can do what is purposed to be done in this case. See sections 622, 629. 632, and section 637, of the Municipal Act.

Liability for Building Fences Along New Road.

**460**.—W. P.—The municipal council surveyed and established a road over one year ago, along the line between A and B, the road being on B's land, there being very little fence on line between A and B; fence was burnt some years ago and was not rebuilt. B was paid for right of way and has built fence on his side of road. A thinks he should be paid for building part of fence on his side of road A large part of A's side of road is in bush. A has not asked the council to build any of the fence yet.

1. Can A compel council to build any part of the fence?
2. Can A compel B to build any part of the fence?

1. No.
2. No.

Township Councils Cannot Pass By-Laws for Licensing Peddlars.

**461**.—R. H. M.—Will you kindly say if the council of the township has power to put a license on pack peddlars or wagons coming into our township and peddling, most of them foreigners living in Windsor and Detroit?

No. The powers contained in subsection 14 of section 583 of the Municipal Act are given to the councils of counties and towns, and cities having less than 100,000 inhabitants, and to Boards of Commissioners of Police in cities having 100,000 inhabitants or more.

Payment of Clerk's Fees Under D. & W. Act.

**462**.—Clerk.—Our township passed a by-law regulating fee of clerk under Ditches and Watercourses Act. So much was allowed for each notice to party interested. Party came to my office and asked me to write out thirty-six notices. I did so. Parties met, could not come to an agreement, decided on making it a municipal drain. Petition was signed by a majority of those interested, presented to the council, and an engineer appointed to do the surveying.

1. How can I collect my money? It is now a municipal drain, not an award drain.
2. Or can I collect any?

1. There is no machinery provided by the Ditches and Watercourses' Act for compelling the person who employed you to prepare these notices to pay you the amount of your charges for doing so.

2. You cannot collect anything unless you made a contract with the party by which he agreed to pay you.

We do not think tbat the services which you performed for this party were services which you were bound to perform under the Act, and therefore the by-law was invalid in so far as it provided for the allowance of certain fees to you for these services, which it is not your duty to perform under the Act.

Non-Resident County Councillor Can Hold His Seat.

**463**—L. T.—I was elected to the county council last January, legally in every particular. Since, I have moved into the next township abont five miles from the district I represent. I am still financially qualified in my own district. Can I legally hold my seat, there being no objections as far as I know?

We are of the opinion that you can legally hold your seat in the county council until the term for which you were elected in January last has expired, namely, two years—See sub-section 3 of section 67 of the Municipal Act, notwithstanding the fact that you do not now reside in your county council division or in the county in which it is located. Section 77 of the Act provides that a member of a county council shall be a *resident* of the county council division for which he is a county councillor, but this relates only to his qualification *at the time of the election*. After an election a member of a council may resign his seat voluntarily (see section 210), or if any of the circumstances mentioned in section No. 207 arise, a member's seat in the council shall become vacant and the council so declare it, but nowhere in the Act is continuous residence in the division for which he was elected made a requisite condition to the holding of his seat for the full term for which he was elected, by a county councillor.

Liability for Pound Breach.

**464**.—V.—Township council passed by-law prohibiting cattle running at large after 7 o'clock p. m. One animal was impounded and owner came next morning to poundkeeper, demanding his cow. Poundkeeper refused till he paid fees. Owner then left, but returned another way, unnoticed by poundkeeper, and untied his cow (or he is the supposed one) and drove her down back street home.

1. Who should prosecute, council or poundkeeper, and in what way?
2. If poundkeeper, does council pay expenses of so doing, if a suit?
3. Within what limit of time should action be taken?

1. The poundkeeper or distrainor. The remedy is by action for poundbreach.
2. No.
3. Six years.

Liability for Taxes on Lands Sold for Arrears.

**465**.—Clerk.—One of our ratepayers did not pay his taxes for three years. His lots were then sold by the sheriff and were bought by the municipality. The year the lots were sold they were assessed to the original owner, who did not redeem the lots, but as soon as the township received the deed from the sheriff, he then bought them from the municipality who gave him a quit claim deed. Now what I wish to know is, is the original owner entitled to pay the taxes for the year the lot was sold or does the quit claim deed relieve him of said taxes?

If the original owner, (now the purchaser from the municipality) of the lands sold for taxes, was not assessed for these lands, for the year in which they were sold with the amount of the taxes payable in respect of them, neither he nor the lands are liable for the amount. If, on the other hand, he was assessed he is liable for the taxes.

Powers of Collector as to Unassessed Property—A Line Fence Dispute.

**466**—A. P.—1. Can a collector take proceedings against a person who owns lot 210 but is not assessed for it, therefore the said lot is not on the collector's roll, the said party when he was assessor three years ago, simply left it off.

2. Dispute about line fence. A and B own adjoining lots. A has built and repaired one-half of the fence, but B has neglected to repair the other half. There has not been any agreement made between A and B. Can B lawfully pound A's cattle or claim damages for trespass on his property?

1. No.
2. Yes.

Meaning of Ratepayers in Act for Improvement of Highways—Powers of Road Commissioners.

**467**.—A. B.—1. In sub-sec. 4 of sec. 2 an Act for the improvement of highways, page 82, it states "the county council shall then submit to the ratepayers of the county qualified to vote on money by-laws." Who are the ratepayers qualified? is it the ratepayers of townships only or the ratepayers of towns, incorporated villages and townships?

2. A township council appoints themselves road commissioners by by-law, and then passes a motion that one of their number have obstructions removed from highways, according to by-law passed by the council imposing a fine on transgressors. Can he be compelled to act or be fined for not doing so?

1. All ratepayers entitled to vote on the money by-law within the county, except those in cities and towns *separated for the county*, have the right to vote on this question.

2. No.

Default of Pathmaster—Duties of Auditors.

**468**.—S. L.—1. If pathmaster of any road-beat neglects to call out the men on his list to do their statute labor, what action has the council against him?

2. Can the same auditors audit the accounts if the books are ready in December?

1. We assume, from your statement of the facts of the case, that the pathmaster accepted the office, and afterwards neglected to perform his duties by seeing that the parties in his road-beat performed their statute labor. This being the case, and if the council of your township has passed a by-law pursuant to section 702, of the Municipal Act, the pathmaster is liable to the penalty for his default, mentioned in the by-law. If there is no such by-law in force there is no remedy.

2. We assume you refer to the auditors appointed by your council pursuant to section 299, of the Municipal Act, (as amended by the Municipal Amendment Act, 1898.) These auditors have nothing to do with the preparation or publication of the statement mentioned in sub-section 6, of section 304, of the Municipal Act. This is to be published by the council, and signed by the reeve and treasurer. The auditors have no general authority to audit the municipal books.

Compensation for Land Taken for Roads.

**469**—J. L. M.—In the township of C, the concessions were originally surveyed with double fronts, that is with posts planted on each side of the concession roads, to mark the front limits of the lots and sideroads. Surveyors were subsequently employed by the settlers to run the division lines between the lots as well as the sideroads. In many cases, these sideroads, when run in from each concession road to the centre of the concession, do not meet, forming what is known as a jog. The rule has been to connect the ends of the side-

roads at the centre of the concession by a road running parallel to the concession roads, taking an equal area of land from the owner of the lots on each side of the said centre of concession. One of these roads, four rods in width, thus connecting the ends of the side-roads, has been open and in use by the public for over twenty years, and one of the owners now puts in a claim for compensation for the value of the land thus taken from his farm. Section 663, Municipal Act, chapter 223, R. S. O., 1897, provides for compensation in case of the *opening up* of such roads. Has this owner any legal claim on the municipality after the road has been opened up and used for such a length of time, no claim having previously been made for compensation?

No. We are of opinion that the claim for compensation should have been made within one year from the date when the lands were taken for the purposes of the road, as provided in section 438, of the Municipal Act, (as amended by the Municipal Amendment Act, 1899.) In answering this question, we are assuming that the council acted under and in accordance with section 663, of the Municipal Act.

### A Drainage Assessment—A Ditches and Watercourses Award.

**470.**—A. S.—1. A drain was constructed under Municipal Act some time ago. The upper end of drain was tile. A complaint was made to council that a portion of the tile was not large enough. The council ordered the engineer to examine said portion and make a report. Council acted on engineer's report, completed the work and assessed the parties pro rata on drain. The council passed no by-law. Can they collect the money in taxes? The council has done the same on said drain on lower end this year, it being a new piece of open drain, and did not pass a by-law. Can they collect the money?

2. Is there a specified time time for passing a by-law after engineer's report is accepted by council?

3. A drain constructed under Ditches & Watercourses Act, the engineer makes award; two parties not satisfied appeal to Judge. He ratifies the award, places the extra expenses on the parties on drain. There are no witness fees outside of engineer. Has the clerk of township or council any power to add to it after the judge has divided the expenses on parties on drain?

1. If the case is one within section 74, of the Drainage Act, it is not necessary to have an engineer report upon the matter. The council may cause the work to be done, and charge the cost pro rata against the lands assessed. Even in this case, the council should have passed a by-law, but we think that the cost can be charged against the lands though no by-law was passed directing the work to be done, and the cost to be charged. If no by-law has been passed, the council had better pass a by-law, assessing or charging the cost against the lands pro rata according to the assessment. If, on the other hand, the case is one within section 75, the proceedings were illegal if no by-law was passed, and we do not think a by-law can be passed now to legalize what has been done.

2. If the council intend to adopt the engineer's report, and pass the necessary by-law they should do so as soon as is reasonably convenient after the report has been filed, but it is not bound to adopt the report at all.

3. No one has any authority to in any way alter, or interfere with an award made under the Ditches and Watercourses' Act, after it has been ratified by the judge on appeal.

### Public School Levies.

**471.**—J. M.—1. Can you kindly give me information regarding our public school rates of taxation, such as general and local school rates? These rates appear in our tax collectors lists Also how are these rates levied?

2. Is there any publication that contains full detailed information regarding our public school system in Elgin county, and especially regarding the different sources they receive revenue from?

By section 70, of the Public Schools' Act, 1901, the municipal council of every *township shall* levy and collect by assessment upon the taxable property of the public school supporters of the *whole township*, etc., the sum of $150, at least, for EVERY public school which has been kept open the *whole* year, exclusive of vacations. Where the school has been kept open for six months or over, a proportionate amount of the said sum of $150, at least, shall be levied and collected by assessment upon the taxable property of the *whole* township. An additional sum of $100, and a proportionate amount for a term of six months or over, shall be levied and collected in a similar manner for every assistant teacher engaged. By sub-section 1, of section 71, the municipal council is required to levy and collect upon the taxable property of each school section, etc., such sums as may be required by the trustees for school purposes. All moneys collected shall be paid over to the secretary-treasurer of each school section on or before the 15th day of December, in each year. Section 74 authorizes boards of rural school trustees to apply to the council for the issue of debentures for the purchase of a school site, erection of a school-house, or addition thereto, or for the purchase or erection of a teacher's residence. The township is bound to pass a by-law for the issue of these debentures, provided the proposal for the loan has been submitted by the trustees to and sanctioned at a special meeting of the ratepayers of the section called for the purpose. Such debentures are to be repayable out of the taxable property of the school section concerned.

2. The Public Schools' Act, being chap. 29, of the Ontario Statutes, 1901, will give you all the information you require as to the public school system in Elgin, and other counties in Ontario. The question is too general to give you specific information.

### A Defaulting Contractor.

**472.**—J. M.—We let by tenders a contract for furnishing and hauling gravel on townline road. The contractor promised to have the gravel put on within one month of the time of taking the contract, but he has failed to do so; but after the month's time was up he went to work and drew one load and did some work at the gravel pit and stopped, promising to be back to work in a couple of days, but has not done so.

1. Can contractor hold the contract on account of having done some work on it?

2. If contractor does not proceed with the work at once, can we let the contract to another party without leaving ourselves liable for damages to first contractor?

1. No.

2. The safer course is to notify the contractor that if the work be not completed by a certain day, (allowing a reasonable time to complete it,) the work will be relet.

### Assessment and Taxation of Government Lands.

**473.**—J. W. S.—1. The assessor for the municipality of Mc. for 1900, assessed several town lots upon the non-resident roll and resident roll that were not at the time sold by the government, but were sold during that summer. The owners now refuse to pay taxes on that assessment. Can those taxes be collected legally, or will they have to be cancelled?

2. If the lands have been sold by the government during the early part of the summer, and not assessed before the court of revision, has been closed, can they be placed upon the assessment and collectors rolls this year and taxes collected for same.

1. These lands being vested in the government at the time they were placed on the assessment roll, were improperly assessed, as they were exempt under sub-section 1, of section 7, of the Assessment Act. Their assessment was therefore a nullity, and no taxes can be levied against or collected from these lands or the owners.

2. No.

### Payment of Members of Court of Revision—Of Assessors for Attending Court.

**474.**—X. Y. Z.—1. The usual court of revision consisting of five councillors, was held in our town last spring, at which a number of appeals were heard. Subsequently at a regular council meeting, the members of the court were voted $5 apiece for their attendance. Was this a legal procedure?

2. The assessors' presence at the court was demanded. They attended and put in their bill at $5 for the day. The council refused payment. Are the assessors entitled to pay, and if so, to what extent?

1. No. Your municipality being a town, the Municipal Act makes no provision for payment of members of a Court of Revision in any municipality, except in cities having a population of 100,000 or more, and cities of more than 30,000 inhabitants and less than 100,000. See sub-section 2 of section 62, of the Assessment Act.

2. It is not part of an assessor's duty, nor is he bound to attend the sittings of the Court of Revision for his municipality. If he attends voluntarily, he is entitled to no pay for so doing. If he is compelled to attend as a witness, by summons issued by the Court, pursuant to section 69, of the Assessment Act, he is entitled to receive witness fees at the rate of seventy-five cents per day, and his proper traveling expenses, if he resides more than three miles from the place of trial. See section 70 of the Act.

### Number of Alderman in Towns of Over 5,000 Inhabitants.

**475.**—C.—Our town, divided into four wards, had, according to the Canadian census of 1891, a population of less than 5,000, conse-

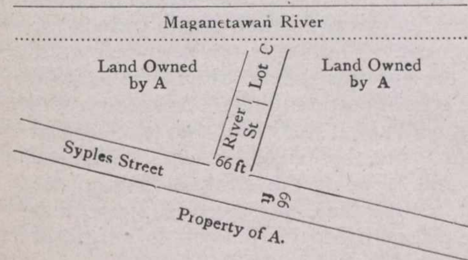
quently when ward representation was abolished we had six councillors elected by a general vote. According to the census of present year the population is over 5,000, but less than 6,000. What is our position for the elections in January next? Will it be necessary to pass a by-law previous to that date with the assent of electors, in order to continue as at present, that is with six councillors elected by general vote, or will we remain as at present until a by-law is passed, with the assent of the electors, changing back into ward representation, and if so will it be three councillors for each ward, or will our Act of Incorporation, which provided for but two councillors for each ward, still remain in effect?

It appears to me as though the act and its amendments did not make very clear provisions for towns such as ours, where the growth in itself changes our status without any action on our part.

Section 71a, sub-sections 1 and 2, applies only to towns having a population of less than 5,000, *by the last Canadian census*. Your town now has more than 5,000 inhabitants, according to the *last Canadian census*. Consequently, section 71a, sub-sections 1 and 2, have ceased to apply to your case. In the absence of a by-law passed pursuant to sub-section 3, of section 71a, the elections in your town will hereafter be governed by section 71 of the Municipal Act, sub-section 1. Except that the number of councillors to be elected for each ward will be two, (as provided by the special act incorporating your town,) instead of three as provided in sub-section 1, of section 71. It is not necessary to submit any by-law to the electors to effect this change. No legislation has, as yet, been passed *abolishing* wards in *towns*.

### Closing and Conveyance of a Street—Transient Trader's License.

**476.**—E. B.—The enclosed plan shows a street, River street, in an incorporated village. This street has never been opened for travel or in any way as a public highway by the council. The property on three sides of it, north, south and west, is owned by A. A requests council to convey said River street to him. The street being surrounded by A's property is of no use to anyone else, and no one would be prejudicially affected by the closing up of such street. Syples street is opened and travelled. In order to legally close up and convey said River street to A is it, in your opinion, necessary to carry out the provisions of sec. 632, chap. 223, R. S. O., 1897, in regard to giving notice of and publishing by-law?




2. Who are the proper parties to execute a deed of such street to A?

3. B commences business as a merchant end of June, 1901, and is consequently not assessed this year.

(a) In demanding a transient trader's license, under by-law in force for that purpose, can we date license back to the time he started business?

(b) In the event of his remaining here and being assessed next spring, will any part of the license so paid be liable to rebate on account of his taxes falling due in the fall of 1902?

1. Yes.

2. The reeve and clerk signing and affixing the corporate seal of the municipality under the authority of a resolution of the council, duly entered in the minutes.

(a.) The license should bear date on the day on which it is issued.

(b) If your municipality has passed a by-law pursuant to the latter part of sub-section 33, of section 583, of the Municipal Act, which authorizes the councils of townships, cities, towns and villages to pass by-laws for providing that the sums paid for licenses by transient traders, shall be credited to the trader paying the same, upon and on account of taxes, for the unexpired portion of the then current year, as well as any subsequent taxes, should such trader remain in the municipality a sufficient time for taxes to become due and payable by him, and in any other event to be taken and used by the municipality as a portion of the license fund of such municipality?

### An Illegal Tax Exemption By-Law.

**477**—TOWN CLERK.—1. In 1900, the council, to encourage a new industry, but without a vote of the ratepayers, passed a by-law exempting it from taxation in excess of $350.00, except ing for school purposes, on the erection of buildings to the value of not less than $4,000.00. The buildings were completed and exceeded in value that amount at the time of assessment in 1901. The assessor assessed at $350.00 only, neglecting to assess for school purposes. The clerk entered on collector's roll, levying for general purposes $350, as per assessment roll, and on direction of the council entered on the collector's roll the further sum of $4,000, on which to levy for school taxes only, thinking the new industry would pay according to the intent and meaning of the by-law. The collector served the tax schedule for these levies and the new industry has refused to pay excepting on the $350 assessment. The clerk by section 166, of the Assessment Act, has now requested the assessor to assess on the whole value of their real and personal property to recover for school taxes, proposing to serve them with new assessment schedule and tax schedule on the sums aforesaid which would be under the real value of their assessment.

1. Am I right?
2. Was the council of 1900 right?
3. What course should now be followed under the circumstances?

1, 2 and 3. This by-law having been passed since the 1st of April, 1899, on which date the Municipal Amendment Act, 1899, received the royal assent, and became law, is illegal and unenforceable, for the reason that the council did not obtain the assent to its passing of the duly qualified electors of the municipality as required by section 25, of the Municipal Amendment Act, 1899, or by section 9, of the Municipal Amendment Act, 1900. Section 166, of the Assessment Act, does not apply to this case, because the company was assessed for 1901 at $350. Section 166 applies to a case where it is found that land *has not been assessed*. It follows, then, that the company is liable this year for all taxes on $350, and in view of the fact that the by-law is illegal, the property may and should be assessed next year for its actual value.

### Remuneration of Township Councillors.—Police Trustees Not Liable to Build Bridges.

**478**—D. W. D.—1. Has a municipal council the power to make extra additions to their salaries for time spent on municipal drainage work?

2. Is it necessary to pass a by law fixing a tariff to be collected for extra time spent on municipal drainage work.

3. Can a council charge for all time taken up by drainage work, or will they have to charge for special meetings held for that purpose only?

4. In our township there is a police village, and there is a large stream passing through the village. On one of the side streets there was a bridge built by a private party some years ago. There is a new bridge required now Who should build the bridge, the police village or the township council?

1. Sub-section 1, of section 538, of the Municipal Act, authorizes the councils of townships to pass by-laws for paying the members for their attendance in council, or for paying any member while attending on committee of the council, at a rate not exceeding $3 per diem, and five cents per mile, necessarily travelled (to and from) for such attendance. If drainage matters are considered at a meeting of council, or of a committee of the council appointed for the purpose, and the council has passed a by-law under the authority of the above sub-section, the members of the council or committee are entitled to receive the allowance mentioned in the by-law, but not otherwise.

2. In order to entitle councillors of townships or committeemen to any remuneration for their services as such, a by-law must first be passed by the council under the authority of the above sub-section; but a township council has no power to provide, by by-law or otherwise, for the payment to councillors of a certain remuneration for attending to municipal drainage business only. They may, however, appoint a member of the council as an overseer of the work, and pay him for his services under the authority of section 537, of the Municipal Act.

3. Township councillors are entitled to the remuneration mentioned in the by-law of the municipality, for their attendance at only such meetings of the council or committee of the council as may be necessary to transact the business of the municpality, whether such business be the consideration of municipal drainage schemes or otherwise.

4. Section 741, of the Municipal Act, provides that the trustees of every police village may pass by-laws for letting contracts, etc., for building sidewalks, CULVERTS, etc., but the authority of the trustees does not extend to the construction, repair or maintenance of BRIDGES. This is the duty of the township council. As to what is a bridge as distinguished from a mere culvert, see our answers to questions Nos. 432 and 433, in the issue of the WORLD for October.

### Right of Telephone Companies to Use City Streets.

In the state of Minnesota the question of the right of telephone companies to use the streets for its poles, has recently been under consideration. The Supreme Court in Northwestern Telephone Exchange Company vs. City of Minneapolis, 86 N. W, Rep. 69, states the law governing the right of telephone companies as follows:

"The plaintiff has the right to use streets, but such right is subject to regulation; and if the use of any street for overhead wires, or any other placement of its lines, is injurious to public safety, convenience, comfort or utility in the management of city affairs, or inconsistent with reason, order and good government, the city has the power, under the law and its charter provisions, to compel a removal of such poles and wires from its streets, and compel them to be placed in subsurface conduits, or to otherwise regulate the business of the company so that the use of its streets shall not interfere with the rights of its citizens, but subserve their welfare, in the inestimable service which the telephone renders to commerce, civilization, and the happiness of its people."

### The Ward System in Toronto.

The system of electing city councils by wards is promotive of these abuses. It is easier for a selfish or sectional interest to influence a ward than to influence a city. In the limited area of a ward personal effo t may secure the election of a man of a small calibre, who could not under any circumstances obtain votes enough to elect him for. the city at large.

Matters were worse in old Toronto of less population, with its division into thirteen wards. No one would think of going back to that system. If we had a few years' experience of electing aldermen big enough to be known and chosen by the whole city, no good citizen would want to revive our present absurd system of six divisions of unequal size, population and property interests.

The abolition of wards and the advent of aldermen responsible to the whole city electorate would work a revolution in the administration of civic executive departments. Such men could not and would not continue the system under which incompetent and irresponsible chairmen of committees are allowed to spend money and dictate to officials who ought to be supreme in their offices, under the direction of men chosen by the people.

The ward system gives us a board of control dealing directly with the most important issues affecting the whole community, yet indebted for their positions and responsible for their actions, not to the people as a whole, but to the council representing sectional elements and interests. Would not the people elect a better board?

Would not the board be a better one if every member of it had been elected by the whole city? It would certainly be a different one. Wou'd it not be a stronger body if chosen from and by aldermen who represented the whole city? Is not the present system the cause of the notorious weakness of the board of control?—Ex.

### Casting Vote of Mayor

An election to the office of school commissioner in a Wisconsin city has been contested before the Supreme Court, and Chief Justice Cassiday's decision in the case of the State ex rel vs. Mott, 86 N. W. Rep. 569, decides the power of the mayor in a municipal council where the mayor has a casting vote in an undecided election.

The charter of the city provides for the elec ion of officials by a majority vote of the aldermen entitled to seats in the council. In case of an equal division, the mayor may give the deciding vote.

The council consisted of eight aldermen, two from each of the four wards. In May, 1900, the council took 177 ballots to elect a commissioner for the third ward. In the last ballot the defendant in this case received four votes, another received three votes, and a third man received one. The mayor then cast a vote for Mott, and declared him elected. But Cassiday, (C. J.,) holds that the only question pending before the council was "who shall be elected to the office of school commissioner for the third ward?" Upon that controversy there was no equal division of the aldermen that could be decided by the casting vote of the mayor. It would be a solecism to hold that "the deciding vote" of the mayor should only terminate the controversy in case he voted the other way.

The decision is of importance to cities incorporated under special charter. In cities under general law, it is provided by section 925-49, R. S., 1898, that the mayor shall have no vote "except in case of a tie."

### Municipal Coal.

The movement to municipalize the business of supplying commodities in common use is daily gaining strength. The latest suggestion is that towns and cities undertake to keep the people in coal. Whatever one may think of such a proposal, it is at least a very timely one and cannot fail to interest each and all. Mr. Phillips Thompson, the well known writer and speaker on labor topics, made the suggestion in a recent article: "I bought a ton of coal the other day," he tells us, "real good, hard nut coal—none of this cheap trash that burns out twice as quickly as coal ought to—and what do you suppose I paid for it? The general public pays $6 for the same article, but I got it for $5.25, as a slight tribute to the esteem in which the members of the Ontario civil service are deservedly held. To put it plainly, there is an arrangement by which government employees get their coal at the same rate at which the government contracts for its winter supply. Being a "visionary socialist," the idea occurred to me, 'Why could not the city of Toronto, which every year makes large contracts to secure the best terms for its coal supply, undertake to supply, not merely a few favored individuals, but all the citizens, with fuel at the lowest figures?" Why should the poor pay $6 or $6.50 per ton—or a much larger rate, when they buy in small quantities—when it only needs a little organization and system for the city to become general fuel provider at an enormous saving to the public. Is there anything dreamy or Utopian in such a proposition? Yes, I'm afraid there is; in fact, in the present state of public opinion, I'm sure there is. There is only one obstacle in the way—the stupidity and ignorance of the very people who would be most benefited by such a reform."—Woodstock *Sentinel Review*.

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The following report of a judgment which we extract from the columns of the Cardwell *Sentinel* confirms the opinion we have frequently expressed on the subject in these columns:

"A case of considerable interest to municipalities has just been decided in Douro. The assessors of adjoining municipalities put in their bills for three dollars each to their respective councils, for valuing a union school section. The councils paid the bills, though they were warned against doing so by a ratepayer who claimed that the respective sections should settle the amount.

One of the corporations was sued for the amount by the rate payer who obtained judgment for the money and costs. The judge held that the debt was owed by the respective school-sections and the township at large had no right to pay any part of it.

The verdict was in accordance with common sense, and it is strange that it could be looked upon in any other way. A case of somewhat similar nature occurred in this municipality some time ago. A bill for publishing the school auditors accounts was presented to the council for payment. They very properly refused it on the grounds that it should be paid by the school corporation. The account was bandied about between the two corporations but the village council at length became tired of the strain and paid the bill, for the same reason we suppose, that the girl married the fellow—to get rid of him.

Had some cranky ratepayer chosen, to sue for the money, doubtless, he would have gotten judgment."

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The village of Beeton has passed a by-law to raise $7,000 by debentures to provide for current debts, electric light extension and sidewalk construction.

# Legal Department.

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

### Re Toronto Public School Board and City o Toronto.

Judgment on motion by the board for a mandamus directing the corporation to forthwith, in the manner provided by the Public Schools Act and Municipal and Assessment Acts, assess, levy and collect upon the taxable property of the municipality a sufficient sum to pay in full the estimates sent to them on March 28, 1901, for that year. The following items were struck out by the corporation: (a) $41,000 additions to the salaries of teachers for 1900; (b) $8,212.54, made up of several sums, part of the expenses of the previous year or years, deliberately withheld by the board from last year's estimates, as follows: $593.77 for water, $279.89 for gas, $5,200 for fuel, previous to the year 1900, and $2,138.88 for text-books included in the estimates for 1900, but struck out, as alleged, in that year by the board of control with the assent of the school board; (c) $25,000 for ordinary yearly repairs and alterations to school property under the Act based upon the expenditures of the last ten years, and covering thirty-eight printed pages showing details of the contemplated repairs, but without any estimate of the probable amount of their cost; (d) $6,000 for dais and railing in board room, counters, partitions, screens, etc., in offices, but without estimates or particulars showing how made up; (e) $1,000 for "miscellaneous based on the yearly expenditure of past years," but without details; (f) $4,250 out of $11,750, for new furniture in new school-rooms and renewing furniture in existing rooms; $220 for rent of school-rooms to be used by children taken care of by charitable organization known as the Girls' Home. Held, as to item (a) that the amount being for increases to salaries of teachers already under contract passed under a resolution of the board, was properly struck out by the corporation. 1 Edward VII., chap., 39 sec. 81, requires teachers' agreements to be in writing and signed and sealed, and though salaries of contract teachers may be increased by further contract, a mere resolution is not a contract, and such increases are therefore voluntary and unauthorized. As to item (b), that it was not "expenses of the schools for the current year" within the meaning of sec. 65, sub-sec. 9, of the Act. The plain intention of the Act is that the school board shall ask in each year for money sufficient for that year, and the funds for each year's expenses are to be provided in that year, and the school boards are not entitled either to exceed the estimates or to run into debt. Such a course as pursued here is essentially wrong and vicious in principle and cannot be supported, and even if the board of control requested it to be struck out the previous year with the assent of the school board, the transaction was still illegal. as to item (c) that, though the corporation struck off $5,000 and consented to levy $20,000, they were not strictly liable to levy anything, because the estimate furnished was not such a one as complied with the law, they not having any estimate of the cost or anything before them from which the most distant idea could be formed as to whether or not the sum required was a proper one; as to item (d), that the submission to the electors of a by-law, which was defeated, for raising this and other sums did not bind the corporation, there is no direct authority in the Act for the expenditure of money in furnishing board rooms, and the corporation are not bound to levy this sum; as to item (e), that it is reasonable to suppose that in the multitude of the transactions of so large a business as that carried on by a school board, many small and unforseen expenses must be incurred, and it should not have been struck out without asking for particulars, when they were being asked for as to other items; as to item (f), that the estimates given at the request of the corporation, were *prima facie* sufficient and should have been accepted, and this sum should not have been struck out. The costs of the furniture of a school-room is not to be taken as part of the cost of "the erection of a school-house" under sec. 75; as to item (g), that it should not have been struck out. Sec. 67, taken in connection with sec. 65, sub-secs. 3 and 4, seems to authorise this expenditure. Held, also, with regard to small sums struck off a number of other items, that reasonable particulars having been furnished, they should not have been struck out. It is to be borne in mind that when proper estimates are furnished by the board, and the expenditure is within their powers, the corporation has no right to dictate to the board in the exercise of its discretion. It is no doubt an anomaly that the body which is required to levy the taxes should have so little control over the fixing of the amount, and so little check upon its application, but the legislature has thought fit for many years to give this measure of discretion to school boards, and the corporation must carry out the law. With the exception, therefore, of $50 for medals, which does not seem to be covered by the Act, the corporation should have levied all the other amounts only levied in part, and a mandamus should go requiring them to provide for the board the sums asked for, excepting those held supra to have been properly refused. Following London v. City of London, O. L. R. 284, no order is made as to costs.

### Greenlees vs. Picton Public School Board.

Judgment on appeal by defendants from order of the judge of the county of Prince Edward, refusing new trial of a plaint in first division court, brought to recover $132.03, balance of two months' salary due to plaintiff as a teacher under a written contract of hiring for one year, dated December 18, 1900. In February, 1901, a special meeting of trustees was called by requisition, upon notice, which did not state the nature of the business to be transacted, and a resolution passed giving the plaintiff a month's notice of dismissal under clause 4 in the contract, which provided for the termination by either party of the engagement "by giving notice in writing to the other of them at least one calendar month previously, and so as to terminate on the last day of a calendar month." It was provided in clause 5 of the contract that it was to continue in force from year to year unless terminated by notice, as provided by clause 4. Held, that what was done by the so-called resolution of the defendants terminating the contract and the notice to the plaintiff in pursuance of it, cannot be considered a fair or proper exercise of the power and option contained in the fourth condition, and the contract was not thereby terminated. Held, also, that the action came within the provisions of R. S. O. ch. 292, sec. 77, sub-sec. 7, and therefore the Division Court had jurisdiction. Appeal dismissed with costs.

### Regina v. Playter.

Judgment on motion to make absolute an order *nisi* to quash a conviction of Edward Playter, for, without the consent of the Board of Health of the township of York, in June last, establishing a noxious or offensive trade. The institution was started as a hospital for consumptives. It was contended *inter alia* for defendant (1) that a sanitarium does not come within the act, (2) that Dr. Playter managed the institution in question as a medical practitioner and was not carrying on a trade or business, and what he was doing was not noxious or offensive per se. The original of section 72 of the Public Health Act, under which defendant was prosecuted, is sec. 112, ch. 35, Impl. Stat. 38-9, Vict., with the addition of some other named offensive trades and the words, "or such as may become offensive." Held, following Withington v. Manchester (1893), 2 ch. 19, in its two grounds of decision, viz. (1) *ejusdem generis*, (2) that by the collocation of the sections it was manifest that the earlier set relating to "offensive trades" were segregated from those relating to hospitals and infectious diseases, that the words found in the Canadian Act do not embrace the sort of work carried on by the defendant. Order absolute quashing conviction without costs. Usual protection to magistrate.

### Re Union School Section No. 9, Arthur.

This is a motion to set aside an award of county judges, arbitrators under sec. 48 of the Public Schools Act. Held, that whole proceedings were one matter and the award could not be sustained in part, and quashed as to the remaining provisions. The disso lution of Union S. S. No. 9 was only asked for as part of a scheme to form the two new union sections; that in order to carry out the scheme as a whole, a valid petition was required from ratepayers of each of the townships to the respective councils; that the petition to Egremont was not sufficiently signed, and was invalid on that ground; that all of the petitions should have set forth the lands or lots which the petitioners wished to have formed into new sections respectively, and that none of the petitions having done so, they were all invalid; that new Union School Section No. 9, of Arthur and West Luther lies in one county, and therefore the proceedings should have been such that an appeal resp cting the formation of that section would lie to the county council of Wellington; that the petitions being invalid the Minister of Education had no jurisdiction. Order made setting aside award, with costs.

### Sawers vs. City of Toronto.

Judgment in action tried at Toronto, brought by the plaintiff, who resides at 122 Macdonell avenue, Toronto, to have it declared that proceedings to distrain, taken by defendants, were illegal; and for repayment of $17.92 paid in respect of the promises for the taxes for year 1899; and for damages for alleged trespass and assault, etc., by bailiffs of defendants. The plaintiff was not assessed for the premises which he purchased from mortgagee under an agreement to buy in 1898, which was cancelled in May, 1901. Held, that plaintiff is more than occupant, he is "owner" within the meaning of that word as used in R. S. O., chap. 224, sec. 135. He was in possession under the agreement for the whole of the year 1899, and had promised to pay the taxes, etc., for that year, and though the agreement is not under the seal of the company, there was part performance as against it, nor is there evidence showing that the terms were changed, and he became a mere tenant; McDougall v. McMillan, 25 G. P. 75 and 92, is in point as to the term "owner." See also re Flatt. 18 A. R. 1, and York v. Osgoode, 21 A. R. 173, 24 S. C. R. 282, the latter of which is clear to show that no estoppel arises to prevent the real ownership being discovered, which vested in the plaintiff, who is made liable by sec. 135 (3). "Local improvement rates" are grouped with other taxes by sec. 60, and are included in the collector's roll by sec. 129, and when his duties are defined and manner of collection provided, these are blended with and not distinguished from other assessments, and are, therefore, "taxes" to be collected: Secs. 133 to 135. Held, also, that the two bailiffs in the warrant is no objection. No warrant need be drawn up, and anyone acting as bailiff may be authenticated as such by subsequent recognition on the part of the collector. Held, also, that after first distress made in the morning, the bailiff was induced to withdraw on the production by plaintiff, who declared he was a tenant only, of a receipt for rent, but the chief bailiff having discovered later in the day the installment, it was competent for him forthwith to return and continue the first lawful taking: Wollaston v. Stafford, 15 C. B. 278; and it is doubtful whether there was any abandonment by the first bailiff quitting to consult the superior bailiff: Bannister v. Hyde, 2 Ell. & Ell. 627, and, therefore, the question of the outer or inner door need not be considered; and as to the alleged assault, one party was as much to blame as the other. Action dismissed with costs.

### Re Stratford Waterworks Company.

Appeal by the Stratford Waterworks Company from their assessment as being excessive.

Held, the statute 1, Edward VII., chap. 29, sec. 2, sub.-sec. 18 (a) and 18 (b), is not retroactive, and does not effect the assessment in question, which was made and confirmed by the court of revision before the Act came into force.

Quaere, whether even if the Act be retroactive, it in any way affects or changes the principle of assessment governing such corporations. All that is enacted is that the property shall be valued as a whole, or as an integral part of a wh le, instead as formerly, by wards separately. Thus it leaves untouched the law as decided by in re Bell Telephone Co. (1898) 25 A. R. 351; in re London Street Railway Co. (1901) 27 A. R. 83; in re Queenston Heights Bridge Assessment (1901) O. L. R. 114, that as real property, the value shall be estimated at its actual cash value, as it would be appraised in payment of a just debt from a solvent debtor, without regard to cost, revenue, its franchise, or as a going concern. This standard, by the Act of last session, is now applied to the property in its larger area as extended by the statute in question, but the standard remains the same.

Held, also, that when there enters into such value the possibility of being able at some future time to get a franchise in each ward distinct from the other wards, the evidence of witnesses fixing value by wards is too remote to prevent the application of the law as now settled; as also is the chance at some future time of getting a franchise to connect the wards one with another.

Appeal allowed, and the assessment reduced to $19,250.

### Re Board of Public School Trustees, 5, Cartwright and Township of Cartwright.

Judgment on motion by trustees for mandamus to the council of the township of Cartwright to pass a by-law under R. S. O., c. 292, section 70, authorizing the issue of debentures for $1,000 for the purchase of a school site and the erection of a school-house. Held, that the award is good on its face and there may be good grounds of waiver or estoppel, which would have afforded an answer to a substantive motion to set it aside. There are manifest objections to considering its validity on the present issue and between the present parties. The council positively refused to take upon itself the responsibility of declaring the award to be null and voil *ab initio.* Motion refused with costs.

### Jones vs. Township of Stephenson.

Notice of an accident and the cause thereof required by R. S. O., clause 223, section 606, (3), must now, by 62 Vic., clause 25, section 39, be given to each of the municipalities where the claim is against two or more so jointly responsible for the repair of the road. Leizert vs. township of Matilda, 26 A. R. 1, not now applicable. Where notice in writing was given to one township municipality of two sued as jointly liable, but not to the other, it appeared that the reeve of the latter had been verbally notified by the plaintiff and had then promised to write and had written to the reeve of the former, after which both reeves attended with the plaintiff and examined the place of the accident, and the reeve of the latter afterwards wrote to the plaintiff advising him that the township corporation did not recognize his claim because it was considered that the loss arose from the fault of the plaintiff, and all this within 30 days of the accident.

Held, that there was no waiver.

### Reg. v. Reid.

This was a motion by defendant for an order nisi to quash conviction of defendant for selling milk at the city of Ottawa contrary to by-law, which requires vendor to procure a test of every milch cow by a registered veterinary surgeon for the diagnosis of tuberculosis. The by-law is alleged to have been passed, pursuant to R. S. O., ch. 250, providing for inspection of milk supplies in cities and towns which Act, pursuant to the terms of section 4, sub-sec. 3, add to 61 Vict., chap. 23, sec. 22 (O.), and 62 Vict. (2), chap. 23, sec. 53 (O.), has not yet come into force. Order made.

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"We might as well come to an under standing at once," said the angry husband. It's hard for you to hear the truth, especially from me, but"—

"Indeed it is," interrupted the patient wife. "I hear it so seldom."