

THE MUNICIPAL WORLD

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Calendar for July and August, 1898.

Legal, Educational, Municipal and Other Appointments.

JULY.

1. Dominion Day, (Friday).
All wells to be cleaned out on or before this date.—Section 122, Public Health Act, and section 13 of by-law, schedule B.
Last day for County Council to pass a by-law that nominations of members of Township Councils shall be on last Monday but one in December.—Municipal Act, section 125.
Before or after this date Court of Revision may, in certain cases, remit or reduce taxes.—Assessment Act, section 74.
Last day for revision of rolls by County Council with a view to equalization.—Assessment Act, section 87.
Last day for establishing new high schools by County Councils.—High School Act, section 8.
Treasurer to prepare half yearly statement for council.—Section 292, Municipal Act.
Treasurer to prepare statement of amount required to be raised for sinking fund to be laid before council previous to striking annual rate.—Municipal Act, section 418, (4).
5. Last day for service of notice of appeal from Court of Revision to County Judge.—Assessment Act, section 75.
Make returns of deaths by contagious diseases registered during June.
14. Last day for completion of duties as Court of Revision in Shuniah.—Assessment Act, section 73, sub-section 19.
15. Last day for making returns of births, deaths and marriages registered for half-year ending 1st July.—R. S. O., chapter 44, section 11.
20. Last day for performance of Statute Labor in unincorporated townships.—Assessment Act, section 122.
31. Last day to which judgement on appeals, Court of Revision, may be deferred, except in Shuniah and other districts.—Assessment Act, section 75.

AUGUST.

1. Last day for decision by court in complaints of municipalities respecting equalization.—Assessment Act, section 88
Notice by Trustees to Municipal Councils respecting indigent children due.—Public School Act, section 62, (8); Separate School Act, section 28, (13).
Estimates from School Boards to Municipal Councils for assessment for school purposes due.—High School Act section 14, (5); Public School Act, section 62, (9); Separate School Act, section 28, (9); section 32, (5); section 55.
High School Trustees to certify to County Treasurer the amount collected from county pupils.—High School Act, section 14, (9).

VOTERS' LISTS BOOKS.

AS REQUIRED BY THE ONTARIO VOTERS' LISTS ACT, 1898.

3 The Ontario Voter's Lists Act was amended at last session by adding thereto the following section:—

9a.—(1) The clerk of the municipality shall keep a book in which he shall enter particulars showing the day on which the copies of the alphabetical list were posted up by him and were transmitted to each of the persons mentioned in sections 8 and 9, and also whether such copies were delivered personally or transmitted by post. There shall be added to each such statement of particulars an affidavit or statutory declaration verifying the same.

(2) Any clerk who fails or omits to comply with the provisions of this section and of sections 8 and 9 shall for each omission incur a penalty of \$200 and shall also be liable to be imprisoned for a period of three months in default of payment.

We have prepared a suitable book for this purpose which will last any municipality for ten years. Price, 50 Cents.

300. Village Council and Burying Ground	305. Municipal Elections—Clerk's Vote—
301. Destroying Noxious Weeds—Court of	Assessment Tam Bark, etc., on Rail-
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302. Re Tax for Statute Labor not Per-	Declarations of Office.....
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Assessment.....	308. Voters List—To Make Up Deficiency
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The Municipal World

PUBLISHED MONTHLY

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

K. W. McKAY, EDITOR,

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

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Box 1252, St. Thomas, Ont.

ST. THOMAS, JULY 2, 1898.

The city of Chatham has decided to purchase a steam roller and rock-crusher.

The Berlin Town Council will publish the assessment roll in pamphlet form, including list of all exempted property.

The North Toronto Council has appointed W. J. Douglas, town clerk, to act as assessment commissioner without extra salary.

The June session of the Grey County Council was held at the town of Meaford. Mayor Hamill presented an address of welcome.

The Hamilton *Times* refers to County Clerk Jardine, who officiated for the first time at the June session, as "the council's elocutionist."

The Bell Telephone Company has opposition in Windsor, and are making an effort to secure a renewal of an exclusive franchise. It costs the company \$12 per annum to operate the 'phones.

The Owen Sound *Times*, referring to the high fences in front of town residences, says:

"Did it ever occur to the citizens the heavy tax the maintenance of fences in front of their lawns involves, and that in a town of the size of Owen Sound this should not at all be necessary? It is a matter of common remark by visitors from many Western and Southern Ontario towns that Owen Sound is the "most fenced-in" place they had ever seen. To people who are accustomed to seeing the lawns extend out to the sidewalks—and the sidewalks are now more frequently placed outside the shade-tree line—the sight of a high fence, or even a low paling, is a novelty. But where cows are allowed to run at large, it would be impossible to dispense with fences, and the question which is to be solved is whether it would not cost less to rigorously enforce the by-law against cattle running at large than to erect and maintain miles of fences, which only depreciate the value of the property upon which the fences are.

Committees appointed by township councils to report on bridges, culverts and other matters would do well to make their reports in writing when convenient, and always when the information may be of use to their successors.

The Oro Township Council reports show that they were unable to consider all of the applications for the road machine, and that thirty-six days' work will be performed chiefly on road divisions that have not formerly had the use of the grader.

The Perth County Council have ordered that inmates sent to the House of Refuge must be provided with suitable clothes at the expense of the municipalities sending them, said garments to consist of one complete suit, underclothes, boots, socks and hat.

The Wellington County Council refused to endorse the Mount Forest waterworks debentures—\$25,000—although it was stated that the county would be running no risk and the town would get \$1,000 or more on the strength of the county's name.

The wardens of York and Ontario Counties, accompanied by the members of their councils and invited guests recently enjoyed a pleasant excursion to Niagara Falls. Other county wardens would do well to show their appreciation of the honor conferred in a somewhat similar manner.

After the Assessment Roll has been finally revised and corrected the clerk of each local municipality within the county shall within ninety days, transmit to the county clerk a certified copy thereof under a penalty of not less than ten dollars and not more than twenty dollars, Assessment Act, section 83.

We notice that town and village councils are in receipt of the annual complaint from the owners of vacant lots that their property is being used as a dumping ground by scavengers. The councils of adjoining townships are opposed to the use of the roadsides for this purpose, the Municipal and Health Act should be amended by making it compulsory for every urban municipality to provide a dumping ground for refuse.

A motor car is to be used for the purpose of a daily mail service between Toronto and the Don post-office, calling at Todmorden and Doncaster. The Don post-office is eight miles from the city. The service begins on Dominion Day. This will be the first case in America of a motor van being utilized for mail services. Towns not located on a railway can by the construction of good roads to the nearest station and the use of motor cars enjoy all the privileges of rapid transit at a moderate cost.

A Good Example.

The York County Council Chamber was renovated previous to the June session, an exchange says:

Everything was arranged in apple-pie order, a new oilcloth laid down, the walls fresh papered, the ceiling painted, the platform to the throne recarpeted and the canopy of the throne itself, oh! what a beauty! The chair, newly upholstered in royal blue with royal, blue damask hangings, decorated with large tassels and the crown itself received a coat of red and bronze paint. Altogether the chamber has a very pleasing effect, and the caretaker, Mr. Lawrie, did not spare any pains in filling the windowsills with palms and hyderangers, and warden looked as though he were heir presumptive to a higher throne, except only for the County of York.

When the warden called the council to order each one of the councillors and officials wore a button hole bouquet of roses.

The Wellington County Council adopted the following report on the communication from the County Council of Lanark re committal of indigents to goals: We beg to express our approval with the hope that every county in the Province will find accomodation for their poor where they will not be mixed with and hardened by criminals.

Municipal finance is a subject usually of little interest, but principally because the statistics given are confused, inaccurate and meaningless. Professor Tooke, in *Municipal Affairs* for June, shows why this is so, and pleads for state audit of local accounts in order to reduce the accounts to a uniform basis and thus secure publicity, greater interest and fewer cases of embezzlement. The experience of those states that have tried this plan shows it to have worked very satisfactory.

In a recent issue of the *Leader and Record* published in Deer Park, the roads of York Township are referred to in an article by "Fritz" who says:

No other municipality in the County of York—perhaps in the province—has spent as much money on roads as York, and I don't think there is another township anywhere within a radius of one hundred miles which has worse roads.

The taxes annually levied by the Township of York have reached enormous proportions—equivalent to more than ten dollars per head on every man, woman and child in the municipality! This tax averages more than \$1.32 on every acre of land in the Township of York.

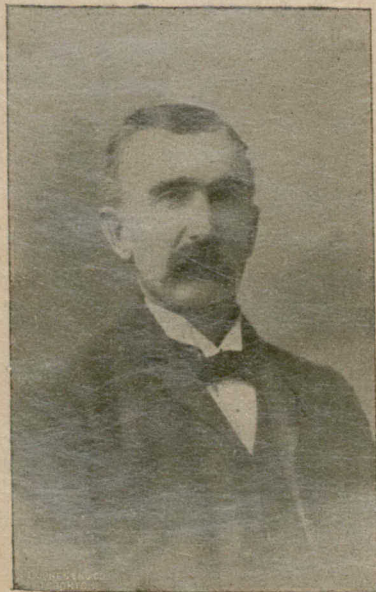
"Fritz," who was on a bicycle trip formed a better opinion of the roads in other townships passed through and says:

In the Township of Vaughan I found the roads somewhat better than in York; but the roads in King Township are away ahead of either. They have a better system of road-making in the latter municipality, and they give more careful attention to repairs. The people seem to take pride in keeping their leading roads in good shape; and, as a matter of fact, the King Township roads cost much less proportionately. In York the cry appears to be, "How much money can I make on this job at the least possible expense to myself?" But in King, the cry is changed to "How can we make the best roads at the least possible expense to the Township?" Quite a difference; and the results are quite different also!

Municipal Officers of Ontario.

Clerk, Township of Toronto Gore.

Mr. Harrison was born in the township of which he is now clerk, in 1847, and



MR. N. HARRISON.

received a good public school education. He travelled extensively in the United States in 1866 and 1867, when he returned home and engaged in farming. He was appointed clerk in 1874, and in addition to his municipal office, is now a justice of the peace, commissioner, conveyancer, etc.



MR. A. H. WATSON.

Clerk, Village of Creemore.

Mr. Watson was born in Georgetown, Ont., in 1854, where his father carried on a tannery. He learned the printing trade

on the Meaford *Monitor*, of which he was afterwards joint proprietor with the founder, Dr. Watt, M. P. P., British Columbia. In 1885 he purchased the Port Elgin *Free Press*, and afterwards the Blythe *Standard*, which he conducted for a year or more. In 1892 he came to Creemore as proprietor of the *Mad River Star*. In 1893 he was appointed village clerk.

Clerk, Township of Erin.

Mr. Young was born in Lanarkshire, Scotland, in 1834. He came to Canada in 1851. He attended the Provincial Normal School in 1857, and received a second-class Provincial Certificate, after which he taught school for a period of thirteen years. He then purchased a



MR. THOMAS YOUNG.

farm in Erin, where he still resides. He was township auditor for thirteen years, until 1881, when he was appointed township clerk. Since 1893 he has been clerk of the Fifth Division Court of the County of Wellington.

Clerk, Village of Brighton.

Mr. Morrow was born in the Township of Brighton in 1857, where he resided until 1882, when he moved to the Village of Brighton. He was for some time engaged as a general travelling agent for some of the leading implement firms, and is at present conducting a similar agency, combined with fire insurance. He was appointed clerk of the village in 1892, and at the County Council election was nominating officer for District No. 1, County of Northumberland.

Clerk, Township of North Dumfries.

Mr. Wrigley was born on the farm where he now resides in 1849. He received the greater part of his education in the public school, and finished up with a course at the Canada Literary Institute, Woodstock. He has been in municipal life for the last nineteen years. He was



MR. JOSEPH WRIGLEY.

elected councillor in 1880 and warden in 1887. In 1889 he was appointed clerk and treasurer, which position he now holds. In addition to his municipal offices, Mr. Wrigley is secretary-treasurer of the Ayr Farmers' Mutual Fire Insurance Company. He has always taken considerable



MR. J. H. MORROW.

interest in educational matters, and has been a school trustee and secretary-treasurer for some eighteen years. Mr. Wrigley is a successful farmer, and his various duties make him a busy man.

The Public School.

By W. Atkin, Esq., Inspector of Public Schools,
County of Elgin.

IV.

ORGANIZATION OF THE RURAL SCHOOL
TRUSTEE BOARD.

Prior to 1896, in a large number of rural school sections, there was no formal organization of public school boards. After the annual school meeting the third year trustee, by right of custom, took charge of the books of the section and acted as secretary-treasurer. In other sections it was not uncommon to find some leading ratepayer had been trustee as long as twenty years and that the duties of secretary-treasurer was allowed, without resolution of the Board, to remain in with him. The organization was informal and unbusiness like, and no minute of the proceedings was kept.

The act of 1896 definitely provides for the formal organization of the board.

This act requires that the first meeting of the Board shall be held on the first Wednesday after the annual school meeting at the hour of four o'clock in the afternoon, at the school house. The organization consists in the election of a chairman, a secretary and a treasurer, or a secretary-treasurer.

The object of fixing the place of the first meeting at the school-house is, that the trustees may for once in the year at least, visit the school property that they may see its condition.

It is intended that at this meeting they should examine the school house, out-buildings, fences, gates, walks, school furniture, maps and apparatus, not forgetting the library, to ascertain what repairs are necessary. They are also expected to make suitable provision for lighting fires, sweeping and dusting the room, making paths through the snow from the gate to the house and from the house to the wood-shed and water closets, and for keeping the houses in a cleanly and sanitary condition by appointing some person for the purpose. Again by meeting at the school-house early in the term an opportunity occurs for consulting with the teacher as to equipment and supplies.

Subsequent meetings are to be held as the Board may deem expedient.

SECRETARY-TREASURER.

The treasurer or secretary-treasurer, who may be a trustee, shall give such security as a majority of the Board may require. If a majority of the Board neglect or refuse to take security from the treasurer, on the demand of any trustee (such demand being duly entered in the minutes) such trustee may be free from any personal liability in case of the default of such officer.

The treasurer shall receive all moneys of the section and disburse the same as the trustees' order, keeping an accurate account. He shall produce all papers and money belonging to the section

when called for by the trustees, auditors or other competent authority.

The secretary or secretary-treasurer is requested to keep a full and correct record of the proceedings of every meeting of the Board in the minute-book provided for the purpose by the trustees, and to see that the minutes are signed by the chairman or presiding trustee.

He shall also call a special meeting of the Board, when requested in writing by two trustees, or petitioned by ten rate-payers. It is the secretary's duty to prepare, for the annual meeting, a report for the year then ending, containing among other things, a summary of the proceedings of the trustees during the year.

Other duties devolving on the secretary have been referred to in a former number.

No act or proceedings of a rural board of trustees, shall be binding on any person affected thereby, unless adopted at a regular or special meeting at which at least two trustees are present and notice of which has been given by the secretary or by one of the trustees to the others, either personally or in writing, and a minute of such act or proceeding is made in writing and properly signed by the chairman or presiding trustee.

Handy Form of Reeve's Order on Treasurer.

A handy form of reeve's order on Treasurer has been prepared by Mr. J. H. Morrow, clerk, village of Brighton. The treasurer signs and dates all the cheques and the parties receiving them from the clerk draw their money from the bank without the trouble of calling on the Treasurer. The books are made up with a blank sheet between the orders, which are filled in with an indelible pencil and carbon paper is used to make a copy on the blank sheet for the clerk's office.

Mr. Morrow says the people are pleased with the system, which is most convenient for both himself and the treasurer.

The order which is not larger than an ordinary bank cheque reads as follows :

CORPORATION OF THE VILLAGE OF
BRIGHTON.

Pay
..... or Order
.....
..... DOLLARS,
100
.....
..... Clerk.
..... Reeve.

STANDARD BANK OF CANADA.

BRIGHTON,.....

Please pay bearer amount as mentioned in above Order and charge to Treasurer's account.

Treasurer Village of Brighton.

Newmarket Electric Light.

(Newmarket Era.)

Ever since the Electric Light By-law was carried by the vote of the people there has been an anxious fear on the part of the minority that it was going to increase the burden of taxation ; and the numerous bills presented to the council for electric light supplies, coal and wood, raised quite a suspicion in the minds of many who supported the enterprise that it would not give the financial return that its promoters advocated. In order to ascertain the exact position of affairs, Mr. J. A. Bastedo, a competent accountant, was instructed to go thoroughly into the matter and ascertain every detail of expenditure and income. This occupied a good deal of time during the past three weeks and his report was presented to the Council last Monday evening, when much satisfaction was expressed at the result.

Before putting in the electric plant the town was paying \$500 per annum for street lighting, and only 12 arc lights were used.

For the year 1897 the revenue from incandescent lighting paid all running expenses, the principal and interest on the debenture debt for this purpose for the year, and it only cost the town \$205 for the lighting of the streets by 23 arc lights, which sum also includes the lighting of the council chamber, town hall and caretaker's residence. In other words the Municipal Electric Light System has given the town double the light and saved in taxes \$395 the first year.

The figures are as follows :

Cost of building, plant, wiring streets, etc	\$11,482 11
Cost of installing and incandescent supplies	1,364 98
	<hr/>
	\$12,787 09
Original Vote	\$10,000 00
Bonus on debentures	158 00
Received for installing	1,296 41
Stock on hand	291 56
Cost of Installing Town Hall, Council Chamber and Caretaker's residence	133 55
	<hr/>
	\$11,879 52
Excess of expenditure on capital account	907 57
	<hr/>
	\$12,787 09

COST OF RUNNING IN 1897.

Coal and wood	\$ 880 69
Oil and Carbons	110 00
Wages	500 00
Debenture and Interest	735 81
Interest on excess of expenditure	50 00
	<hr/>
	\$2,276 50

REVENUE FOR 1897.

Received for incandescent lighting ..	\$2,071 17
Contract cost for street lighting	805 00
Rate for lighting Town Hall	50 00
do do Council Chamber ..	20 00
do do caretaker's residence ..	12 20
	<hr/>
	\$2,958 37

The vehicle that uses wide tires is contributing its share toward better highways.

ENGINEERING DEPARTMENT.

A. W. CAMPBELL,

O.L.S., C.E., M.C.S., C.E.

Recent Road Legislation.

The State of Massachusetts is one of those which have taken advanced steps in road improvement. On petition of a county, the State Road Commission may, with the assent of the Legislature, adopt any road within the county as a state highway. Except that the grading and bridging is done by the county, the work thereafter, both construction and maintenance, is under the authority of the State Commission. Also on petition of two or more cities or towns, a road between them may be made a state highway. The State Commission is composed of three commissioners, who compile statistics, make investigations, advise regarding road construction and maintenance, and hold public meetings for the discussion of road matters. One-fourth the cost of construction is paid by the county, the remaining three-fourths being paid by the state. In 1894 the state spent \$300,000 in this way, in 1895 \$400,000 and in 1896 \$600,000. It is intended that ultimately about one-tenth of the entire road mileage will be built as state highways.

In Michigan, upon a majority vote of the ratepayers in any county, a county road system may be adopted. A board of commissioners, five in number, are elected by the people to lay out and construct certain of the leading roads, to be paid for and thereafter maintained by a county rate.

A bill has just passed the New York State Legislature providing that, on the petition of a county council, certain roads may be adopted as state roads. The petition is first presented to the State Engineer. If he approves of the section of road thus sought to be improved he prepares plans, specifications and estimates. These are presented to the Legislature, and if approved by that body fifty per cent. of the cost of construction is paid by the state.

The New Jersey highway law provides that, on the petition of the owners of two-thirds of the land bordering on a road, the State Commissioner of Public roads will cause the road to be improved in accordance with plans and specifications prepared by him, subject to the approval of the Legislature. The owners of the land affected by the improvement pay one-tenth of the cost, the county pays six tenths, and the state three-tenths.

Connecticut has introduced a plan of highway improvement providing for the appointment of three State Commissioners. When a township votes in favor of constructing a road under the provision of the State Highway Act specifications are prepared and submitted to the State Commissioners. If the commission approves the township council lets contracts for the work, to be performed under the super-

vision of the State Commissioners. One-third of the cost is paid by the state, one-third by the county and one-third by the township. The expenditure by the state in this way is limited to \$75,000 annually.

The State of Rhode Island has appointed a Commissioner of Highways. When a council represents to a commissioner the need for improving a certain road an examination is made by him. If he considers the work necessary he prepares plans, specifications and estimates, and reports to the municipalities affected; also to the State Legislature as to the proportion in which the expense should be met by the state and the municipalities benefitted. If the State Legislature approves the work is performed by contract.

Vermont and California also contribute largely in the form of state aid, while Indiana, Kentucky and others contribute to a less degree. Only the bare outlines of the systems have been stated, with the object of showing the prominence the question of road improvement has attained of recent years. All the foregoing laws have been adopted within the past five years. In all these systems safeguards are placed to prevent the expenditure exceeding, for any state or any locality, certain reasonable limits, according to the requirements and ability to meet the payments. In most of the states the tax is so levied that the towns and cities pay the greater portion of the cost of state road construction; for example, in the State of New York it is estimated that the people outside of the towns and cities pay only ten per cent. of the cost.

A Report on Road and Street Construction.

The second annual report of the Provincial Instructor in Roadmaking has just been issued from the Ontario Department of Agriculture. As last year, the aim has been to place before all interested in municipal affairs a practical and workable digest of the principles which should be read carefully by every councillor, municipal officer and every citizen who takes an intelligent interest in public matters. The report opens with a plea for good roads. Following this is an article dealing with practical country roadmaking. A feature of interest comprises extracts from statements received from municipal clerks, engineers and councillors of cities, towns, villages, townships and counties. Town streets are dealt with in a report to the city of Guelph, extracts from a report to the city of St. John, N. B., and a form of a by-law for the frontage tax system. Beside numerous pen drawings, the report contains eight pages of photo-engravings illustrating country roads, and broken stone, asphalt and vitrified brick pavements. Copies may be had on application to A. W. Campbell, C. E., Provincial Instructor in Roadmaking, Parliament Buildings, Toronto.

Municipal Ownership.

The private or toll road, the well or spring, the private cistern, the tallow dip or oil lamp, develop in a modern city into great public needs, which can be handled only in an organized way. Among the facilities—answering to such needs are streets, sewers, the supply of pure water for drinking and for steam, and of other water for flushing and for fire use, lighting by gas or electricity, telegraph and telephone communication, the supply of power through conduits, street transportation—surface, elevated or underground—pneumatic tubes and postal, messenger or parcel service.

Good roads, it is conceded, must be provided by the commonwealth, as also sewerage; water is usually, though not always, considered a municipal function; lighting, communication and transportation are on debatable ground; there are few in this country who approve of public bakeries or storehouses, although bread is a necessity of life. Somewhere within this range is the point where democracy becomes socialism. It is important to limit the function of the municipality at that point, and not to be misled by the phrase that "a city is a business corporation."

The real key to what is called a municipal industry is in this fact: As the whole arterial system of the human body radiates from one central supply station, the heart, so the supply of water, gas, electricity, telephone communication, etc., in a great city, to be constructed and operated at best advantage and at least cost, must radiate from one or more central sources of supply, using the streets as arteries. Here competition involves duplication of investment, increased waste, multiplication of operating expenses; in short, economic loss instead of gain. A unified street railway system, with its advantages of transfer has the same economic advantage over independent lines. The inevitable trend in all these cases is, therefore, toward consolidation instead of competition. It is often cheaper to throw parallel systems out of use than to continue the waste of double operating. Competition in such cases does not act to reduce prices, except by the cut-throat competition of rate-cutting, which involves a final loss instead of a public gain. If three gas mains exist where but one is needed there is three times the investment cost and three times the operating expenses, and therefore prices are higher; and in the end usually one survives and the other two are a dead loss.

"This paper says," observed Mrs. Chugwater, "that Mr. Jones was then nominated by acclamation."

"Well?" said Mr. Chugwater.

"Who is 'acclamation,' and why don't they print his name with a capital A?"

Mr. Chugwater looked intensely wearied, but restrained himself and said nothing.

A Forestry Report.

Last month the MUNICIPAL WORLD was privileged to review in its columns a report of the Forestry Commission. Another valuable document on forestry has appeared in the annual report of the Clerk of Forestry for the Province of Ontario. The report is a brief one, but in character is most interesting and instructive. It contains a review of the steps taken since 1890 toward the establishment of forest reserves, a question dealt with by the Ontario Government at its last session. Farm forestry receives due attention in an article dealing with the business view, its relation to dairying and fruit growing, planting waste lands with trees, forests and climates, loss of moisture occasioned by forest destruction, the shelter offered by forest belts, and the natural reproduction of trees. With respect to the care of woodland, the report says: "Once the forest is in good condition the axe is the only tool required to keep it in that condition. The over-ripe, dead and crooked trees should be cut out to allow room for a more profitable growth. If the underbrush comes up too thick it should be thinned out from time to time to give the survivors room. Nature would do this in time, but her process is slow and it is profitable to assist her.

As the young seedling trees grow up they need more light, and gaps must be made in the crown canopy by taking out some of the older trees. Herein the skill of the trained forester is displayed, but anyone, by exercising his common sense, may succeed in vastly increasing the annual growth of timber on his wood lot.

It should be remembered that trees do not usually bear seed every year and in thinning out, with a view to securing a new crop of young trees in the open space, regard should be had to the presence of seed on the remaining trees.

Where it is found necessary to transplant, quite small seedlings, not over a foot in height, should be used, and they should be transplanted early in the spring before the sap has begun to flow, or in the fall after it has ceased.

Further articles included in the report are those on the birch tree, the tussock moth, the spruce gall-louse, and manufacturing development. Copies may be had on application to the Bureau of Forestry, Parliament Buildings, Toronto.

The recent investigation regarding the source of the typhoid fever scourge in Philadelphia traced the contamination of the water supply to a defect in a sewer, which polluted the water pumped into the reservoir. The committee of physicians who appeared before the mayor declared an epidemic of typhoid as being nothing less than a crime, that it could be prevented, and the efforts should begin at once. They recommended the installation of a filtration system with all possible speed.

Well Water.

While the water obtainable from under ground supplies has the same origin as that of rivers and streams, *i. e.*, the rainfall, the matter of protection against pollution is different in the former case from that which is obvious in the latter. The impossibility of insuring against contamination all the water which may ultimately enter a well renders it necessary to know whether natural filtration will take place in a degree sufficient to remove the bacilli of disease.

The investigations of Pettenkofer, the researches of Hauser, and the experiments of Martin and Robertson, tend to prove that typhoid and cholera bacilli can flourish only near the surface and in a polluted soil, and Fraenkel shows that the subsoil is free from germs even when the soil above has been contaminated for a long period. Dr. Thresh's own investigation in sand at various depths shows that very few organisms are found at a depth of four feet, none occurring at a depth of five feet. In fissured strata, of course, these conditions do not hold good, and in such cases the inflow from possible sources of contamination must be carefully prevented. The principal difficulty with shallow wells lies in the absence of precautions against pollution, but there is no good reason why this should be so. Although the use of shallow wells sunk in populous neighborhoods is not to be commended, there is very little doubt that in many such places a perfectly safe water supply may be derived from the subsoil. The essential features are the prevention of the entrance of water at any point less than six feet below the surface, and the absence of any cesspool within the area of the zone of drainage, say, from forty to sixty feet distant.

Because well water is clear and shows no physical effects of pollution, it is often assumed that purification is complete in passing through the strata of earth, sand and rock, but such an assumption is far from being a safe one to make. Rock strata often contains fissures in which water runs long distances without any opportunity for filtration, and being beyond the action of light and air the ordinary purification of flowing water is not secured. This is also true in coarse gravel strata. Pollution has been traced many hundred feet in such strata. It is often impossible to locate a zone of pollution for a well, even if comparatively shallow, but a study of each case should be made and the attempt at location made, that the continued purity of water may be assured, if possible. In all cases frequent examinations of water should be made that entrance of impurity may be detected promptly. The most frequent source of pollution in wells is the entrance of surface water, or of polluted water from strata near the surface through defects in the casing of the well which was intended to cut off such water.

Government Reports and Blue-Books.

Government reports are a source of information the value of which is not sufficiently recognized. They are prepared by experts in the various branches, are in nearly every instance the best and most reliable source of information, are adapted to local subjects, circumstances and requirements. A partial List of those published by the Ontario Government will, perhaps, indicate the scope covered by these pamphlets.

Issued by the Department of Agriculture are reports of the Agricultural College, the Bee-Keepers' Association, the Dairymen and Creameries Association, the Farmers' Institutes, Fruit experimental Association, Fruit Growers' Association, Bureau of Industries, Live Stock Association, and reports on roadmaking, entomology and factories.

From the Department of Crown Lands come reports on mining, forestry, game and fish, surveys and new lands, and insurance.

From the Provincial Secretary's Department are issued reports on health and vital statistics, prisons, asylums, gaols, houses of refuge, hospitals, blind, deaf and dumb institutions, and neglected children.

From the Department of Education come full discussions of matters pertaining to common schools, high schools, collegiate institutes, colleges and universities, of utmost value to teachers. The archaeological report comes under this department as well.

Under the department of the Provincial Treasurer are prepared reports on liquor licenses, insane asylums, division courts and the annual public accounts statements.

These do not include by any means all the annual reports nor a large number of special reports, not of regular annual occurrence, which appear from time to time as the public need requires, on questions of temporary interest. From the Dominion Government reports may be had on a wide list of subjects. Copies of these can be obtained, free of charge, by any person applying for them by postcard until the supply is exhausted, and forms a source of accurate and carefully prepared information of which every citizen should avail himself.

Municipal Hygiene Certificates.

The trustees of Rutgers College, in New Brunswick, N. J., have decided to institute examinations and to grant certificates in municipal hygiene to officers of local boards of health, sanitary, factory and plumbing inspectors and those who may seek appointment to these places.

The Indianapolis Health Board has ordered the discontinuance of the daily collection of pencil and pen holders in the public schools as a means of preventing the spread of contagion.

The Pollution of Water and Its Correction.

From time immemorial running water has been used for two separate and antagonistic purposes, namely, those of water supply and removal of refuse, and it is a curious fact that the earlier sanitary legislation is directed towards the removal of refuse by sewerage or otherwise, rather than to the provision of pure water, and that up to the present date the latter is permissive, the former compulsory. It is necessary under the circumstances, to enunciate the truism that water is provided in the first place for dietetic and cleansing purposes, and that the removal of the refuse by its means must be subordinated to this first and most important requirement.

It must be presumed that there is no such thing as pure water in nature. Even rain-water collects impurities, harmful or otherwise, from the atmosphere, and has ceased to be pure before it touches the ground by which it is further contaminated with animal, vegetable or mineral matter, the amount varying with other conditions until it is found that the washings of a street may be more highly polluted than the contents of a sewer. When the water touches the earth, if the surface be permeable, reaction takes place and the soil tends to remove the animal and vegetable impurities collected in the water; and to substitute others of a mineral character. Water which has percolated through clean soil and has reached its underground reservoir, has parted with nearly all but its mineral impurities.

Deep well-water, though frequently hard is, for the above reasons, generally free from the presence of many micro-organisms. This very condition, however, lays it open in a remarkable degree to the attacks of pathogenic germs, if any should find access to it. The ordinary organisms present in water appear to be at war with those of dangerous character, and in their absence the latter have a free field. The same thing may be said of moorland waters, drawn from rocky districts, while much moorland water contains vegetable matter derived from peat, which renders the water unsightly, and is apt to produce diarrhoea in those unaccustomed to its use. The great polluting element is man, whether considered as an individual, or an aggregation of individuals, or as a manufacturer; animal pollution holds quite a secondary place.

The most serious forms of pollution generally arise from the sewage works of towns or villages, many of which are so situated that the acquisition of lands suitable for the satisfactory disposal of sewage, and the production of a relatively pure effluent, is difficult; sewage farms or disposal works are seldom of sufficient extent to deal with more than the dry weather flow; therefore, in wet seasons the sewage is only very partially purified, for dry soil is the essence of the purifying

process. Moreover, it is generally accepted that most of the cleaning takes place in the first few inches, decreasing with the depth and ceasing, or nearly so, when the line of saturation is reached. Many shallow wells, and some deep ones become contaminated from neglect of this knowledge, the ground around them becoming sodden with clear water as well as with slops and manure, or they are polluted by leaking drains or cesspools, which, being below the surface, are only slightly affected by soil. No chemical treatment of sewage is by itself sufficient to produce an effluent of satisfactory purity.

The author believes that as he stated in a paper communicated to the Congress of Hygiene, held at Buda Pest in 1894, the solution of the problem is to be found in some form of artificial filtration accompanied and aided by biological action. This system also offers immense advantages in dealing with the sewage of large towns in a cheap and effectual manner, and obviates the necessity for the erection of large sewage farms, as well as of large outfall works. It must, however, be worked as carefully as are the filters of a large water supply, and this is not possible in small villages, the sewage disposal works of which are frequently in a disgraceful condition.

The prevention of pollution may be aided by sedimentation and oxidation in storage reservoirs, by which means after some twelve days storage, from 83 per cent to 96 per cent of the micro-organisms are removed, and by filtration through sand, which retains an average of 99.6 per cent of the remaining bacteria. Thus, out of an average number 24,000 microbes per cubic centimetre contained in river water, only 34 find their way through the filter beds.—*Municipal Engineering.*

Unless the roads are constantly watched and repaired, just as regularly and carefully as the great railway companies watch their road-beds, they will deteriorate very rapidly and practically have to be rebuilt every few years. There is no use building expensive roads and leaving them to go to ruin from neglect. It is affirmed by an eminent American authority that "a man with one horse and cart, working eight months of the year, can keep seventy miles of good road in constant, effective and complete repair at the outside expense of \$350, which is \$5 per mile, while the cost of even attempting to make passable the ordinary country roads exceeds \$35 per mile. A dirt cart is loaded with crushed rock or gravel. With a hoe, a shovel and a rammer the repairer as frequently as the task assigned him will permit, starts out on the road. Every washout he repairs, every rut he fills up, loose stones he throws out, rough places he levels, obstructions in watercourses he removes, and his tireless efforts day after day result in keeping the road in good repair and making happy every man and woman who drives over the highway."

Street Railways.

The report of the Massachusetts special commission on street railways proposes the public ownership of street railway tracks, which may be effected by purchase in the case of existing roads, or by construction where new roads or extensions are to be built. In justification of this provision the committee state that a street railway is analogous to an omnibus line, rather than a steam railway, and the track is but a form of street pavement, which, like the rest of the pavement, should be controlled by the municipality. Wherever street railway tracks become the property of a city or town the company would make an annual payment for the use and maintenance of the tracks, the payment to be fixed by mutual agreement for seven-year periods, or by arbitration when an agreement could not be reached. Such ownership, the Massachusetts commission states, is common in Germany, and it believes it is far preferable to the plan now gaining in favor in England of complete municipal ownership and operation. The motive involved is wholly one of protection and control of public streets, and is in no way related to a desire to furnish municipal aid or encouragement to cheap transportation facilities. Besides protecting pavements, municipal ownership of the tracks would give cities control of the bonding of the rails and in general of means for returning the current to the power-house, thus enabling cities to guard as effectually as they might wish against the electrolysis of water and gas mains, a matter which many cities are not finding it easy to regulate under private ownership of street railway tracks. Long years of experience have shown the difficulties of compelling street railway companies to live up to their agreements regarding repairs to street pavements. Under present methods of traction the interest of the municipalities in good pavements far exceeds that of the railway companies, and as the track is part of the pavement, and its condition virtually affects some of the remainder of the pavement, there is stronger reason for common ownership and repair of the track and the pavement between and just outside of it by the city or town than by the street railway company. It is unfortunately true that our public highways, in town and country, are too frequently kept in poor repair, and from this it might be argued that if the responsibilities for the track maintenance were laid upon the municipality the track would frequently be left in poor condition to the detriment of the street railway's rolling stock and the discomfort of travellers. On the other hand, it is to be said that one reason why street pavements are left in poor repair is that no one has a sufficient interest in their condition to keep the public officials up to their work. In the case of street railway tracks, however, the company would be sure to protest if city officers seriously neglected the tracks, and their demands enforced by the public

The Ventilation of Sewers.

No matter how well a sewerage system has been built, there will be at times an accumulation of sewer-gas within the sewers. If the sewers are laid closely to true grades and are well flushed at short intervals of time, the accumulation of gases is largely reduced. There are many different methods suggested for ventilating sewers; none of them, however, are efficient, for the reason that the sewer gas will not rise against the colder air above ground, but will follow warm currents of air within the sewers and branches and escape into such localities as the warm air may lead it. The temperature of most sewers is about 65 to 75 degrees (Fahrenheit), and will rarely ever be lower than 60 degrees. The tendency of movement of sewer-gas within a system is to the higher altitudes of the system and city in which it is built; therefore the householder on the hill is more liable to receive gas in his house, unless his pipes are well trapped, than is the householder in the valley.

It is always better to submerge the mouth of an outlet where it empties into a body of water; by doing so the mouth is sealed against adverse winds, which have a tendency to drive the gas through the sewer-pipe to the higher elevations of the system.

The man-holes of a sewerage-system located on the sewers at the street intersections are supposed to furnish all the ventilation required for a sewerage system, but it is extremely doubtful if any sanitary engineer will claim it to be an efficient method of ventilation. That they do allow some gas to escape is evident, but not all of it finds egress from the sewer by this means, as residents near man-holes will testify.

If man-hole covers along an entire street were all removed at the same time, and allowed to remain so for several hours, the escape of gas from that particular sewer would perhaps be greater during the time these covers are off than will ever escape through the small openings made in the covers for that purpose. It would be an unusual sight to see the sewer on a whole street ventilated in this manner. It is a common practice in many cities to trap the pipe connection of a catch-basin with the main sewer by turning the end of the pipe downwards into the catch basin, so that the outlet is always below the level of the water which remains in the bottom of it. The only reason for doing so, "that has been told," is that sewer-gas arising from the catch-basin would offend the noses of casual pedestrians were it not trapped. The casual pedestrian can run away from it if he chooses to do so; the householder cannot run away from it so easily. The sewer-gas which escapes into free air from man-hole and catch-basin leaves less to penetrate the house; therefore it is wiser and more humane to have less regard for peripatetic noses and more for

the inmates of the household, by leaving the connection not trapped.

If sewers are carefully laid to grade, "straight and true as a gun barrel" as is sometimes said of them, so that there is a constant movement of the sewerage towards the outfall, there is less liability of offensive odors arising from them, than if obstructions within hold the sewage in small pools. The movement of the sewage from the household sink or water-closet to the main outfall of the system should be constant and uninterrupted.

Sewage Disposal.

When a community desires a system of sewerage planned the disposal of the sewage is the first problem to solve, and in connection with this problem is the consideration of the topography of the area within the limits of the city, which should be carefully studied and mapped by an expert in such matters. There may be one place at which the public may desire the sewage to be emptied, yet the topographical conditions are such as to entail heavy construction expenses to concentrate the sewage discharge at that point. Sometimes the topographical survey will develop a better solution of the problem than was thought of, and less objectionable to the inhabitants than it was expected to find before the survey was made. The disposal of the sewage of a city, which means the location of the sewer outfall, is the most complex question the sanitary engineer has to encounter. Every locality gives him a new study, demands a different treatment and calls for a wide range of experience.

This discharge of sewage into a lake, stream or pond is often done under necessity, and it is to be deplored that it is ever done at all. The community needs the sewers, and while it has the means to build as much of the system as will relieve its immediate needs it has no money to provide a proper and unobjectionable method of sewage disposal. Therefore the system is built, and the disposal of the sewage in an unobjectionable manner is deferred until some future time, when the accumulations at the outfall and vicinity become so intolerable that the community itself demands the abatement of the nuisance.

The location of a sewage outfall where it will discharge into living waters cannot be under any circumstances a permanent location; sooner or later all such sewage outfalls will be abated, and each and every city thus contributing to the pollution of our inland waters will be required to cleanse or otherwise purify its sewage and discharge only clean water into them. As our cities grow larger and the population becomes more dense within them, the question of sewage pollution and sewage disposal will receive the attention it even now deserves, and the simplicity of its solution will perhaps cause us to wonder why it has not been solved much sooner.

Good Roads—We Must Have Them.

One of the cleverest of Canadian journalists, writing recently on the Spanish war says:—

"Had Cuba been in the hands of an Anglo Saxon community, is there any likelihood that the island would be so destitute of means of communication that a wretched, starving band of insurgents could maintain their defiance of the authorities for three years? Spain has lost Cuba because she did not join the good roads movement. The railroad and the turnpike are greater than standing armies, just as the electric light is the most efficacious member of the police force."

This is but one way of expressing the immense importance which must be attached to good highways as a means of increasing the well being of a country, and rendering its inhabitants prosperous and contented. The highways are the avenue of trade. With good railways and good common roads to reach them the volume of a nation's trade will swell irresistibly from year to year, and this increasing activity of commerce is the element of national vigor and health. Retarded commerce is the counterpart of a stunted growth and withered strength.

The secret of Rome's widespread colonization and power to retain her possessions is largely contained in the legend, "All roads lead to Rome," for in the construction of roads throughout different parts of the empire no expense was spared. From that day to this we have been shown repeatedly and in many ways that road building is the necessary accompaniment of a nation's growth. The condition of a country's highways—and railways are included in the general term—is a certain index to a country's advance in the arts and manners of civilization.

Street Sprinkling with Disinfectants.

The city of Brussels has adopted a system of street sprinkling with disinfectants, using an apparatus similar to that invented and in use by the directors of the Brussels slaughter-house for several years for cleaning out the piggeries, stables, market and courts of their establishment. The apparatus, which is very simple, is composed of a cylindrical reservoir, which is filled with an antiseptic substance, creolin preferred. A pump system is applied to the reservoir, which produces, when the city water is introduced into the apparatus, an aspiration more or less strong, which is regulated at will. The antiseptic matter mixes with the city water, and, thus charged, acts as an efficacious disinfectant.

In the middle of a stormy discussion a gentleman rose to settle the matter in dispute. Waving his hand majestically, he began: "Gentlemen, all I want is common sense." "Exactly," interrupted another, "that is precisely what you do want."

LEGAL DEPARTMENT.

JAMES MORRISON GLENN, LL. B.,
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Editor.

LEGAL DECISIONS.

In re Toronto Railway Company Assessment.

*Assessment and Taxes—Rails, Poles and Wires
Highways—Street Railway.*

The rails, poles and wires of the Toronto Railway Company, used by them in operating their electric railway, and laid and erected in and upon the public highway of the city of Toronto, are subject to assessment under the Consolidated Assessment Act, 1892.

Toronto Street Railway Co. vs. Fleming has been overruled by the Consumers' Gas Co. vs. Toronto.

This was an appeal by the city of Toronto from the judgment of the judges of the County Courts of York, Ontario and Peel on an appeal to them from the Court of Revision for the City of Toronto under the Consolidated Assessment Act, 1892.

The question in dispute was whether the rails, poles and wires of the Toronto Railway Company, used by them in operating their electric railway, and laid and erected in and upon the public highways in the city of Toronto, were subject to assessment under the Consolidated Assessment Act, 1892.

Dartnell and McGibbon, J. J., held that the rails, poles and wires were not subject to assessment, while McDougall, Co. J., dissented, holding that the question was settled by the Consumers' Gas Company vs. Toronto, 27 (S. C. R.), 453.

In view of the importance of the question and the conflict of opinion, and because of there being some doubt as to the right to appeal, the Lieutenant-Governor-in-Council stated a case for the opinion of the court, asking the same question.

The appeal was argued on the 31st of January, 1898, and judgment was given on the 15th of March, allowing the appeal, Burton, C. J. O., dissenting. The judgments delivered by Osler, McLennan and Moss, J. J. A., were as follows:

Osler, J. A.: The arguments addressed to us in this case have received the best attention I have been able to give them, and I have read and carefully considered the judgments of the learned Judges of the Supreme Court in Consumers' Gas Co. vs. Toronto (1897), 27 S. C. R., 453, and the judgments delivered in this court in the same case, and in Toronto Street Railway Company vs. Fleming (1875), 37 U. C. R., 116. I was of opinion in the Consumers' Gas Company case that it was not distinguishable from Fleming's case, the fact that the one concerned pipes laid in the street under ground and the other rails laid on and affixed to the surface of the street, making no difference in the principle upon which the case fell to be decided, viz., that the

pipes in the one and the rails in the other formed part of the soil of the street and were as much exempt by force of the section of the Assessment Act, which is now section 7, sub-section 6 of the Act of 1892 (erroneously referred to in the head note of the Supreme Court report as section 6.) I thought then and am still of opinion that the relative sections of our present act are substantially the same as those of the act in force when Fleming's case was decided. My view did not meet with acceptance here, and in the Supreme Court the judgment of this Court was affirmed, not as I understand it on any ground precisely taken here in the opinions of the majority. Mr. Justice Gwynne was of opinion; 1. That there was a Legislative grant to the gas company of so much of the land of the streets and below the surface as it found necessary to take for the purposes of the company and the convenient use of the gas works, and that it then became the property of the company and liable to assessment as land under the provisions of the Assessment Act. 2. That the exemption clause above referred to had no application except to streets, roads or squares, the soil and the freehold of which are vested in some private person or corporation and which would be liable to be assessed against the owner but for the exemption contained in the sub-section. The Chief Justice, Sir Henry Strong, says that he entirely concurs in the judgment of Mr. Justice Gwynne, so far as it goes. Then he adds his own views; 1. That none of the exemptions contained in section 7 have any bearing on the case. 2. That the gas pipes laid under the streets were under the Act real property belonging to the company and as such liable to assessment. For this he refers to Metropolitan Railway Company vs. Fowler, (1893) A. C. 416, and adds, "No matter in whom the fee in the soil of the surface of the streets was vested, so much of the sub-soil as is occupied by the appellants' pipes must be held to constitute part of the land, unless we are altogether to disregard the decision of the House of Lords in the case cited." Then the learned Chief Justice proceeds to consider Toronto Street Railway Company vs. Fleming. He says, "The Chancellor attempted to distinguish that case from the present, but I confess I do not think it susceptible to distinction. I was a party to that decision, but I do not hesitate to say that I now think the rails "were things affixed to the land," and that that case was consequently wrongly determined." In this opinion of the Chief Justice, the reporter adds that Sedgewick, King, and Girouard, J. J., concurred. We have, therefore, the whole court determining that the land occupied by the pipes of the gas company, though part of the street, was the land of the company and taxable as such, and secondly, that the exemption clause, section 7, sub-section 6, does not relate to public streets of the character of those on which the mains of the company and the

rails of the defendants are laid; and thirdly, a majority of the court assigning as a further and additional ground of their decision that Toronto Street Railway Company vs. Fleming, which they concede not to be distinguishable from the case before them, and on which my own opinion in the latter case was founded, had been wrongly determined because the rails were things affixed to the land, liable as such to be assessed as real property and not exempt under section 7, sub-section 6, which had no bearing on the case. Had the Consumers' Gas Company case been decided simply on the ground that the land occupied by their mains was so much land expropriated by them out of the street, and as such no longer part of the street, I might easily have seen my way to hold that Fleming's case, dealing as it does merely with rails laid on the surface of the street, the company having no exclusive proprietorship in any part of the street, was untouched. But here we have exactly that case over again and we are told by a majority of the Supreme Court that it is not law and that the exemption clause does not apply. I could only decide in favor of the defendants by holding that it is law and that the exemption does not apply. I have no right to say, as we were so strenuously urged to do, that what is assigned by the majority of the court as one ground for their decision, is said obiter, merely because the whole court have also assigned as additional and sufficient ground for it; Redgrave vs. Hurd, 1881, 20 Ch. D. 1, 14, 15. And see also Guardians of Poor of West Derby Union vs. Guardians of Poor of Atcham Union, 1889, 25 Q. B. D. 117, at p. 120; Overseers of Manchester vs. Guardians of Ormskirk Union, 1890, 24 Q. B. D. 678, at page 682. I am bound to hold that Fleming's case is overruled, and therefore to allow this appeal. I think, however, it should under all circumstances be allowed without costs. This result answers the general question submitted to us by the Lieutenant-Governor-in-Council. I must add that in dealing with this we draw largely upon the general information and knowledge acquired by us in the case of the appeal between the parties, the special case embodied in the order-in-council being of the baldest and most meagre description.

McLennan, J. A.: I am of opinion that this appeal, and also the question submitted in the special case, are governed by the judgment of the Supreme Court in Consumers' Gas Company vs. Toronto (1896), 23 A. R., 551; (1897) 27 S. C. R., 452, in which Toronto Street Railway Company vs. Fleming (1875), 37 U. C. R., 116, was overruled by the Supreme Court. It was argued that this case was distinguishable from both the Fleming case and the Consumers' Gas Company case; but I am unable to see that there is any distinction. I am, therefore, of the opinion that the appeal should be allowed, and that the question in the case submitted to us

for our opinion should be answered in the affirmative.

MoSE, J. A.: I agree with my brother, Osler, that whatever may have been, or are, our individual opinions, we must accept the law as laid down for us by the Supreme Court in *Consumers' Gas Company vs. Toronto* (1897), 27 S. C. R. 423. I recognize that case as distinctly overruling the decision of this court in *Toronto Street Railway Company vs. Fleming* (1875), 37 U. C. R. 116, and as affirming that this court ought to have determined that the rails of the street railway laid upon and along the highways of the city were, under the provisions of the Assessment Act, 32 Vic., chap. 36, "things affixed to the land," and as such liable to assessment as real property. If that should have been the decision under the Assessment Act then in force it should certainly be the decision under the Assessment Act of 1892, though I confess I am unable to perceive that any material change has been effected by the legislation subsequent to the rendering of judgment in *Fleming's* case.

Religious Services at Houses of Industry.

Owing to the location of County Houses of Refuge outside the limits of a town the inmates are not included in the programme of religious services of the church societies. In some counties the council has found it necessary to pay a clergyman for his attendance. The *Welland Tribune*, referring to this matter, says:

"It will, we think, be readily admitted that the Industrial Home is a product of the leavening principles of Christianity. Such being the case, we naturally look to those who, from their position in the churches, are looked upon as leaders in Christian work to see to the spiritual wants of the inmates. It appears to us that the county does its duty when it provides for the material comforts of the unfortunate poor, and that it devolves on the churches to attend to their spiritual wants, 'without money and without price.' It is true that clergymen, as a rule, have their time fully occupied on Sunday, and it is hardly fair that they should be expected to hold a service at the Home on that day in addition to their other engagements. But, while this is the case, the churches are not relieved of their responsibility in the matter. There are individuals and societies in each of the churches quite capable of conducting religious services, and who should esteem it a pleasure to do so. We have the Epworth League, the Christian Endeavor and kindred societies, who ought to earn their right to existence by just such work as this kind.

Peddler—I have a most valuable work to sell, madam. It tells you how to do anything.

Lady (sarcastically)—Does it tell you how to get rid of a pestering peddler?

Peddler (promptly)—Oh, yes, madam—buy something of him.

QUESTION DRAWER.

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

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

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

Assessment of Mining Claims.

271.—F. N. M.—Are mineral leaseholds subject to assessment by township municipalities where as yet no development work has been done? If so, what proportion should the assessment bear to an agricultural assessment?

If the title is not in the Crown the land itself must be assessed at the value of other lands in the neighborhood for agricultural purposes, and in addition to that the income derived from the mineral is assessable as other incomes. In this case there is not as yet any income. If the title is in the crown the land itself is not assessable, but the interest of a person who occupies the land, otherwise than in an official capacity, is assessable at its actual value. See sub-section 2 of section 28, and sub-section 2 of section 7 of chapter 224, R. S. O., 1897.

Assessment of Income Dominion Civil Servants.

272.—R. B. D.—Are civil service officers or clerks of the Dominion Government liable for income tax? Take, for instance, a resident engineer in the employ of the government is assessed for his house, also on his income. He appeals against being assessed on his income. Where can we find the authority on this question?

In the case of *Leprohon vs. the Corporation of the City of Ottawa*, 2 A. R., 522, it was held by the Court of Appeal for Ontario, reversing the Judgment of the Queen's Bench, 40 U. C. R., 478, that under the British North America Act, 1867, a Provincial legislature has no power to impose a tax upon the official income of an officer of the Dominion Government or to confer such a power on the municipality.

Assessment of a Supply Boat.

723.—F. D. S.—Will you kindly tell me what is the actual assessable earnings of a supply boat? Are the profits of the goods sold daily on the boat assessable? These goods would not be sold unless taken out on the boat. The owner of this boat carries his own freight from the cars. Is it not earning money for the owner? If he had no boat he would have to pay freight to others. This boat also does towing, etc., and delivers cordwood and stove-wood with a scow. The owner was assessed \$100 by an assessor. He appealed and got the \$100 taken off. I claim he should be assessed from \$300 to \$400 for the earnings, or more if the profit of the goods is taken into consideration. This boat carries passengers, and occasionally runs excursions. Also the owner gets a

commission from a butcher on all meat sold daily on this boat, besides the goods sold by owner.

Sub-section 29 of section 7, cap. 224, R. S. O., 1897, provides among the exemptions, "Vessel property of the following description, namely: Steam-boats, sailing vessels, tow-barges and tugs; but the income earned by or derived through or from any such property shall be liable to be assessed." It would appear from this that the owner of the boat in this case is liable to be assessed for the income derived from the boat, but we do not agree that he would be liable to the full extent which you contend. The profits on the goods is another matter. Section 177 of the exemption clauses provides, "The income of a farmer derived from his farm, and the income of merchants, mechanics or other persons derived from capital liable to assessment."

Courts of Revision and Separate School Supporters.

274.—A. C. M.—Last year our assessor, through mistake, assessed a certain ratepayer to a Catholic separate school, said ratepayer being a Catholic, but belonged to a public school. Now, this ratepayer did not appeal last year against his assessment, although he was aware of the change. Consequently he paid his taxes to the separate school for 1897. This year he had the assessor assess him to the public school. Now the trustees of the separate school have appealed against his assessment, claiming that as he did not appeal against his decision last year he is rated as a supporter of the separate school until he gives the proper notice to withdraw his support from said school. Can the trustees of the separate school hold him as a supporter of their school, and will the court of revision do right this year to put him back to the public school?

In order to exempt a Roman Catholic from the payment of public school rates, such Roman Catholic, by himself or his agent, must give notice to the clerk of the municipality in writing on or before the 1st day of March in any year, that he is a Roman Catholic and a supporter of a separate school situated in the municipality or in a municipality contiguous thereto. In this case no such notice was given. The assessor by mistake assessed the party as a separate school supporter, and if the proper notice had been given last year then a notice of withdrawal would be necessary. He is properly on the roll as a public school supporter and the Court of Revision has no right to interfere. If the Court of Revision should interfere any ratepayer may appeal to the County Judge who would certainly restore his name as a public school supporter. See sections 42 and 46, chapter 294, R. S. O., 1897.

Court of Revision—Confirming Assessment Roll.

275.—R. T.—Is it lawful to confirm the assessment roll with two councilmen's votes, one making the motion and the other seconding it; one councilman being absent, and the other councilman protesting against the confirming of the roll as there were palpable errors in the roll. If not legal what is the proper course to adopt?

The Council acting as a Court of Revision under section 63, cap. 224, R.

S. O., 1897, in municipalities other than cities, must dispose of all appeals properly brought before it. Under section 65, three members of the Court of Revision form a quorum and a majority of a quorum may decide all questions before the court. In this case three members were present, two of whom voted for the confirmation of the roll and the other against it. They were within their rights. The only remedy left is to appeal to the Judge, but we are not expressing any opinion in regard to the power which the judge shall have, because we do not know what the errors are or how they were brought before the court of revision.

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

276.—T. W. S.—According to chapter 285, section 4, (2), of Ditches and Watercourses Act, the Council fixed the Clerk's fee at \$2.00 for carrying out the provisions of said Act in each particular case in dispute. The Clerk's services has been required. Who presents his account of \$2.00 to the Council for payment? The Council refuse to pay thinking the parties in dispute should pay the fee. Who are responsible to the Clerk for said fee?

Sub-section 2 of section 4 of the Act, in question, requires the council to fix the fees of the clerk for services under the act that appears to have been done in this case. The engineer should by his award provide for the payment of all fees including the clerk's fees. See sub-section 2, of section 16, and form of award on pages. 3270—1, R. S. O., section 27, requires the municipality to pay the clerks fees in the first instance and it provides the mode of compelling the owners of the lands to pay their share according to the award. It seems to us to be clear that the municipality must pay the clerk in any case. If the award does not provide for clerk's fees, it is the fault of the engineer.

No Assessment of Transient Traders—Roll Returned.

277.—T. W. S.—The assessment roll of an incorporated village has been returned by the assessor. The first sitting of the Court of Revision has been held and the Court will not be closed until the statutory time. A came from a neighboring town, presumably for a month or two, bring a stock of merchandise, and rented the place that he is doing business in optionally by the month or year. The village has a by-law dealing with transient traders.

1. Could A's name be now entered on the assessment roll at the Court of Revision and be assessed by the assessor for his stock?

2. In the event of being assessed for stock and he moved it in a month or two could his taxes be collected at that time seeing the rate has not been struck.

3. In the event of A not being assessed and entered on the roll and to evade the by-law governing transient traders he states that he has his store rented by the month or year; but in say two months, packs his goods and leaves, would he then be amenable to the fee imposed on transient traders, and if so would it be advisable to collect the fee before the removal of the goods?

2. No.

1. No.

3. Yes, he would be liable to the fee under the by-law, and it would be prudent to collect the fee as soon as it is

certain that he is a transient trader within the act.

Municipal Officers and Jury Service.

278.—A. B.—Section 7, chapter 61, R. S. O., 1897, provides, among other exemptions, "and every other member and officer of any municipal corporation is hereby absolutely free and exempt from being selected by selectors of jurors," etc.

Is it to be understood that all municipal officers, whether elected or appointed by by-law are exempt from service as jurors?

Yes, exempt from service as jurors in Her Majesty's inferior courts.—Municipal clerks, treasurers, assessors and collectors are exempted from serving as jurors in any Court.

Fencing School Yard.

279.—J. M.—The school grounds of Port Carling were fenced in five years ago, taking in only one half at the time, the trustees paying for same, making no demand upon property owners adjoining. It is now found necessary to extend the fence to the boundary of the lot; therefore the parties adjoining were notified to build their half. One party complied with our request; the other party built only half of the remaining portion, and refuses to build any more, as the back part is not enclosed, although the front part has two houses upon it and is under crop. But because the back part is not enclosed, and, furthermore, as he was not the owner at the time the original fence was built, he claims we cannot compel him to build it also. Can we claim half the cost of the original fence, although being built five years or more ago?

Subsection 2, of section 34, chapter 292, R. S. O., 1897, "any wall or fence deemed necessary by the trustees or required by the regulations of the Education Department for the enclosure of the school premises shall be erected and maintained by the board of trustees at the expense of the school section." This sub-section appeared for the first time in the Public School Act of 1896 and was therefore not in existence when the school grounds were fenced in five years ago, but we are not aware that there was any law at that time which entitled an adjoining land owner to build a line fence and then collect one half of the cost of it from his neighbor. Even in that case he should act through the fenceviewers in the manner provided by the Line Fences Act. We are therefore of the opinion that the trustees can neither compel the owner of lands bordering on the school lands to keep a part of school fence nor compel him to pay anything towards the cost of fence built by the trustees of their own motion.

A Bicycle and Right of Way—Bridge Over Drain.

280.—G. S.—1. Bicycles are entitled to sufficient room on the travelled portion of the road to allow them to pass on the right hand side as they approach with the limitation that such shall only be granted where practicable. You know in townships there is always a track on the road that vehicles stick to. They will pass each other and get on to this beaten part of the road. The question is, would a carriage have to give half or part of this part of the road to a bicycle even if there is plenty of room otherwise to pass although not quite so smooth for a bicycle? Fully explain what you would consider "travelled portion of the highway."

2. In 1890 a by-law was passed for the construction of a drain under the Drainage Act. The engineer allowed nothing for farm bridges, but all save one requiring them got funds to erect them. This one would not accept money but asked the council to build him a bridge which they did out of the general funds. A year or two after, the ditch widened so that the bridge was carried away, when he made application for another, which also the council built. The ditch is, it seems, getting a little wider, and he asks for another. The report not having provided funds for the construction to be paid over to the owner, and the township having provided the bridges, would its liability to provide these funds still exist? Would the Court hold that the owner had accepted the bridge in lieu of the funds?

1. We do think that the meaning of the word "travelled" in cap. 236, R. S. O., 1897, limits its application to the track which is made by vehicles. The central part of the road is usually graded for the purpose of being safely travelled upon, and we consider that the part so graded up, where that is done, is the travelled part within the meaning of this statute. It is intended for travel upon it, and there is always some travel upon the whole of it, though it is true that vehicles usually follow each other along the same course and make a narrow beaten path. A person travelling on a bicycle is entitled, under sub-section 2 of section 1, to sufficient room to pass to the right on the travelled portion of the highway without any regard to whether that portion forms half or any other fractional part of the road.

2. Before answering this we must have the by-law or a copy of it. Whenever an opinion is required upon a by-law or written instrument we should be supplied with the original or a copy of it.

Illegal Instructions to Assessor.

281.—S. G.—In a township where there was only one storekeeper to be assessed for personal property the council instructed the assessor to omit all personal property and assess only the real estate. Was it legal?

No.

Assessment of Post Office Leased to Government.

282.—A. B.—In your June number, in answer to question No. 250, you state that a post office rented to a postmaster is assessable. Is that not a mistake?

We had a similar case here. A Mr. Casement, himself postmaster, rented part of his building to the government for a post office. It was assessed, and acting on the advice (copy enclosed) of his solicitor he appealed. I wrote our village solicitor to be certain, and enclose copy of his reply. You will notice both agree, but are opposed to answer given in June WORLD. With our solicitor's opinion in our hands, the court of revision could do nothing else than lower the assessment.

(Copy.)

Peterboro, May 10th, 1898.

W. H. Casement, Esq., Lakefield:

Dear Sir,—Replying to your favor of yesterday, all property, whether freehold or leasehold, in the use or occupation of the Crown, or of any person or persons in their official capacity as servants of the Crown is not assessable. The statute that bears on it is section 7 of the Consolidated Assessment Act of 1892, and is interpreted in the case of Shaw vs. Shaw, U. C. R., Common Pleas.

Yours truly,

(Sgd.)

W. A. STRATTON.

(Copy.)

Peterboro, May 20th, 1898.

A. Bell, Esq., Clerk of Lakefield :

Dear Sir,—The property rented to the Crown for a post office is not assessable. It comes under the exemption. It is exempt under the Assessment Act, R. S. O., 1897, page 2709. See Harrison's Municipal Manual, fourth edition, page 609. Property in Peterboro under lease and occupied by Dominion officials is exempt.

Yours truly,

(Sgd.) D. W. DUMBLE.

We have looked into the case of Shaw vs. Shaw, 12 U. C. C. P., 456, and find that it was there held that property leased to the Crown is not assessable. The section of the Assessment Act upon which the Court held such property as this exempt is the same now as it was then. It is sub-section 17, section 7, of the Assessment Act, R. S. O., 1897, and is as follows: "All property vested in or held by Her Majesty, or vested in any public body or body corporate officer or person in trust for Her Majesty or for the public uses of the Province." Property within the meaning of this clause is exempt. Looking at other sections of the Assessment Act the policy of the Legislature has been to exempt Crown property and to make the interest of the private individual liable to taxation. If the statute has been rightly interpreted in this case it means that where a person is fortunate enough to lease his lands to the Crown he thereby escapes taxation. In the face of the case above referred to it would be useless to appeal to the Judge because he would follow the law as there laid down.

Business Tax.

283.—J. A. W.—There is a contention in our municipality in regard to the proper mode of levying a business tax, for example take a merchant assessed for \$700 on real estate. Now take section 31, A sub-section 1, of the Consolidated Municipal Act, 1892, and strike the rate at 7½ per cent., the full limit, what would be the amount of taxes on said assessment. I contend \$3.67 would be the amount of taxes. If wrong, would you please give correct amount, also how you get it?

You are right. Sub-section 2 of section 36, cap. 223, R. S. O., 1897, defines the annual value of the premises as being seven per cent. of the assessed value thereof. The annual value of the premises in question herein would therefore be \$49. If the council has passed a by-law under sub-section 1 of the same section, fixing the rate at seven and one-half per cent on the annual value the tax would be the amount stated, \$3.67.

School Section Debentures or Notes.

284.—A. T. S.—The municipal council have been applied to to borrow \$200 to build a school house in a newly formed section, said loan to run 5 years.

1. Can a municipal council legally borrow money for this purpose other than by issuing debentures?

2. As we interpret the law as regards this matter we cannot issue debentures for a less amount than \$100 so cannot borrow this amount for the time asked for. Is our contention right?

3. Can we borrow this money by giving five notes, one note to be paid each year until all are paid?

4. If we can, is it necessary that each note should be the same amount including interest and principle?

1. No. See section 70 (1) Public Schools Act, R. S. O., 1897, which provides that the proposal for such a loan must be first submitted to and sanctioned at a special meeting of the ratepayers of the section, called for that purpose.

2. Section 436 of the Municipal Act, R. S. O., 1897, prohibits the making or giving of any debenture, note, etc., for less than \$100 unless specially authorized so to do. Section 70 above referred to further provides, "and forthwith issue debentures to be repayable out of the taxable property of the school section concerned in such annual amount as they may deem expedient." This gives special authority to issue debentures for a smaller sum than \$100 if the council deem it expedient to do so. Sub-section 2 of section 19 of the Drainage Act contains another case where the council is expressly authorized to issue debentures for a sum as low as \$50.

3. No.

4. In view of the answer to the other question, an answer to this is unnecessary.

Seconders and Township Council Resolutions.

285.—G. H. H.—On page 94 of the June number you answer question No. 235 that a motion can be seconded by a councillor who is absent, but had been present at the earlier part of the meeting, and intended to second the motion. You surely cannot have considered this question, and I am satisfied that if you submit it to your legal adviser he will point out to you that it is wrong. A motion to be seconded must be seconded at the same time it is moved. If it could be seconded by a person absent it also could be moved by a person absent, and therefore brought before the council by persons not present at all. There is no rule of the council requiring a motion to be signed by the mover or seconder. The motion, I believe, has got to be in writing, but that does not affect the question of its having to have a mover and seconder actually present. If the rules provided for a written motion, duly signed by the mover and seconder, there might be a possibility of your contention being correct, but otherwise I cannot see how it could be upheld. There would be no sense in requiring a seconder to a motion at all if a councillor could get up and not ask for a seconder, but simply say that some person who is absent intended to second the motion. Kindly let me hear from you.

We have considered your communication in regard to the answer which we gave in our June number to No. 235 and are unable to see any reason for changing the answer already given. Section 269 of the Municipal Act provides, "Where a council consists of only five members the concurrent votes of at least three shall be necessary to carry any resolution or other measure." And section 274 provides, "The head of the council or the presiding officer or chairman of any meeting of any council may vote with other members on all questions, and any question on which there is an equality of votes shall be deemed to be negative." You are assuming that the seconding of the motion was absolutely necessary before it could be voted on. There is nothing in the question which requires us to assume that

he did not second the motion at all, but that a resolution was moved, put by the chair, and that it received the concurrent votes of three members. Why is that not a perfectly valid resolution of the council? We certainly think it so. If there is a by-law regulating the proceeding of the council, and it provides that before a matter can be voted upon by the council there must be a motion in writing to be moved and seconded, it would not be proper or regular for the presiding officer to put the motion unless it was brought before him according to the rules of procedure. In the absence of such rules, we cannot see why any member of the council alone cannot submit a resolution to the council or why such a resolution is not perfectly legal and valid if it receives the support of a majority of the members of the council.

Grants For Celebrations Not Legal.

286.—Councillor.—The municipal corporation of this town (population about 2000) have been petitioned to grant the sum of \$200 towards the project of making a big celebration in the municipality on Dominion Day and also on 12th July when the Orange Society hold their County Convention here.

1. Have the Council power under the statutes to grant this sum?

2. And if so, where is their authority?

3. But if they have not power under the statutes to grant such a sum from the town funds, what recourse would a ratepayer have who objected to such expenditure? It may be necessary to add that the demonstrations on the above mentioned holidays will consist principally of a balloon ascension, fireworks, athletic sports, etc.

Without express power a municipal council cannot make an appropriation of this kind. Such a contract is void and a person cannot recover from the corporation for property furnished or services rendered for such a purpose. We cannot find that the Legislature has ever granted such a power as this in this Province. A ratepayer may apply to the court for an injunction to prevent the payment of the moneys of the people for such a purpose as this. Pratt, J., an American Judge, said, "Until the case of Hodges vs. Buffalo nothing was more frequent than for city authorities to vote large sums and give splendid banquets for objects and purposes having no possible connection with the growth or weal of the body politic, thus subjecting their constituency to unnecessary and oppressive taxation."

Council not Liable for Cost of Fencing.

287.—SUBSCRIBER.—The council of this municipality purchased one acre of land along the side of a public highway measuring four rods by forty, a portion of which is used as a deviation round a rock, the other portion about half is used as a gravel pit. Is the council liable for half the cost of fencing? They are willing to pay for the eight rods of extra fence that the owner had to put up.

We do not consider the municipality liable at all for anything, for these reasons: The Line Fences Act does not apply to the municipality; if the council had expropriated the lands the owner would be

entitled to compensation for any damages, including cost of fencing when required under section 437 of the Municipal Act, R. S. O., 1897, but the land having been purchased in this case and the owner having neglected to make provision for fencing he cannot compel the council to pay him.

Bridge Over Canal.

288.—G. S.—We have a canal over which, on account of the sandy nature of the soil, it is very difficult to maintain a bridge. The canal was dug down to a marl bottom which, from the action of the water eating away the quicksand from under it, has been all worked away near the road allowance. A wooden bridge has been built from time to time, but from the sandy nature of the soil and strong current in times of freshets they have from the widening of the stream and washing out of the piles been carried away. The stream is not 100 feet wide and the council are thinking of building an iron bridge, but are undecided how to proceed. Do you think it would be judicious to build an iron bridge on piles encased in steel cylinders in a location like this, the bottom being nothing but quicksand? Would it be well to build a cedar crib abutment in the centre of the stream and fill it with stone, and build the bridge in two sections, or would you consider it better to build the bridge the whole length? Would it be safe to build an eighty foot bridge on piles and have approaches of ten feet at each end. Would you kindly say what you consider would be the better way, and what sort of a bridge you would prefer? What do you think of the Royal Grafton bridge?

It would not be judicious to build an iron bridge on piles encased in steel cylinders in such a location as you describe, nor would it be well to build a cedar crib or pier in the center of the stream, in such a case a clear span being preferable. In case of a yielding foundation such as that offered by quicksand, to secure a proper bearing is rather expensive, and it is well to reduce the number of bearings as much as possible. Any bearings, piers, etc., placed in the stream create an obstruction, cause greater pressure against the structure and cause currents of water around these piers, which in time may undermine them. Piles encased in steel cylinders in quicksand, as usually placed, will not provide a firm bearing. In such treacherous soil a little extra money spent in securing a durable structure will prove an economical investment. The bridge should rest on two abutments, one on each side of the canal, the bridge clearly spanning the channel. These abutments should be formed by making an excavation a few feet below the surface of the ground—which depth must be regulated according to local conditions—sheet piling being used, if necessary, to keep out the water and retain the sides. This excavation should be made sufficiently large to freely admit of carrying out the following work, the dimensions of which must also be regulated by the condition of the soil and by the load the abutments are to carry. A network of cedar piles about ten or twelve feet in length should be driven into the bottom of the excavation. These should be cut off to a horizontal line and covered with

two layers, crossways, of 6 x 6 cedar, forming a platform. This platform will, of course, be at least a few feet from the ground, secured to the piles by drift-bolts. On this platform can then be placed the bridge supports, which in your case would preferably be steel cylinders filled with concrete. The excavation should be refilled so as to submerge the platform and exclude the air from it.

Without having before us a plan, specifications and stress sheets of the Royal Grafton bridge we should not venture an opinion.

Collectors Liability—Taxes—Property Removed.

289.—T. McN.—In our township on certain property the collector could not collect taxes and returned in default. If the collector had collected before the 14th of December, there was property to pay taxes. Council extended time till first of February, when went to collect, property was all removed. Owner of farm has written to collector that he will hold him responsible for taxes. Can the taxes be placed on the 1898 roll or will it have to run for three years and be sold for taxes. The same tenant has farm rented this year. Is collector or council in any way responsible for taxes?

It does not follow that because it can be shown that there was at some particular time while the collector had the roll in his possession, property on the lands out of which the taxes might have been made that the collector is liable. He cannot be all over the township at one time. Before he can be made liable a case of negligence must be made out against him. After a return has been made to the county treasurer he alone has a right to collect the taxes, except that taxes in arrears for three years are to be put on the roll by the clerk under section 155, cap. 224, R. S. O., 1897. See also sections 152 3-4, and section 160 of same act.

Declaration of Office—Appointment Continued.

290.—J. A.—In appointments to office such as pathmaster, poundkeeper, etc., made yearly by municipal councils, is it necessary that those who are re-appointed should make a declaration of office each year? The by-law which appoints them stating that they shall hold office until their successors are appointed and notified of their appointment.

By section 321 of the Municipal Act, R. S. O., 1897, all officers appointed by the council hold office until removed by the council. In the case of the Township of Adjala vs. McElroy, 9 O. R., 580, the Chancellor said, "To determine a man's office as treasurer under the statute, there should be some positive act of removal by which he is displaced and another appointed, or by which the office, though continued in the same person, becomes different in some material point. Mere implication arising from formal re-appointment should not be deemed equivalent to such act of removal." And he held that sureties to the treasurer continued liable though the treasurer was formally re-appointed year after year. The same principle should apply here, and therefore the original declaration of office is sufficient.

Bonus By-law Votes.

291.—S. M.—I notice in an issue of your journal that two-thirds of all ratepayers entitled to vote on a by-law to authorize the issue of debentures to aid a manufacture must be cast in favor of the by-law to have it carry. Will you kindly give me a reference to the general act?

Section 320 of the Municipal Act, R. S. O., 1887, was amended in 1892 by section 20, Municipal Amendment Act, by striking out the words "or for promoting any manufacture," thereby taking away the power which municipalities had prior thereto of granting bonuses to assist manufacturers. Just prior to that amendment, when municipalities had that power, the assent of one third of all ratepayers entitled to vote was necessary as well as of a majority of the ratepayers voting on the by-law. This section now appears as section 366 of chapter 223, R. S. O., 1898. We have not been able to find the question which you refer to in our journal but you will find upon reference to section 366 that there is now no power to bonus manufacturers.

Payments to Collector After Roll Returned.

292.—A. M.—1. After a collector makes his return to the municipal treasurer and ordinary declaration as to unpaid taxes made. The collector receives money, but does not hand to treasurer, and taxes are returned as unpaid to county treasurer, can lands be legally sold?

2. Can owner recover taxes paid collector from municipality?

1. The roll is the warrant or authority under which the collector has the right to collect taxes. After he has returned the roll he ceases to have that right. After his return of the roll arrears of taxes may be paid to the local treasurer until the latter has furnished to the county treasurer the statement mentioned in section 157 of the Assessment Act, R. S. O., 1897. See section 160 of same act. If a ratepayer, therefore, pays taxes to the collector after the return of the roll he does so at his peril. It is not a payment to a person authorized to receive it and the lands can therefore be legally sold.

2. No, he must look to the collector personally.

A Separate School Rate Property.

293.—O. H.—We have a property in our village that has been used for a brewery, but is at present not in running order, although part of the machinery, vats, cooler, and also other things for the manufacture of beer are still in the building. The man who owned the property is dead, and the executors have charge of the place. In one end of the building are several rooms, which are used as a dwelling. The property is assessed at \$3,000, and is assessed against the tenant at present living in the dwelling part. The tenant is a separate school supporter. The executors are supporters of the public school. The separate school supporters wish to have the school rate on this property paid to their school. Can they legally claim it, as only a small portion of the building is occupied by the tenant? The late owner and his heirs were also public school supporters.

The separate school is entitled to the taxes. The tenant, a separate school supporter is assessed for the whole property and he is therefore liable for the

whole of taxes, and there is no authority for going behind the roll into an enquiry as to whether the tenant occupies a small part or a large part of the property.

Farmer's Sons Assessment—Vote—Statute Labor—Expense Survey Township Boundary.

294.—A REEVE.—1. Can a young man be on the assessment roll as farmer's son in the township he lives in and assessed as owner in an adjoining township?

2. Is his vote in the township he lives in legal?

3. Has he a right to do one day's statute labor, all other farmer's sons doing one day?

4. Township A had the boundary line surveyed between townships A and B, an adjoining township; said line was never established. Township B refuses to pay their share of survey, for two reasons, first that there was no demand made by any of the ratepayers to have the line surveyed, second that it was the county council that would have the right to make application to have the boundary line surveyed. Can A compel B to pay their share?

5. Was it the county council that had the right to make application to have the line surveyed?

1. We can only answer this question by guessing at the facts. If the young man is a farmer's son *bona fide* resident on the farm of his father or mother at the time of the making of the assessment, etc. he is entitled to be on the assessment roll. We do not see how he can get on the roll in respect of property in an adjoining township in the capacity of a farmer's son. See section 14, cap. 224, R. S. O., 1897, and section 86 of the Municipal Act and also the form of oath provided by section 115 of the Municipal Act. If the father does not own any farm in the township where he resides the son cannot be assessed in that township as a farmer's son in respect of a farm situate in an adjoining township.

2. If this case is one where the farmer's son is seeking to vote on property situate in another township than the one in which he resides, the father having no farm in the township where he resides, the son is not entitled to be on the Voters' List in the township where he resides.

3. We think so, but not simply upon the ground that all other farmers' sons do one days statute labor.

4. No.

5. No.

Tax Returned to County Treasurer—No Property to Distrain, for Tax of 1896 Cannot be Collected this Year.

295.—R. J.—In the year 1896 a certain property in our municipality, when the collector went around collecting the taxes he found nothing on the property to distrain, and it was sent to the county treasurer for collection, but in the year 1898 the property changed hands, and now there are enough goods on the property to distrain and to cover the taxes. Now the question is, Can the municipal council call it in from the county treasurer and collect it themselves, or will they have to wait the three years till it goes up for sale?

No. After the county treasurer has been furnished with the statement mentioned in section 157, chapter 224, R. S. O., 1897, no more money on account of the arrears then due shall be received by any officer of the municipality to which

the roll relates. See section 160 of the same chapter. Taxes in arrears for three years can be put on the collector's roll by the county treasurer if the lands are then occupied, as provided by section 152 and the following sections of the same act.

Town Councils Act—Reeves and Deputies.

296.—F. J. C.—Section 71, chapter 223, R. S. O., 1897, does not appear to be repealed by section 71a of chapter 23, Municipal Amendment Act, 1898. Section 71 says, "The council of every town shall consist," etc. Section 71a says, "The council of every town having a population of not more than 5,000."

1. How can these two sections harmonize?

2. As county councils composed of reeve and deputy-reeves have been abolished, what is the meaning of this section (71) and its sub-sections?

3. In reply to question No. 270 of the June World, it provides that where a town is divided into wards one councillor is to be elected for each ward, and the remaining councillors are to be elected by general vote, as in sub-section 1 provided. May not this reply be misunderstood without further qualification?

To me it seems that both sections 71 and 71a have been drawn and acted loosely, and may lead to nothing but confusion.

1. All we can say in regard to this is that where there is a town having a population of not more than 5,000 the Act of 1898 governs.

2. The only effect which the County Councils Act has had is to provide for another and different composition. Reeves and deputy-reeves do not now compose the county council, but they were Reeves and deputy-reeves in the local municipalities, and we can see no reason why they cannot still be such.

3. We do not think so. In our answer to question No. 270 we expressed the opinion that each elector would be entitled to one vote only under the circumstances stated.

Liability for Taxes—Assessment Rough Lands.

297.—W. G. H.—1. C is a resident of the municipality and sold D a parcel of land, but on a verbal agreement, and therefore gave no writings or deed. D claims he paid C. This was in 1894. D has been assessed four years as a resident, but has not paid any taxes, and refuses to pay. He (D) does not reside in the township, and has no chattels nor goods that can be distrained, and refuses to pay on the ground that C has not nor will not give him the deed. C admits that he has not given the deed, and refuses to pay taxes, but allows the court of revision to put said parcel on his assessment this present year. Our council differ on this, whether C can be levied for the total amount or not. Give us directions how to proceed. If the lot was bought at the land sale it might not sell for the amount against it, and no doubt but some of these parties would make by this.

2. We have a number of ratepayers who, when getting located, had two lots granted instead of one on account of rough or waste land and claim exemption for the fifty per cent., and as their land is no rougher nor worse than the most of all the township, and all other wild land is valued at \$1 per acre, and their's is equally as good; that is, to value each lot according to the number of acres which the map or survey shows. The assessor claims their two lots are as valuable as most other wild land. This question has long been a controversy. I would ask for your serious consideration.

1. You do not properly state the facts of this case to enable us to express an opinion upon it. You say that D has been assessed four years as resident, but that D does not reside in the township. What right was there to assess D as a resident if he was not a resident? You do not state who was in possession during the four years, or why the taxes of these four years, or some of them, were not paid. If the assessment was regular the taxes which could not be made by distress should have been returned to the county treasurer, who would be entitled to sell the lands if he could not find a distress out of which to realize the taxes. See section 152 and following sections of chapter 224, R. S. O., 1897. Also section 160 of same chapter. C not having been assessed, would not be liable personally to the municipality. The council can do nothing so far as the arrears are concerned.

2. The assessor should assess all lands according to their actual value, except in those cases where the statute has expressly provided for another mode. This is the general rule, and we see nothing in this case to take it out of the general rule.

Road Expenditure—Statute Labor—Abolished.

298.—PELEE ISLAND.—Many here would be willing to reject the statute labor system of roadwork, providing they knew that the by-law repealing it and instituting the new way, could compel the commissioners to expend in the different road divisions the amount of money that would be raised in those road divisions. Kindly answer in THE WORLD.

The council can always direct where the money shall be expended. See section 561 of the Municipal Act, R. S. O., 1897. So that you must trust to the council.

Support of Indigent—Business Tax.

299.—B.—1. What provision is there in the law for the support of a destitute, or is there any?

2. Suppose a father had led a reckless life and had not provided for his old age, has been able to support himself up till present, but is now forced to go to a hospital to have an operation performed and has not the means to go with. Will his son who has not been living with or near him for a number of years be compelled to give him assistance as he says he will not do so without compulsion. And if not, what must be done for the old man, there being no county, but the district of Manitoulin?

3. In striking a business rate please tell us how to proceed. We do not agree on the explanation given in the "Assessor's Guide." Suppose a merchants store or business is assessed at seven hundred dollars—I do not mean his stock of goods—what tax would he pay at a legal rate, or any rate you might use for illustration?

1. Certain provisions are made by section 588 of chapter 223, R. S. O., 1897, by which by-laws may be passed by the councils, of counties, townships, cities, towns and villages for aiding in maintaining any indigent person belonging to or found in the municipality at any working house, etc., or for granting aid to any charitable institution or out-of-door relief to the resident poor.

2. The son cannot be compelled to support him. The powers contained in section 588 are not confined to county corporations, but may be exercised by townships, villages, etc.

3. Section 36 of chapter 223, R. S. O., 1897, empowers the council to pass a by-law for imposing an annual business tax upon certain classes within certain limits. This section defines annual value as being an amount representing 7 per cent. on the assessed value. The annual value in this case would be \$49. If a business tax of 7½ per cent. is imposed the tax would be 7½ per cent. on \$49; that is \$3.67.

Village Council and Burying Ground.

300.—MUSKOKA—Can the village council, without request or consent of committee, take charge of burying ground inside village limits? Committee held deed for several years before incorporation.

No.

Destroying Noxious Weeds—Court of Revision.

301.—SUBSCRIBER—Concerning the destroying of noxious weeds, our municipality have no by-law passed. Has any ratepayer a legal right to compel the pathmaster to force a farmer to cut noxious weeds on his farm, such weeds growing in amongst the grain? If so, does the Act apply to the District of Algoma?

2. Who is the proper person to preside at the court of revision, reeve or clerk?

1. The Noxious Weeds Act, chapter 279, R. S. O., 1897, is applicable to every municipality in Ontario, and requires every occupant of land or the owner to cut down all Canada Thistles, Ox Eye Daisies, Wild Oats, Rag Weed and Burdock, and also all other noxious weeds to which the act may be extended by by-law of the municipality. It is a pathmaster's duty to see that the provisions of the act are carried out, by cutting down and destroying all noxious weeds growing on the highways. The act provides for the appointment of an inspector to enforce the provisions of the Noxious Weeds Act. A pathmaster has no authority except as to weeds on the highways.

2. The Assessment Act does not provide that the reeve shall preside at meetings of the Court of Revision. The members of the court should appoint some one of themselves to preside. The clerk is not a member of the court and has no right to preside. It is his duty to record the proceedings of the court.

Re Tax for Statute Labor not Performed 1898 to go on Roll 1899.

302.—H. M.—Re section 110 assessment roll commented on by you on page 94, June. I might say that I believe said section and sub-section 2 to be irreconcilable as the sub-section provides for the treasurer paying moneys he has not in his possession. Section 109 provides for overseers of highways making returns before the 15th of August of non-residents, and in my opinion should also embrace or include residents. I think the Assessment Act 55 Vic., chapter 48, sections 100 and 101 is all right for carrying out its intention, but the late law is all wrong and cannot be carried out in accordance therewith. I therefore hold that

the Legislature acted very unwisely in making the change. In this township we have a by-law making it an overseer's duty to return his list of Statute Labor to the Clerk on or before the 15th day of August, subject to a fine if he does not so return it. I presume under the law these by laws will be illegal.

Section 101 of the Act of 1892 was amended in 1897. See page 124 of the statute of 1897. We do not know why the Legislature made this change, but it saw fit to make it, and it is certainly plain enough, and the clerks must comply with it, and not with any by-law of the municipality. He derives his authority under the statute.

Protestant Separate School Supporters—Assessment.

303.—J. B. P.—We have a Protestant Separate School in our township established since about five years. The Clerk has never received any returns required by section 13, chapter 294, R. S. O., 1897, as it appears no returns were made as provided by section 12. The names of supporters of said school were given by the trustees and the Clerk was ordered by the Council to exempt these from the Public School general taxes. A is assessed as occupant of the lands situated in the school section in which the Protestant Separate School is formed, but he resides in an adjoining township about 3 miles or more in a direct line from the school-house; the owners of the lands occupied by A reside in the Province of Quebec. And B is assessed as owner of lands in said school section, but it appears that the real owners are C. P. L. & S. Co., of Toronto, and he resides hundreds of miles from said school. They are assessed A and B as public school supporters. The trustees through their secretary, have applied to the Court of Revision to have A and B along with others placed on the assessment roll as supporters of said Protestant separate school. The Court of Revision have refused to place A and B as such supporters but granted their request for the others. The Court was held on the 23rd of May, 1898, the roll was finally revised the next day, and said Court was adjourned *sine die*. On the 3rd day of June an appeal was filed in the Municipal Clerk's office by the solicitor of A and B, therefore:

1. Could any one name be on the Collector's roll as supporters of the said Protestant Separate School?
2. Should the appeal of A and B be heard, and if so is the Court or Judge justified in placing them as supporters of either the said Separate school or public school?
3. Could the Council levy and collect the taxes of said Protestant Separate School if requested by the trustees?

Sub-section 2 of section 2, chapter 294, R. S. O., provides, "No person shall be a supporter of any Separate school for colored people unless he resides within three miles, in a direct line, of the site of the school-house for such Separate school." Now, unless A resides within this limit he cannot be a Separate school supporter at all. From what you state it does not appear certain whether he is within this limit. Upon examining that part of the Separate Schools Act which relates to Protestant and colored Separate schools we cannot understand what the court of revision has to do with the matter. The 12th section requires half yearly returns to be made by the trustees to the County Inspector, whose duty it is to make a return to the clerk in the manner provided by section 13. Under section 14 the

clerk, in making out the collector's roll, is governed by the inspector's return under section 13, and section 14 says: "The clerk shall not include in the collector's roll for the general or other school rate, etc., any person whose name appears upon the last mentioned return. It follows, therefore, that in order that a person may be exempt from public school rates it is necessary that the above returns should be made because they appear to be the only authority for the clerk to omit them from the collector's roll.

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

Joint Assessment—Statute Labor—Omission in Assessment Roll—Clerk's Duty.

304.—J. R.—1. In reply to question 208 you state that \$100 is not sufficient to give a vote to both owner and tenant, owner being a non-resident. By 254 (2) A can vote as F and B and C as T's on \$200. Why the difference in these cases? If A were non-resident questions 208 and 254 would be the same.

2. A, B and C are assessed as follows:—
 A—Lot 22, concession 1, \$1,000,
 B—Lot 21, concession 1, \$1,300, } \$3,700.
 C—Lot 21, concession 2, \$1,400, }

The above is a sample of several cases. A, B and C are, I hold, separately assessed for separate parcels and therefore statute labor must be computed on each separate amount and not on the total. (a) Am I right. (b) Is the above a joint or separate assessment?

3. A is assessed for a certain amount, but the letter F is not in column 4. What is the clerk's duty in such a case, the matter being overlooked at Court of Revision?

1. Upon looking at question number 208 we find that part three is not the case of a farmer and his son, though the principal part of the enquiry is in regard to farmers' sons. Section 92 of the Municipal Act provides, "In case both the owner and occupant of any real property are severally but not jointly rated therefor, both shall be deemed rated within this act." It is difficult to understand why this section makes such a provision. The question as to whether two persons, owner and tenant, are jointly or severally rated will arise in actual practice only upon the form of the entry which the assessor makes in his roll, and there is no provision which we are aware of defining in what particular form the assessor is to make an entry in his roll where he desires or is required to assess the two jointly instead of severally. We would suggest that in all cases of this kind the clerk should place both names on the Voters' List and leave it to any person to appeal to the county judge.

2. This appears to be the case of three separate and distinct owners of three different parcels, and we cannot understand why the assessor should have bracketed them and set down the total amount of the three assessments. There is nothing to show that this is a joint assessment and we think you are right.

3. The clerk's duty is to act on the roll as he finds it, he has no right to make any changes in it.

Municipal Election—Clerk's Vote—Assessment Tax
Bark, Etc., on Railway Land—Sanitary Inspector
Declarations of Office.

305.—Dundalk.—Local Municipal Election; there were three candidates for reeve. The clerk, who was returning-officer while the scrutineers were temporarily absent, marked a ballot and put it in the ballot-box for one of the candidates but did not put his name down in poll-book. When the votes were counted, it was found out that there was one ballot more in the ballot box than there were names in the poll-book. The clerk confessed his act. He has been clerk for three years and knew the law in the case.

1. What is the penalty for such an act?
2. Is he eligible any more to be trusted in the same position?
3. A quantity of tan bark, pulp wood and telegraph poles are lying in right of way of R. R. for two years on outskirts of certain village endangering the village in case of fire. The owner is a non-resident. Can such property be assessed?
4. What is the law governing such a case?
5. Sanitary Inspector of Local Board of Health resigned at first meeting of council. I was appointed by the Council in his place. Our Board did not meet this year yet. If I am notified by ratepayers about certain complaints infringing on sanitary regulations, can I be compelled to act?
6. What is the penalty of my refusal?
7. Is it necessary for a pathmaster to make declaration before entering on his duties?

1. We do not think that the clerk is liable to any penalty for his oversight in this case.
2. Yes, so long as the council think so.
3. Yes.
4. See sections 28, 38 and 41 of the Assessment Act, R. S. O., 1897.
5. No.
6. Under section 702 of the Municipal Act, R. S. O., 1897, by-laws may be passed for inflicting reasonable fines and penalties not exceeding \$50 exclusive of costs, upon any person for the non-performance of his duties, who has been elected or appointed to any office in the corporation and who neglects or refuses to accept such office unless good cause is shown therefor, etc. Whether this municipality has passed such a by-law we do not know. The Public Health Act itself does not provide any penalty for such neglect.
7. Yes.

Repairs to Frontage Improvements.

306.—H. P. Y.—Street improved on frontage system (by petition) five years ago. Owing to neglect on part of the municipal authorities the repairs necessary to properly maintain said street have not been made, and street is now out of repair. Does section 666 R. S. O., 1897, apply, and if so what proceedings can be taken to compel council to appropriate the funds necessary to place the street in a good and sufficient state of repairs?

We do not think that the Legislature intended to give a right of action against a municipality to compel it to make such repairs, but rather to clearly negative the right to impose any further charge upon the property specially charged in the first instance for the original improvement.

Alteration School Section Boundaries.

307.—RAMBLER.—In regard to school matters, S. S. No. 1, is eight miles long, there are seven ratepayers in the north end of said S. S. who want to join S. S. No. 3, that is only three miles from said school, and they put in a petition to the council on March 26th, and they did nothing until the next meeting of the council on the 14th May, and the reeve adjourned the meeting until the 28th May, and all they did in the matter after the trustees of both S. S. agreed to the new boundary that would divide between No. 1 S. S. and No. 3 S. S. The council agreed to pass the by-law at the next session of the council to be held on June 9th, and then they said it was too late, that it would not be legal to pass the by-law after the first of June. Would the by-law be legal after the council agreed to pass it, and put it in the minutes of the meeting. These seven men could vote in S. S. No. 3, in three miles, if they have to go to No. 1 to vote they will have to travel eight miles.

Sub-section 2 of section 38, Public Schools Act, R. S. O., 1897, empowers the township council to pass by-laws to alter the boundaries of a school section, etc., but sub-section 3 provides, "Any such by-law shall not be passed later than the first day of June, etc." If the council were to pass the by-law now any person affected could move to have it quashed and the municipality would probably have to pay the costs.

Voters List—To Make up Deficiency in Sinking Funds.

308.—D. A.—1. We have a number of voters living in town. Their properties are in different polling sub-divisions in our township. They want me to put them in the nearest polling place to town for convenience. I don't think such can be done. What do you think?

2. We passed a by-law twenty years ago come August. The whole sum is due August first, 1898. We are short about \$8,000, by reason of depreciation of interest, and we want to take two years to raise this amount. We are thinking of passing a by-law under section 290 and 368, chapter 42, Municipal Act of 1892. Will this have to be voted on by the electors? Is this the best method? If it is, please give us any information on it. Do you know a better way?

1. You must look to the act and not the convenience of the parties for your guide. You are, therefore, quite right.
2. We have examined the two sections referred to and we have to say that they contain no authority for what you propose to do. In this case the debt was long ago contracted and must be paid. What is the use of submitting such a question to the electors? Suppose they vote against the by-law and defeat it, the debt must nevertheless be paid. The electors must give their assent to certain by-laws in order that certain debts may be contracted, but that is not the case here at all. Section 384, cap. 223, R. S. O., 1897, shows the cases where the consent of the electors must be first had. Sub-section 5 requires the council to provide by rate, sufficient to pay off the debt and interest. Section 402 requires the council to levy enough to pay all debts, including interest, falling due within the year. If it is going to be oppressive to pay the \$8,000 in one year we think that you must apply to the Legislature for authority to issue debentures upon which to borrow money to pay off the debt.

Berlin Bicycle By-Law.

The solicitor for the town of Berlin has advised the council in reference to by-law regulating the use of bicycles as follows:

The section of the Act dealing with the matter will make it clear beyond question that there is ample power to prevent the riding of bicycles upon the sidewalks, pathways or foot-paths in town, but strange to say, the section giving power for "regulating and governing" persons using bicycles and other vehicles not drawn by horses, is limited in its operation to cities having 100,000 inhabitants or more. If there were no such section in the statute, I should have thought that there was inherent power in the Council to regulate the use of bicycles, but in view of this express provision, any implied power that there might otherwise be, would be seen to be taken away.

Upon the whole, therefore, I must advise that the provisions of the by-law excepting only as to the provisions as to riding upon the sidewalks, etc., are beyond the power of the council. There is power to regulate the speed of any vehicle, including a bicycle, but not, I think, to insist on the carrying of a lantern or bell. At the same time it would be well for the public to understand that any person riding a bicycle after dark, without a bell or lantern, and causing injury to a pedestrian, would in my opinion, be clearly liable to the pedestrians for the damage that might be caused to him.—*News-Record.*

Publications Received.

- Minutes and Proceedings of the County Council of Waterloo, 1897.*
 - Minutes and Proceedings of January Session, 1898, County Council of Ontario.*
 - Minutes and Proceedings of January Session, 1898, County Council of Oxford.*
 - Minutes, By-Laws and Auditors' Report Township of West Flamboro, 1897.*
 - Voters' List, Township of Dereham, 1897.*
 - Herd By-Law, No. 399, Township of Dereham.*
 - Auditors' Report Township of Dereham, 1897.*
 - Auditors' Report Village of Beamsville, 1897.*
 - Auditors' Report Township of Athol, 1897.*
 - Auditors' Report Township of East Zorra, 1897.*
 - Auditors' Report Township of Nepean, 1897.*
 - Appendix to the Report of the Ontario Bureau of Industries, 1896.*
- The above appendix contains an article on the growth of Municipal Institutions in Ontario, by C. R. W. Biggar, C. E., Toronto. Also an article on the Municipal Government of Ontario, by C. C. James, M. A., Secretary Ontario Bureau of Industries. Both of these articles will be published in a future issue.

In the June number of *Municipal Affairs* the bibliographical work which was begun in the first number is continued. All the articles, pamphlets and books upon city government which have appeared in the past quarter are arranged in an admirable index, and one can find at a moment's notice all the literature upon any municipal topic.