

The Municipal World

PUBLISHED MONTHLY IN THE INTERESTS OF EVERY DEPARTMENT OF THE MUNICIPAL INSTITUTIONS OF ONTARIO.

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CONTENTS

	PAGE
Editorial.....	158
Houses of Refuge.....	159
Treasurers' and Collectors' Bonds.....	160
Municipal Legislation, 1904.....	179
ENGINEERING DEPARTMENT—	
Statute Labor.....	161
The International Good Roads Convention.....	162
St. Thomas Waterworks Improvement.....	164
Waterworks Reports.....	164
Street Grades.....	164
Wide Tires.....	163
The Road Grader.....	164
QUESTION DRAWER—	
415 Council May Pay Cost of Cement Sidewalk Out of General Funds.....	
416 Obligation of Council to Maintain Bridge.....	
417 Majority Necessary to Carry Money By-Law.....	
418 Delayed Issue of Debentures.....	
419 Proceedings on Establishment of New Road.....	
420 Payment for Work Unauthorized by Council.....	
421 Restoring Water to Its Natural Course.....	
422 Proceedings to Elect School Trustee to Fill Vacancy.....	
423 Power of Private Owner to Close Road.....	
424 Power of Provincial Municipal Auditor.....	
425 Power to Prohibit Palmistry and Fortune-Telling—A General Appeal Against the Assessment Roll—Proceedings to Expropriate Site and Build New School.....	
426 Liability to Build Bridge on Township Road.....	
427 Payment of Cost of Road Grader.....	
428 Law as to Traction Engines—Responsibility for Damage to Tile.....	
429 Qualification of Voters on Money By-Law.....	
430 Powers of Court of Revision.....	
431 Placing Names on Assessment Roll for Voting Purposes.....	
432 Disposition of School Taxes.....	
433 Not a Deviating Town Line.....	
434 Construction of Drain on Highway to Take Water from Private Lands.....	
435 Fencing Land Used for Park—Closing Road.....	
436 Proceedings to Provide Drainage for Cemetery.....	
437 Time for Submitting By-Law the Second Time.....	
438 Duties of Court of Revision.....	
439 Construction and Maintenance of Drain.....	
440 Expense of Submitting Sectional By-Law.....	
441 Proceedings to Compel Removal of Fences from Road Allowances.....	
442 Proceedings at Council Meetings.....	
443 Proper Official to Take Oaths of Members of Court of Revision.....	
444 Poundage By-Law—Cattle Causing Damage When No Fence Along Road.....	
445 Raising Money to Pay Debt Illegally Incurred.....	
446 Assessment of Standing Timber.....	
447 Opening Road Allowance.....	
448 Formation of New Polling Sub-Division.....	
449 Power to Sell Municipal Property.....	
450 Mode of Filing Appeal to Court of Revision.....	
451 Election of Trustees in New Section—Liability for Building Line Fence.....	
452 Payment of Cost of Nursing Party Under	

Calendar for July and August, 1904.

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 council to pass by-law that nomination of members of township councils shall be on third Monday preceding the day for polling.—Municipal Act, section 125.
Before or after this date Court of Revision may, in certain cases, remit or reduce taxes. Assessment Act, section 74.
Last day for revision of rolls by county council with a view to equalization.—Assessment Act, section 87.
Last day for establishing new high schools by county councils.—High Schools Act, section 9.
Treasurer to prepare half-yearly statement for council.—Section 292, Municipal Act.
Treasurer to prepare statement of amount required to be raised for sinking fund to be laid before council previous to striking annual rate.—Municipal Act, section 418, (4)
Last day for completion of duties of Court of Revision.—Assessment Act, section 71, sub-section 19.
5. Last day for service of notice of appeal from Court of Revision.—Assessment Act, section 75.
Make returns of deaths by contagious diseases registered during June.
15. Last day for making returns of births, deaths and marriages registered for half year ending 1st July.—R. S. O., chapter 44, section 11.
20. Last day for performance of statute labor in unincorporated townships.—Assessment Act, section 122.
31. Last day to which judgment on appeals, Court of Revision, may be deferred, except as provided in The Act Respecting the Establishment of Municipal Institutions in Territorial Districts.—Assessment Act, section 75, sub-section 7.

August—

1. Last day for decisions by court in complaints of municipalities respecting equalization.—Assessment Act, section 88, sub-sec. 7.
Notice by trustees to municipal councils respecting indigent children due.—Public Schools Act, section 65, (8) ; Separate Schools Act, section 28; (13.)
Estimates from school boards to municipal councils for assessment for school purposes due.—High Schools Act, section 16, (5) ; Public Schools Act, section 65, (9) ; Separate Schools Act, section 28, (9) ; section 33, (5.)
High school trustees to certify to county treasurer the amount collected from county pupils.—High Schools Act, section 16, (9.)

453 Quarantine.....	464 Council Not Liable for Plough Broken..
454 Power of Railway to Cross Highways...	465 Warden no Casting Vote for Treasurer.
455 Extension of Tax Exemption.....	466 A Disputed Audit—Qualification of Clerk
456 Payment of Separate School Deb. Rate	467 Licensing Hawkers and Peddlars.....
457 Payment of Assessor for Equalizing	468 Requisites of Pound—When By-Law
Union School Assessments.....	Takes Effect—Trespassing by Cattle...
458 Wrongful Digging of Ditch Along High-	469 Liability to Build Bridges Over Ditches
way—Statute Labor By-Laws.....	470 Location of Cement Sidewalks.....
459 Voters' List for By-Law Vote—When	471 Location of Limits of Highway.....
Assessment Roll Finally Revised.....	472 Clerk's Duties as to By-Laws—School
460 Secretary-Treasurer of School Section	Boundaries—Fenceviewers.....
May be Collector of Taxes—Assessment	473 Voters on Money By-Law—Wrongfully
of Doctor's Income.....	Taking Oath.....
461 Tp. Clerk May be License Inspector.	474 Qualification of Voters on Money By-Law
462 Obstruction of Government Road.....	475 Trustee Absenting Himself from Board..
463 Liability for Accident Caused by Stone	476 Removal of Fence from Road Allowance
on Highway.....	477 Liability for Building Sidewalks on
464 Opening and Establishing of Streets	County Roads.....

The Municipal World

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of the Municipal Institutions of Ontario

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ST. THOMAS, ONTARIO, JULY 2, 1904.

Mr. James Menzies, treasurer of the County of Halton, died last month.

Mr. W. J. Warner, clerk of the Township of Caistor, died recently, and has been succeeded by Mr. A. Shields.

A by-law authorizing a loan of \$30,000 to T. Aldred, to enable him to extend the capacity of his foundry, was recently carried by the property owners of Glencoe by a vote of 192 for to 12 against.

A by-law guaranteeing the bonds for \$100,000 of the Church & Watt Company for twenty years, and exempting them from taxes, was carried recently in St. Marys with about thirty votes to spare.

Municipal cash books authorized by the Provincial Auditor will not be available for some time. The Brown Bros., Limited, of Toronto, the only firm authorized to make them, had their premises and stock destroyed in the Toronto fire.

The Toronto General Hospital has sent out notices to the different municipalities in the Province that they will receive patients into the Hospital from any municipality, at the rate of fifty cents per day. Chronic cases, cases of senile debility, insane persons, or incurables are not admitted.

In the article on "Municipal Undertakings in Guelph" on page 139 of our issue for June last, an error occurred at the end of the first paragraph under the heading "Electric Railway." It should have read "Regular tickets are sold at the rate of six for 25c.; limited or workmen's tickets, eight for 25c."

We are in receipt of a pamphlet prepared by His Honor Judge Ardagh, County Judge of the County of Simcoe, containing complete instructions as to the preparation and revision of their voters' lists, to all the municipal clerks in the county. The municipal officials within his jurisdiction should, and no doubt will, fully appreciate His Honor's efforts to render the discharge of their duties in this regard less laborious, and ably second his endeavors to accomplish uniformity and perfection in the voters' lists throughout the county.

COUNTY HOUSES OF INDUSTRY AND REFUGE FOR THE POOR.

In 1869 the first County House of Refuge for the poor was instituted by the county council of Waterloo. Two-thirds of the counties now have similar institutions and others are considering the question with a view to complying with the provisions of the Act of 1903, which requires counties or unions of counties, before the first of January, 1906, to erect or establish Houses of Refuge.

The Provincial Government contributes one-fourth of the amount actually expended for land and buildings, but not in any case more than \$4,000. In order to obtain the grant the farms must be of at least forty-five acres in extent, and the building plan must be submitted to the Inspector of Prisons and Public Charities for his approval. Houses of Industry are by statute under control of the county council, but in practice a special committee and an inspector are appointed for the purpose. The immediate supervision is left to a resident keeper and a matron, also appointed by the county council, and a consulting physician, who is retained at an annual salary. The typical House of Industry is a farm of from forty-five to one hundred and twenty-five acres, situated within easy reach of a town. The building is, as a rule, a single structure, two or three stories high, built to accommodate from 80 to 100 inmates. Special attention has latterly been given to the complete classification of the inmates, a step which the low tone of morality among them makes necessary. The expense of maintaining inmates is met in either of three ways: (1) By a general tax to meet all the expenses of the institution; (2) by a general tax to maintain the farm and the buildings and a special assessment on local municipalities for the support of inmates sent from each; (3) by a fixed rate payable by the municipalities sending inmates to the institutions.

A great many inmates of these institutions are local wanderers committed from the municipality in which they become disabled. The Municipal Act, as amended in 1903, makes the municipalities in which an inmate resided during the three years preceding his committal, liable for the cost of his maintenance and support and of the expense of his committal to the House of Refuge. In case of dispute the question of liability may be determined by a Division Court. This is intended to protect counties and prevent local municipalities from shifting their responsibility. The greatest benefit would be derived if all the institutions were under certain safeguards, open to both residents and transients.

The county council of Victoria last year appointed a committee to examine several Houses of Refuge. They visited Whitby, Berlin, Stratford, Sarnia and Chatham, and recommended "that in the preparation of plans and specifications the general features of the House of Refuge of the County of Lambton be followed."

A correspondent says: "I heard a municipal clerk the other day state that he had been in office 44 years. It would be interesting to know who has been in office for that or a longer period. The united height of the treasurer and clerk of West Gwillimbury is 12 feet 8 inches. Are there any taller municipal officers in Ontario?"

House of Refuge—County of Lambton



THE House of Refuge for the County of Lambton is situated in the Township of Sarnia, just outside the limits of the Town of Sarnia.

Farm.—The farm occupies sixty acres of light soil, which cost \$5,500. It is now in a good state of cultivation and well fenced; the front has been set out with ornamental trees and an orchard has been started.

Buildings.—The buildings consist of the House of Refuge 120 x 40 feet, with rear wing 24 x 36 feet; a bank barn 45 x 65 feet, and frame chicken house.

The main building, which was opened in 1896, presents a fine appearance. It is constructed of white brick with two flats above the basement. The basement provides for the kitchen, laundry, store-room, a dining-room for men and one for women, a men's day room, water closets, lock-up and boiler room.

The kitchen contains two of Doherty's electric steel ranges, which give good satisfaction. The store-room is fitted with a most convenient and commodious refrigerator and the men's smoking room contains several comfortable lounges, which are usually occupied.

The building is lighted by electricity and heated by steam generated in boiler from the John Abel Engine Works, Toronto. The system works well and is economical, about sixty tons of coal having been consumed during the past winter.

The laundry contains stationary tubs and a stove for boiling clothes. Water for laundry and bathing purposes is heated in a large upright boiler connected with the kitchen range. Some of the basement floors are wood, others are made of concrete. The first floor is divided by a centre hall, the office and reception room being on either side of the main entrance and keeper's apartments in the rear wing. The same space is provided for men and women; the bed-rooms are suitable for three or four

beds each; the first floor will accommodate 28 and the second floor about 50 inmates. Rooms set apart for hospital wards in rear wing were not convenient and are now used as bed-rooms for men. Water closets and bath rooms are to be found on each flat. Some additional expenditure is necessary to improve condition of the floors around the closets. The bedsteads are iron and straw ticks are used. The keeper's apartments consist of parlor, dining-room, pantry, bath and three bedrooms.

Barn.—The barn is situated a short distance from the main building, and provides the usual stable accommodation. This is now being altered to make it more convenient for present requirements. The farm stock consists of 8 cows, 2 horses, hogs and chickens. Calves are usually raised on the farm. The keeper also keeps one horse used for family driving, which is boarded by the county. The main building provides for the separation of the sexes, but the location of the rooms and the separate yard for women adjoining the barn could be improved by removing them to the other side.

Inmates.—The institution has accommodation for seventy-five inmates. The largest number in the house at one time has been forty-nine. There are at present thirty-two inmates—27 males and 5 females—all of whom are old or incapable of doing much work. In this respect the general character of the inmates varies to some extent from those in other similar institutions.

Hospital.—The county council grants \$500 annually to the Sarnia Hospital and one bed therein is retained for the use of inmates from the House of Refuge.

Drainage and Water Supply.—The Town of Sarnia supplies the free water, and drainage from the farm and institution is through a sewer, which is not sufficient in the spring or during heavy rains, when the sewer fills, causing the water to back up.

Dietary of Inmates.—Breakfast—Porridge and milk ; bread, butter and tea. Dinner—Meat (beef), potatoes, soup, bread and tea. Supper—Sauce, bread, butter and tea.

This is varied by the produce of the farm and home-grown pork.

Bread, meat and groceries are supplied by tender.

Interments.—Inmates who die are buried by friends or in the cemetery in the county plot. No attention has been paid to the provisions of The Anatomy Act.

Management.—The county council controls the institution and appoints a committee of three to supervise the management. The committee meets once a month and passes accounts and general business. The chairman attends at other times for special business or at request of keeper.

The management of the House and farm devolves on a most efficient keeper and matron, Mr. and Mrs. A. J. Kelly, who were appointed when the institution opened. Mr. Kelly receives a salary of \$500 and Mrs. Kelly \$200 annually. They are assisted by two hired girls, who are paid \$3 per week, and a hired man, who receives \$25 for five months.

A physician visits the House weekly and at other times and receives a salary of \$200.00.

Religious services are held every Sunday by the local clergy, assisted by members of the W. C. T. U.

The institution was established and paid for by the county council. The first cost was not to exceed \$20,000 for land, buildings and furnishings. This limit was, however, passed as improvements were required, and on 31st December last the total expenditure on capital account was \$24,238.74. Inmates are committed by the Reeves of townships and villages and the mayors of towns in the county. The expense of maintenance is paid by the municipality sending the inmate to the extent of \$1.50 per week, the county providing the balance. Eligible inmates, for whom no municipality will be responsible, are provided for in the county gaol, the expense being paid by the county. One man, 92 years of age, who would like to go to the House of Refuge, has been in the gaol for years. The adoption of this policy in the committal and maintenance of inmates was necessary to meet opposition to the establishment of the institution. A careful consideration of the whole question favors the broader policy of committal by county councillors and the maintenance of the institution by the county as a whole.

TREASURERS' AND COLLECTORS' BONDS.

Notwithstanding the numerous questions we have answered on this subject in these columns and our repeated deprecation of the dangerous practice of delivering their bonds for cancellation to these officials, on the expiry of their respective terms of office, and on their apparently satisfactorily accounting for all municipal funds that had come into their hands, we observe, in reading reports of the proceedings at their meetings, that some councils refuse to take warning, and are willing to assume the risk of serious loss to the municipality, owing to the absence of the necessary security. Experience has shown that discrepancies in the accounts of these officials have, in many instances, been discovered long after their obligations to their respective municipalities have been ostensibly satisfactorily adjusted. If the bond has been delivered up for cancellation by the council to the official afterwards found to have been in default, it thus loses its remedy against his sureties. In addition to this, as soon as it has been filed by the collector or treasurer, it becomes one of the municipal records in the custody of the clerk, and should be so retained by him for all time to come, and the retention of the bond by the municipality can work no injustice to the

official who filed it if he has honestly discharged his duties. In this connection the following history of a special audit recently made of the accounts of a certain eastern township, taken from an exchange, and its results, may prove of interest:

“At the request of a large number of the ratepayers of the Township of R. the council had the treasurer's books audited by a chartered accountant. He found a deficit of \$5,004.50. It took the expert thirty-six days to investigate the business transacted during the past six years. He found the present treasurer \$301.83 short in his cash, and the gentleman who was treasurer in 1902, and the present clerk of the township, \$1,316.90 short in the funds that should have been turned over to the township.

“The officials of the township say that the deficit is not due to dishonesty on the part of the parties interested but that the local auditors are to blame, as they never allowed for any interest on money the treasurer had, which the accountant figured out would amount to \$285. This together with \$15 constituted the whole amount of his shortage. When auditing the former treasurer's books the local auditors overlooked \$1,000 in the addition of a column of figures, and they also made several other mistakes the same year.

“The other shortage, which amounts to \$3,385.77, is accounted for by the fact that the council issued a great many debentures, and in order to keep down the rate of taxation used some of the money when short of funds, instead of increasing the levy.”

In December last a thresher was driving his clover machine and boiler and engine along the 7th line of the Township of Innisfil, when the latter upset into the ditch, owing, it was claimed, to the fact that the roadway had been built with too high a crown, the travelled portion being only 7 feet 4 inches wide and falling off from that point to a sudden depth of 17 inches inside of 4 feet. As a result of the accident the plaintiff incurred a bill of \$123 in getting the engine repaired and lost some forty days' use of the same, which he considered worth \$5.00 per day clear. He brought an action against the township to recover the amount, and the Judge found that the road was unsafe for travel and gave the plaintiff a verdict for \$290 with full costs, being the amount disbursed by him with 30 days loss of profits.

* * *

The Michigan State Board of Review of railroad assessment has completed its task and the figures as finally determined are \$222,066,000, an increase of \$23,425,000 over last year's assessment, and a reduction of \$5,240,000 from the original assessment value of the roads, which was \$227,306,000. The final aggregate of assessed valuation of tributary companies follows: Express companies, \$1,869,240; car loaning companies, \$508,450. The total aggregate, including railways, will amount to \$424,443,690. The taxes which the railroad companies will pay are \$3,755,468.96; express companies, \$31,611.69; car loaning companies, \$8,598.68. The total taxes which the State will receive amount to \$3,795,678.33. When this large revenue is compared with the comparatively meagre returns from railway taxation in Ontario the inevitable comment is, either that Michigan is unduly severe upon the railways, or Ontario too lenient. To recoup themselves the railways, it would naturally be supposed, would make the Michigan people pay higher rates than are charged in Ontario, but the reverse is the case. Singular to relate, railway fares are cheaper in Michigan than in Ontario, and the service, as a general rule, is better.—*Ex.*

Engineering Department

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

STATUTE LABOR

The system of statute labor was established in this Province more than a century ago under the regime of General Simcoe, the first Lieut.-Governor of the newly formed Province of Upper Canada. The population was then very scattered, about 70,000 in all, while Toronto was merely an Indian camping ground. Statute labor was in keeping with pioneer life, when the need for roads was urgently felt, when the work consisted of cutting down trees, clearing the road allowance of logs and stumps, corduroying swamps, and throwing up a dirt grade.

To-day circumstances are very different. The pioneer work has been done on the roads as well as on the farm. On the latter we have dispensed with the cradle and the flail, and are using self-binders, steam threshers, and many other efficient farming implements. For road-work, machinery has been provided—graders, stone-crushers, steam rollers—all a means of economy, just as much as modern farm machinery. It should not be difficult for the people of this agricultural Province, progressive in all that pertains to farming, to understand that improved methods are needed for road-making, and that a system in keeping with these methods should be adopted.

Responsibility is Divided.

Under the statute labor system responsibility for all work is not centered in one man. No one officer can be held responsible for the condition of the roads, nor for the expenditure of money and labor upon them. Responsibility is first distributed among the members of the council, and by them among fifty or one hundred pathmasters. When work is improperly done, or money misspent, there is no one whom the ratepayers can call to account with any degree of effect.

Does Not Meet Present Conditions.

The payment of a road tax in labor is too vague and clumsy to meet present conditions. The need of roads is not so keenly felt as in the time of early settlement, and there is not the same incentive for hard and careful work. Men work on the roads very much as they work on their farms. Some are shiftless, some lazy, some stupid, some careless, and so the list might be carried on. Each works, plans the work, or oversees it according to his own ideas. The statute labor system in this respect is not so much a system as an entire absence of system.

There is not, to-day, a united effort put forth by all to do good work on the roads, as was done under pioneer conditions. Even if there were, it would not be efficient in the operation and management of machinery, and in laying the quality of roadbed demanded by those who use the roads.

Money Appropriations Are Not Economically Expended.

Township roads are not kept up by statute labor alone. The ratepayers of many townships who know only of the grants for small repairs, scattered here and there over the townships, do not realize how much money is, in the aggregate, spent on their roads in the course of a year. The amount is in no sense objectionable, and if the money were applied to the best advantage there are few townships which could not spend even more than they are now doing on road improvement.

The difficulty arises from the fact that this money is spent on the statute labor basis. The making of money appropriations was commenced many years ago with a view to supplementing statute labor. They were then very small amounts, but with the growth of the Province this practice has increased, until in many instances the total money appropriation exceeds the statute labor for the year valued at one dollar a day. Thus the money spent has constantly increased until it is of greater consequence than the statute labor, but the latter is permitted to govern the expenditure of the former. It is a case of the tail wagging the dog.

Repairs Are Not Made When Needed.

Under statute labor, work is done at one time of the year only, and for the remainder of the year the roads are neglected, and repairs are not made when first needed. In the maintenance of a road there is nothing more economical or more satisfactory to the users of the road than to have repairs made as soon as signs of wear appear. When roads are kept in a smooth condition they are pleasant to drive on, and in a term of years cost much less than a road that is allowed to get rough. A rough road wears out much more quickly than a smooth road does. It is the hammering and pounding of a wheel on a rough road that does most damage—not the even roll of a wheel on a smooth road. When a depression starts on the surface of a road, the hammering of wheels as they drop into it very quickly creates a deep rut. Statute labor does not provide for the constant maintenance of a road.

Improvements Are Not Made Systematically.

Road improvements, under the statute labor system, are not carried out systematically from year to year. Instead, it is understood that the pathmaster for the year will do such work as he desires in front of his own farm. No matter how urgently grading or ditching may be needed, if it is more convenient for the farmer to haul gravel he does so, or vice versa. The wishes of the man who is to do the work, not the work itself, are the first consideration. While one road section may be good, and statute labor properly performed, there are other sections in the township where work is only half done. It is almost useless for one section to keep up its roads when those who do the work on them are certain to drop off at the end of them into bog holes and impassable mires of the surrounding sections. The work of one year can have no connection with that of the following year, in carrying out a well-defined plan. The work of one pathmaster may even be rendered useless by the work of a new pathmaster the following year, while there is no unison between one road-beat and those adjoining it.

Statute Labor is Not Equitable.

The difficulty of maintaining a road may increase or diminish half a dozen times in crossing a township, according as the soil is clay, loam, sandy, gravelly, dry or swampy, yet there is not, under statute labor, a proper means of equalizing the work of keeping up the roads, and it is therefore inevitable that a road cannot be kept in a uniformly good condition. This is unfair to many of the users of the roads, as well as to those who are required to build and keep in repair the difficult sections.

Men who are interested in securing money grants are encouraged to neglect their own road-work. It follows that those who do their road-work faithfully must also, by means of money grants, pay for the work done for the men who will not perform their statute labor.

Some men give a full day's work, others pay one dollar or the township rate of commutation. Other men give only a part of a day's work, and in some townships methods are so lax that they can escape without giving either labor or money.

A difference of a dollar in assessment, or of an acre in the extent of a farm, may make a difference of a day in the amount of statute labor required.

A good pathmaster will create ill-feeling between himself and some of his shiftless neighbors if he demands even a reasonable performance of their statute labor. Rather than do this, most pathmasters permit their men to work as they see fit, or come equipped with any class of tools, wagons or teams.

The System is Wasteful.

A great amount of statute labor is wholly wasted—the time spent by a hundred or so pathmasters attending the clerk's office to qualify for office, calling out those on their road list, and acting as bosses; the time lost by those who come to work too late or stop too early; the time lost in doing work as an annual holiday, in carelessly planning the work, in hauling sand and loam instead of gravel, in working at wrong seasons of the year, in having too few teams or too few shovellers, etc.

Better Management is Needed.

Nearly all the foregoing objections to statute labor centre around the fact that road-making is a matter requiring, on the part of those who have had it in charge, experience, study, and a certain class of ability. It is a very common idea that any one can manage a farm, that no previous training is required. The same impression exists to even a greater degree regarding road-making, and is responsible for an alarming amount of waste as well as for bad roads. This is exemplified by the fact that some roads are graded forty feet wide, some thirty, some twenty, some less. Some think a road should be rounded up in the centre to a dangerous height, others think a road should be flat, and see nothing wrong if the road is hollow in the centre. Some think a certain road should be drained, others that it should be mounded up with gravel, and so on through all details of improving the one road—yet all cannot be right. Pathmasters do not remain in office long enough to become expert, and even if they did, they would be much handicapped in using statute labor to the best advantage, owing to the difficulty in getting men when they are needed, in getting them to do the work well, or as they are directed, and so on throughout all the details of the work. Statute labor does not provide an experienced head to manage the work, and is therefore fundamentally deficient.

THE INTERNATIONAL GOOD ROADS CONVENTION

Possibly the largest "Good Roads Convention" ever held on the continent of America was the one held at St. Louis, Mo., during the week of the 16th to the 21st of May. Thirty-seven States were represented, some States sending as many as two hundred delegates. The total enrollment was about three thousand. Accredited delegates were present from Cuba, Mexico, Porto Rico, the Philippines, Sweden, England, Canada, and South American Republics.

Every phase of the road problem was considered and discussed in a most capable and comprehensive way. The official programme was prepared some months in advance, and the subjects placed in the hands of men whose experi-

ence had made them most efficient to deal with each question, the result being that the discussion in connection with every branch of the work was lead by an expert, or one who had made a special study of that particular thought. The papers were carefully and concisely prepared, and nothing but the genuine substance of the question was dealt with. Careless and popular talk, as far as possible, was eliminated from the proceedings. This resulted in a most enthusiastic attention to the business of the conference, and notwithstanding that the meetings were held daily throughout the week, each session was remarkably well attended.

That men could be drawn from all over America in such large numbers to discuss the question of "Road Improvement" signifies that genuineness of the interest which is becoming so general in the problem, and further indicates how rapidly the people are coming to realize the vast importance of the question.

Some of those who took part in the programme and the subjects discussed were as follows:

"Good Roads Necessary to Agricultural Development"—HON. JAS. WILSON, U. S. Sec. of Agriculture.

"Commercial Advantages of Good Roads"—HON. HENRY H. WERNSE, President Merchants Exchange, St. Louis.

"Good Roads a Social and Commercial Asset"—HON. CYRUS P. WALBRIDGE, President Business Men's League.

"Relation of Good Roads to Manufacturing Industries"—HON. L. D. KINGSLAND, President Manufacturers' Association, St. Louis.

"Promoting Highway Improvement"—HON. W. H. MOORE, President National Good Roads Association.

"Outlook for Better Roads in the Southern States"—HON. A. S. MANN, Vice-President National Good Roads Association, Jacksonville, Fla.

"Educational and Experimental Work in Road-making of the United States Government"—HON. MARTIN DODGE, Director, Office Public Road Inquiries.

"National and State Agitation for Permanent Highways"—HON. R. W. RICHARDSON, Secretary National Good Roads Association.

"The Science of Road Building"—MR. A. W. CAMPBELL, Highways Commissioner, Ontario.

"Road Improvement in the Mississippi Valley"—PROF. IRA O. BAKER, University of Illinois.

"The Highways of Mexico"—HON. SANTIAGO MENDEZ, C. E. Representative of Mexican Government.

"National Aid for Leading Roads"—HON. A. C. LATIMER, U. S. Senator.

"Road Building in Cuba"—HON. MANUEL DIONISIO DIAZ, Department of Public Works, Cuba.

"Roads and Rural Delivery"—MR. FRANK E. NEVINS, U. S. Mail Service.

"Good Roads, a State and National Issue"—HON. W. D. VANDIVER, Member of Congress, Missouri.

"Government Military and Postal Roads"—GEN. NELSON A. MILES.

"Federal and State Co-operation"—HON. W. P. BROWNLOW, Member of U. S. Congress.

"State Aid for Road Building"—HON. T. G. HARPER, President Iowa Good Roads Association.

"Proper Road Construction"—HON. LEWIS M. HAUPT, C. E.

"Road Improvement in the South"—HON. WM RICHARDS, Member of Congress.

"Improved Roads in Industrial Development"—HON. J. C. CLAIR, Industrial Commissioner, Illinois Central Railroad.

"The Use of Tar in Road-making"—HON. FREDERIC B. BAKER, New York.

In discussing the matter of "Road Improvement," few ratepayers, and especially those who are engaged in doing the work in their own particular section, realize the magnitude of the public work upon which they are employed, and few wait to think how important their little section is in the great net-work of highways which traverse the country, and which is of such vital importance to its industrial, its commercial, its agricultural welfare.

The people engaged in the performance of statute labor, as well as the people of the local municipality, believe that road-making is of a purely local character, and that its object and its influence need not extend much beyond the limits of their township. Frequently we hear it said that traffic now-a-days is of such a local character that main roads are out of the question, and that the most local system is all that is required to solve the problem of road construction.

It requires, however, that people should hear the road question in its comprehensive and in its commercial phase fully explained, and the influence of roads upon the country's welfare clearly illustrated, in order to fully appreciate how far-reaching is even the back concession line, and that it is not only a local, a township, a county, a provincial or a national, but an international problem to determine the other end of that concession line.

The reports of this convention will, it is understood, be fully published and distributed, and it is fair to assume that such reports will contain a greater volume of important information on this question than has ever been published in connection with a similar convention. It is to be hoped that some of these reports may reach the offices of at least a number of newspapers, and that they will be carefully gone over, adjusted, and at least a fair summary presented, in order that similar publications may take up the thread of this instruction and present it as far as possible to the people of not only the United States, but Canada and every other country that was there represented.

At the conclusion of the convention the following resolution was adopted :

Resolved, That this convention heartily endorses the proposition for federal aid for the construction of public roads in the United States to the extent of one-half of the cost of same, and that each delegate in this convention pledges himself to use all honorable means to secure the support of our respective delegations in Congress of this principle.

Resolved, That believing as we do that the road question is a paramount one now before the American people, we urge that in the election of all public officers they be required to stand for federal aid for road improvement generally.

Resolved, That this convention unanimously endorses the proposition of county, state, and national aid.

Resolved, That we heartily approve and commend the work of the Office of Public Road Inquiries of the United States Department of Agriculture in collecting and disseminating information and co-operating with communities in object lesson and experimental work. We believe that its practice of road-building has been far-reaching and will prove of immeasurable value to the people. The demand for better methods and greater light is insistent in general throughout the country. While the office has accomplished a prodigious amount with the limited means available, it has not been able to respond to more than an insignificant fraction of the demand. It is a kind of knowledge that all people want, and it is pre-eminently proper that the Government should furnish it.

We, therefore, earnestly demand on behalf of the people that Congress at its next session appropriate not less than one hundred and fifty thousand dollars (\$150,000) for this office in order that it may be able at once to increase its facilities for its vitally important educational work.

Resolved, That we recommend that the Office of Public Road Inquiries should be advanced to a bureau to be known as the Bureau of Public Roads, and that an increase in the appropriation of money applicable should be made commensurate with the demand of this office.

Resolved, That it is the sense of this convention that all convicts and vagrants shall be employed in work upon the public roads and highways, and not in competition with honest labor as at present.

Resolved, That the delegates appointed to this convention be appointed by this convention, a committee to organize in the different states and territories, not already organized, county and state organizations as the primary organizations to this body.

WIDE TIRES.

Narrow wagon tires are the great destroyers of good roads. The injury done by these increases as the wagon gets older, and the wheel wobbles loosely on the axle. A narrow tire on an old and heavily loaded wagon can do more damage to a road in one trip to market and back than would pay for a new wagon. Wide tires, on the other hand, are a benefit rather than an injury to the road. They have a greater bearing and do not cut into the road. Instead they roll it down, smooth, and compact it. Instead of two inches of road surface supporting the load, wagon and all, by doubling the width of tire, the load is distributed over twice the road surface. In making wagons consideration should be given not merely to the strength of the wagon and its wheels, but also to the strength of the roads to be travelled, and the kind of wagon they have strength to support.

Tests have been made from time to time of the effect of wide tires, not merely on the roads, but also on the pull required to move the loads. Among these tests have been those made by the British Association for the Advancement of Science, in 1902; by the experimental station of Missouri University in 1897, and more recently by the U. S. War Department. The results in all cases have been practically the same.

(1) With regard to the roads, it is found that wide tires leave a road in better condition than before passing over it.

(2) As to tractive effort, the only practical disadvantage of wide tires arises where the road is so soft, that the wheels sink into it, and the mud sticks to the rims and packs between the spokes. On very hard, smooth roads, or roads covered with dust, wide tires require a very slightly increased tractive effort. On all other classes of road the advantage is in favor of the wide tire.

The practical application of the result of tests is that, for traffic on country roads, if wide tires of four inches and upwards are generally used, there would be a decided improvement in every class of road. The tractive power required would be less, and the cost of keeping the roads in repair would be much reduced. If all farm wagons were equipped with wide tires, the muddiest and stickiest of our roads would be very much improved, and many of what are now known as bad roads would be, for the most of the year, in fair condition. While the majority of wagons continue to have narrow tires, the few having wide tires are heavier to draw on very muddy and sticky clay roads; but on the great majority of roads, the average country road, the advantage is in favor of the tire four inches wide and upwards.

Unfortunately, it has been found a difficult matter to enforce the use of wide tires, for several reasons. A wide tire law would necessarily specify certain widths of tire for certain loads, or for certain sizes of wagon axle. But in doing so, it is difficult to adopt a schedule that can be readily followed. A law can scarcely be framed that would be applicable to all sections of the Province. Municipal by-laws operate unsatisfactorily with regard to traffic from adjoining municipalities.

In the state of Michigan municipalities may allow a rebate of statute labor to those using wide-tired wagons. Such a permissive measure, rather than one that is compulsory, has evident advantages. In the meantime, it is to be trusted that public opinion in Ontario may be aroused, and that the use of wide tires will become popular because of their manifest advantage to all concerned.

WATERWORKS REPORTS.

It is unfortunately the case that comparatively few of the municipalities in the Province having public waterworks systems have adopted the plan of publishing annual reports, showing the results of operation. In the great majority of cases a very meagre statement of the expenditure for the year is given. As a rule the consideration for which the payment was made is not given, merely the name of the person to whom the money was paid. There is no attempt at classification, even so far as to distinguish between new construction and operation. Such a system of book-keeping is an entire absence of system; it reflects credit neither upon the citizens nor their representatives in the council or commission. Surely the intelligence of the citizens of the average Ontario town should be above being satisfied with the simple knowledge of the person to whom a few dollars were paid. Such a statement of expenditure in connection with municipal works can do little more than assure Harry Jones, hardware merchant, and Tom Brown, opposition hardware merchant, that the hardware patronage of the institution is being equally divided, etc.

What the intelligent citizen will, as a rule, want to have answered is not to whom was the money paid, but rather for what was the money paid? And this information he wishes properly classified, so that he may know the financial standing of the works. Does the revenue cover operating expenses, depreciation, and interest? Is it being conducted at a profit or a loss? Should the rates be lowered or increased? Is the municipality being charged too much or not enough for fire protection and other public purposes? Is the system being managed economically or otherwise? These are among the questions which a proper annual statement will answer when the right kind of information is given and suitably classified.

To the successful management of a private enterprise a proper system of book-keeping is essential. This is none the less the case when the industry is under public ownership. From the absence of a correct system of accounting arises one of the chief weaknesses of municipal ownership. New men are elected from year to year to manage these institutions. In the past records they find little or nothing to guide them. Water rates established twenty years ago continue unchanged. Are they to-day rightly proportioned within themselves, and in relation to the total cost of operation? There is nothing to answer. A special annual report such as is published in St. Thomas, Berlin, Windsor and a few other places, is one of the needed solutions. Another is that financial statements should be prepared on a uniform basis throughout the Province, these to be collected and published annually in the form of comparative statistics.

STREET GRADES

One of the first requisites for general street improvement, is the establishment of a permanent plan of street grades. When this has been done, street improvement can be carried out systematically and when all is completed the different works will unite, and fit into one another in a proper manner. When a permanent plan of grades has been established, the subsequent erection of buildings can be carried out in accordance with it.

The following of a definite plan of street grades generally means considerable excavating and filling along the street and while a work of improvement is in progress those living on the street are very apt to see much injury being done to their property. In the end, however, it generally transpires that the grade being followed is the most suitable for those concerned, and the finished work, with lawns graded or terraced to harmonize with it, is satisfactory to all.

ST. THOMAS WATERWORKS IMPROVEMENT.

The city council of St. Thomas, on the recommendation of the Board of Water Commissioners will apply to the Lieutenant-Governor in Council for permission to pass a by-law authorizing the issue of debentures to raise the sum of \$14,000 for the requirements of the board for the following purposes: For 90 acres of land, \$6,000; for the new dam, \$2,500; for puddle wall around reservoir, \$500; for concrete platform for storage of coal, \$250; for repairs to suction tank, \$150; for new centrifugal pump and gasoline engine for use in building dam and cleaning reservoir, \$600; for increasing capacity of storage, \$1,000; for extending a six-inch main to join present main in vicinity of proposed Pere Marquette shops, \$3,000; a total of \$14,000. The necessary land and supplies for new dam, including pump and engine, have already been purchased. City Engineer Bell is of the opinion that it is absolutely necessary to secure the additional storage capacity of the land purchased. There are 32 acres of high lands which the commissioners do not require, but they could not afford to have these lands sold for residences and the sewage run into the flats and contaminate the creek. •

THE ROAD GRADER.

Road improvement should be in full operation on township and county roads at this season of the year. Particularly is this true of the grading and the use of grading machines. The ground is now moist and in its best condition for working. Later in the year the roads will be hardened and baked by the sun, the soil, particularly clay, difficult to handle, and the results of the work will be less satisfactory. When this work is done early in the summer, the soil settles more readily and the greatest benefit will result for the ensuing season.

The season's work of grading should be planned in advance, and each piece undertaken and completed in its proper order, as the grading machine is moved from one side of the township to the other. In this way a useless outlay is avoided in moving the grader, men and teams here and there about the township without system.

A grader is, in some townships, used in connection with statute labor. Any pathmaster can get the grader (if it is not in use) and he is expected to find men and teams to operate it. A grader used in this way cannot give satisfaction. To operate a grader successfully, experienced men and horses accustomed to the work are essential. These can be had only by hiring men and teams for the entire season, to work independently of statute labor, taking up the work as above outlined—systematically throughout the township. A grading machine has not intelligence; it will not do good work unless skilfully directed. The operator must be a man of experience, of good judgment, and have a knowledge of the principles of road-making.

In planning the season's work, the members of the council or township road commissioner should, early in the spring, go carefully over the roads of the township. Acting on the information obtained in this way, the work to be done may be selected and proper instructions be given the operator of the machine.

Instead of using horses at all times on the grader, there is certain work for which a traction engine can be used to advantage. This is the case where the grader is sent over long stretches of old gravel or stone road, to cut off the shoulders and scrape away the surface coat of mud that has collected. A traction engine will not work to advantage on new ground, which is soft and uneven; but on old roads, where the work is largely one of scraping, and can be done in long stretches without turning, a traction engine will do better and cheaper work than can horses.

QUESTION DRAWER

Subscribers are entitled to answers to all Questions submitted if they pertain to Municipal Matters. It is 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 will be published unless One Dollar is enclosed with request for private reply.

Council May Pay Cost of Cement Sidewalk Out of General Funds.

415—A. W. T.—1. Our council contemplates laying a quantity of cement sidewalks and paying the whole cost of the same out of the general funds. Can they do this? Must not they comply with sections 677 and 678 Municipal Act?

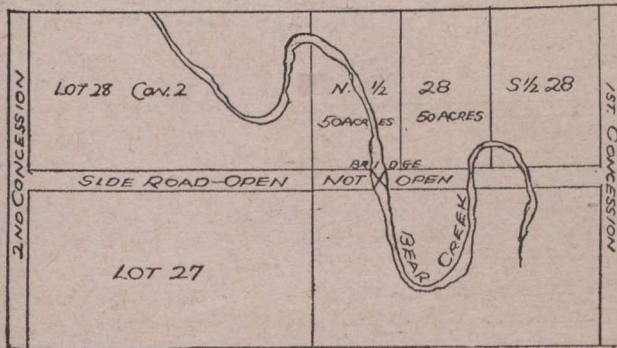
2. What proceedings are necessary to take to restrain the council if their act is illegal.

1. It is optional with the council as to whether it constructs cement sidewalks as local improvements in accordance with the provisions of sections 677 and 678 of The Consolidated Municipal Act, 1903, or not. If it sees fit it may legally construct these walks out of the general funds of the municipality, but if the amount required to pay for them is not to be repaid within the municipal year in which the money was expended, the assent of the electors will have to be obtained to a by-law providing for the issue of debentures to raise the amount required. We assume that the council has not passed a by-law under section 682 of The Municipal Act.

2. Our answer to question number one renders it unnecessary to reply to this.

Obligation of Council to Maintain Bridge.

416—P. M. P.—There is a sideroad here open to the blind line between the first and second concession and there is a bridge about eighty rods south from the blind line on the part not opened of



sideroad. The council about twenty years ago gave about \$50 to help build the said bridge and have repaired it at least twice since, but now wish to close the bridge as it needs a new one and the roadway is closed at both ends. The north half of lot 28, 1st concession, has been purchased by two brothers who have divided it into two parts of 50 acres each; one of which is south of bridge and has no other way to get out. Is the council bound to build and maintain the bridge (the cost will be nearly as much as the farm is worth) or can they remove the cover of the old bridge and abandon it, the road not being open at either end of it?

The road allowance on which this bridge was built does not appear to have ever been opened for use as a public highway. The council cannot be compelled to open it for this purpose, nor should it do so, unless the convenience of the general public demands it. Since the council is not bound to open the road, it would be a useless expense to rebuild the bridge, and this should not be done simply for the benefit of a private individual. In refusing to rebuild and maintain the bridge, we do not

think the council would be contravening the provisions of section 629 of The Consolidated Municipal Act, 1903, as the owner or owners of the lands affected never had ingress or egress thereto or therefrom over this bridge and road.

Majority Necessary to Carry Money By-Law.

417—J. S.—Our council are submitting a by-law to the people for the purpose of raising \$4,500.00 to purchase a new dynamo and to do certain repairs to the waterworks. What vote is required to carry the by-law for creating debts, is it a majority of the ratepayers (owners) voting or is it a majority of the ratepayers (owners) on the voters' list and entitled to vote? If the latter should the names of parties known to be dead be put on the list to be made out by me for the several wards?

If a majority of the voters in the municipality qualified to vote on a money by-law under the provisions of sections 353 and 354 of The Consolidated Municipal Act, 1903, who record their votes, vote in favor of a by-law of this kind, it should be declared carried. The voters list used on the occasion of a vote of this kind should be one specially prepared by the clerk in accordance with the provisions of section 348 of the Act, from the "then last revised assessment roll" of the municipality, without any reference to the MUNICIPAL voters' list.

Delayed Issue of Debentures.

418.—T. G. T.—On April 20th, 1903, the ratepayers by a majority of four carried the enclosed by-law. Some opponents applied to have it quashed, the case dragged on until February, 1904, when the application was dismissed and the by-law declared valid. Of course while the case was in the courts no levy was made and I am in doubt whether No. 1 debenture should be dated July 23rd, 1903 or 1904. If 1903 a double levy will have to be made this year. Also let me know if the council can issue the debentures making them payable December 1st in each year as on that date our yearly taxes would be collected?

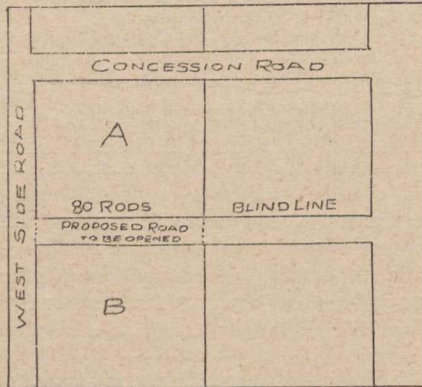
Section 10 of The Municipal Amendment Act, 1904, makes provision for a case of this kind. It adds the following sub-section to section 384 of The Consolidated Municipal Act, 1903:

(11) In the event of an action or proceeding being instituted to set aside the by-law or question its validity or to enforce the payment of any bonus or the issue of debentures thereunder, the debentures by the by-law directed to be issued may be issued and dated within six months after the final determination of such action or proceeding notwithstanding that two years may have elapsed after the passing of the by-law; and the annual rate directed to be levied by sub-section 5 of section 384 and sub-section 2 of section 386 may begin from the date when the debentures are issued notwithstanding that the by-law may have fixed a different date. This sub-section shall apply to by-laws passed after the 15th day of April, 1901.

Proceedings on Establishment of New Road.

419—W. D.—1. Is it necessary for a municipal council to post up notices and publish in a newspaper as per section 632 and following sub-sections of the Municipal Act if the land required for opening up a new road be acquired by deed from the owner?

2. If a road be opened up by the municipal council along the line of adjoining farms but wholly on the one can the owner of the adjoining farm obtain compensation from the council for the construction of one-half of the line fence the road being taken from the farm abutting his. Payment being made for value of land, and cost of new fence, eighty rods long, to owner of land acquired for the road?



3. Can the owner of the farm from which the road is taken remove the one-half of line fence acknowledged to be his part in six months after the road is opened up and the other owner be forced to build the said half without compensation?

1. The council is required to post up the notices mentioned in clause (a) of sub-section 1 of section 632 of The Consolidated Municipal Act, 1903, but need not publish it, as required by clause (b). (See sub-section 4 of section 632).

2. The owner of this farm is entitled to compensation for such additional fence, as the opening of the new road renders it necessary for him to build, if any, but we do not think the existing fence should be interfered with.

3. There should be no occasion for the removal of the existing fence. The compensation allowed to the owner of the farm from which the road is taken should include the cost of erecting such a fence as is required between his land and the line of the new road.

Payment for Work Unauthorized by Council.

420—I. H.—W. D. lives three miles from the main travelled road on a road made expressly for him and several others to get out on the road being bush nearly all the way to D's farm. D. was unable to do his road work or get anyone to do it for him at the time the road work was done last year, so he paid for his road work one dollar for day under the commuted statute labor system. Late last fall D. hired a man to go on and cut some brush and fix said road without being authorized by either council or road overseer. He then billed the council for \$3.75 for road work which they refused to pay.

1. Can D. compel the council to pay this bill?
2. Can anyone do work on a road when they like and where they like and compel the council to pay?
3. Is the council compelled to fix any part of road when notified to do so?

1. No.
2. No.

3. No, but it should see that all the public highways under its jurisdiction are kept in a reasonably safe condition for public travel, taking into consideration the nature and circumstances of the particular locality. If the council neglects to do this and an accident happens, the municipality will be liable in damages for its negligence.

Restoring Water to Its Natural Course.

421—J. E. H.—1. Is there any time limit for water running on the roadside out of its natural channel to be returned to its natural one.

2. If the council would be compelled to replace culvert to take away this natural flow could they remove it if the flow was sent its natural course?

1 and 2. These questions are somewhat difficult to understand, but we gather that the council has con-

structed a drain along the road which is conducting water out of its natural course, and that objection is now being raised to this proceeding. If this is so, the council should take steps to fill up the illegal drain, and restore the drain to its natural and proper course as soon as possible. It must be observed, however, that if this drain has been in existence for 20 years or over, and any adjoining owner or owners has or have acquired the right to drain water through it, it cannot now be interfered with.

Proceedings to Elect School Trustee to Fill Vacancy.

422—T. S.—Trustees of public school board requested the council to hold nomination and election for school trustees in 1903 on the same day and time as municipal elections. This was done and trustees elected. Since then one trustee has resigned.

1. Who are the proper parties to call a meeting of the rate-payers to fill the vacancy, the clerk of the municipality or the secretary of the school board and should the election be by ballot?

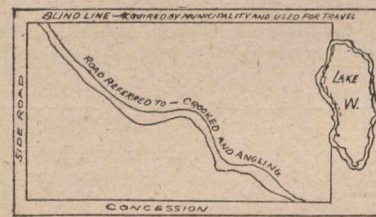
2. If the trustee is illegally elected what steps should be taken to have him unseated?

1. Sub-section 1 of section 62 of The Public Schools Act, 1901, provides that "in case the office of trustee becomes vacant from any cause, the remaining TRUSTEES shall, except as provided in the next sub-section forthwith hold a new election, etc." Unless the trustees have discontinued the use of the ballot at trustee elections as provided by the latter part of sub-section 1 of section 61 of the Act, this election must be by ballot.

2. The proceedings necessary to unseat a disqualified trustee will be found in section 63 of the Act.

Power of Private Owner to Close Road.

423—N. F.—About thirty-five years ago a road was opened on what was then the most convenient place to make it and the easiest to clear for traffic. This road was made without the consent of the owner of lot that it crosses, yet never has been objected to until now as it has been woodland. But there is nothing on record to show that it ever was acquired by the municipality for public use. Taxes for the whole lot have been paid regularly, no allowance given for the privilege of the road allowance. Now the owner desires to fence the lot in as part of it has been cleared and all is



useful for pasturage. The road runs along across the lot and is very inconvenient to it. The road can be made in the right place, the only objection is the cost of making a fit road in the regular allowance for public way. Can the owner close the road, if so, outline the steps to be taken?

There does not appear to have ever been any dedication of this road to the public, or conveyance of it to the municipality for use as a public highway, and we are of opinion that the owner of the adjoining land may close it at any time in any way he sees fit.

Power of Provincial Municipal Auditor.

424—B.—Can the Provincial Municipal Auditor compel the treasurer of a municipality to appear at a certain time and place in another municipality with his books, etc., there being no request in any way for either audit or inspection?

We are of opinion that the Provincial Municipal Auditor has power to compel the attendance of the treasurer of the township at the place, and for the purpose named by him. (See sections 10 and 12 of chapter 228, R. S. O., 1897.) We think, however, that if it be represented to the auditor that the attendance of the local treasurer at the place appointed would involve that official and the municipality in considerable trouble and expense, he would, we have no doubt, appoint some more convenient place for the audit.

Power to Prohibit Palmistry and Fortune-Telling—A General Appeal Against the Assessment Roll—Proceedings to Expropriate Site and Build New School.

425—CITIZEN—1. Can a town by-law legally prohibit palmistry and fortune telling? What statutes apply?

2. We have an appeal in against the assessment roll as follows: I appeal against the whole roll as being an unjust assessment, etc. Is this appeal legal? Would it not require to be an appeal against each individual assessment?

3. The public school supporters purpose expropriating a site and building a new school. How must the ratepayers' meeting be called, etc., for this, what must be done at the meeting, what must the council do? Can they take land anywhere from the C. P. R. for a site? Could the C. P. R. take part of a school site to run their road over? At this ratepayers' meeting should the amount of debentures rate % and time be agreed on and the council notified, etc.?

1. No.

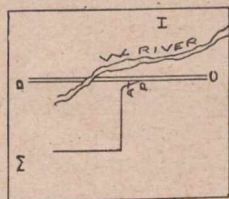
2. We are of opinion that this notice of appeal is not in accordance with the requirements of section 71 of The Assessment Act. The notice should in some way specify the name of each party appealed against, and the ground of the appeal, so as to enable the clerk to serve on each party appealed against the notice mentioned in sub-section 9 of the above section.

3. Since this is an urban municipality, the board of public school trustees should apply to the municipal council for the passing of a by-law providing for borrowing money by the issue and sale of debentures for the purchase of the required school site and erection of the new school building. If the council refuses to issue the debentures required, then the question shall be submitted to the electors qualified to vote under The Municipal Act for the creating of debts. (See sub-section 1 of section 76 of The Public Schools Act, 1901, as enacted by section 5 of chapter 32 of The Ontario Statutes, 1903, and sub-section 1 of section 587 of The Consolidated Municipal Act, 1903). No meeting of the ratepayers is necessary. The terms of the loan should be arranged between the board of trustees and the council. We do not think the board can expropriate any railway lands for school purposes, nor can the railway company take possession of any of the school property for its purposes.

Liability to Build Bridge on Township Road.

426—W. J. E.—We are in a territorial district where two townships K. and H. have been newly organized, C. D. being the town-line between them.

1. From this line to M. is a road which was built by the Government, running to C. On account of the W. river, this road leaves the line at with the line about road allowance for then turns off west-into K. to reach M. on road allowance north), as there is river and settlers in In the late freshet a at A. and now is liable for it? If not, what course should we take when asked to contribute or presented with bill for part of costs.



P. and runs parallel ten rods from the some distance and ward at right angles There is no travel after P. (further no bridge over the H. go another way. bridge was injured K. claims that H. half the repairs. Is

2. A teacher signs an agreement to teach "according to law." The law states that school shall open at 9 a. m. and close at 4 p. m. The teacher is very unpunctual often not commencing until 9.30, and once or twice not till ten. The trustees' objection was without avail. Has he broken his agreement?

3. He claimed that if there were no more than seven pupils he need not keep school that day. Was he right?

1. This bridge does not appear to be located on the boundary line between the municipalities of K. and H., or upon a deviation thereof, or road used in lieu of the town line, but upon a road located wholly within the Township of K. We are therefore of opinion that the Township of H. is not liable for any portion of the cost of the maintenance or repair of this bridge.

2. From the statement of the facts this teacher does not appear to have complied with the terms of the agreement, but we cannot say what effect this will have without seeing the agreement or a copy of it.

3. No, unless the agreement so provides.

Payment of Cost of Road Grader.

427—D. McR.—We, this corporation, have bargained for a road grader, the first payment Nov. 1st, 1904, and four yearly payments for the balance. Can the council do this without a vote of the ratepayers? The Consolidated Municipal Act says in sub-section 389 we cannot, but in section 640, sub-section 10 says we can. We have not yet signed the notes for this grader, but expect to do so at our next regular meeting which will be in a few days.

A vote of the ratepayers is not necessary in a case of this kind. Sub-section 10a of section 640 of The Consolidated Municipal Act, 1903, authorizes the councils of townships to pass by-laws "for contracting for the purchase, conditionally, or otherwise, etc., of road-making machinery and appliances for public uses within the municipality, and such contract may provide that payment for such road-making machinery and appliances may be made in instalments extending over a period not exceeding five years." See also sub-section 10b of this section.

Law as to Traction Engines—Responsibility for Damage to Tile.

428—F. McC.—1. A thresher buys a traction engine. Has the township to strengthen all bridges to carry it?

2. If a bridge is strong enough for ordinary township use and a notice is put up on it that we do not think it safe for traction engines and will not be held liable for any damages in crossing it, what would be the result?

3. A commissioner is appointed on a drain. He sells the work and has tile put on bank of drain. The drain cannot be completed owing to bad weather and scarcity of men, and the tile became badly damaged. Who is to make good the tile?

1. Sub-section 1 of section 10 of chapter 242, R. S. O., 1897, provides that "before it shall be lawful to run such engines (that is, traction engines,) over any highway whereon no tolls are levied, it shall be the duty of the person or persons proposing to run the same to strengthen at his or their own expense, all bridges and culverts to be crossed by such engines, and to keep the same in repair so long as the highway is so used. Sub-section 2 of this section provides that "the cost of such repairs shall be borne by the owners of different engines in proportion to the number of engines run over such bridges or culverts."

Section 43 of chapter 7 of The Ontario Statutes, 1903, amends the above section by adding thereto the following sub-section:

"(3) The two preceding sub-sections shall not apply to engines used for THRESHING PURPOSES or for machinery in construction of roadways." Section 60 of The Statute Law Amendment Act, 1904, adds the words "of less than eight tons in weight" to sub-section 3 above mentioned, and also enacts the following proviso: "provided however that before crossing any such bridge or culvert it shall be the duty of the person or persons proposing to run any engine or machinery mentioned in any of the sub-sections of this section to lay down on such bridge or culvert planks of such sufficient width and thickness as may be necessary to fully protect the flooring or surface of such bridge or culvert from any injury that might otherwise result thereto from the contact of the wheels of such engine or machinery, and in default thereof the person in charge and his employer, if any, shall be liable to the municipality for all damage resulting to the flooring or surface of such bridge or culvert as aforesaid."

2. The posting up of this notice will not absolve the municipality from liability in this regard, unless it has fully observed the requirements of the statutes as contained in our answer to question number one.

3. Assuming that this was township work, and that the tile had to be furnished by the municipality, the damaged tile will have to be replaced by good ones by the municipality. No one seems to be to blame for the damage to the tile. It seems to have been caused by the elements, and to have been the result of circumstances over which neither the township nor contractor had any control.

Qualification of Voters on Money By-Law.

429—J. R.—The township through its council are about to submit a by-law to the qualified voters for bonusing an electric railway, June the 31st being the day set for voting.

1. Who can vote on this as the debentures extend 20 years?
2. Will I have to write names for each sub-division with their property qualification, or will it be sufficient to divide up voters' list into nine parts and strike off those who are not entitled to vote as is often done in other elections?
3. Can any tenant vote on this by-law none having a lease extending over the time debentures will have to run?

1. The ratepayers mentioned in sections 353 and 354 of The Consolidated Municipal Act, 1903.

2. Section 348 of the Act requires the clerk of the municipality to prepare a list for each polling sub-division therein of all persons who appear by the then last revised assessment roll to be qualified under sections 353 and 354 of the Act to vote in the municipality. These lists should be prepared wholly without reference to the ordinary municipal voters' list.

3. If there are no tenants in the municipality, whose leases extend for the time within which the money to be raised by the by-law is made payable, there will be none such entitled to vote on the by-law, or to be placed on the lists to be prepared by the clerk under section 348.

Powers of Court of Revision.

430—W. J. E.—Ours is a new township in the territorial district of Nipissing where the surveys between all the lots are not complete.

A. bought from B. an acre and one of the conditions was that he should build on it which A. never has done the sale was made over a year ago.

Now A. has appealed against his assessment on the ground that it (his acre) has not been surveyed.

C. also bought an acre in a verbal agreement and claims it and is known to own it, but when the assessor called he disclaimed owning it because he had no writing.

1. Who should have been assessed for C's acre?
2. Could B. sell it again when C. refused to be assessed for it?
3. Is A's appeal on valid grounds?

1. Sufficient particulars as to the agreement for the sale of this acre are not given. It is not stated whether any money passed between C. and B. or not. If the agreement was such as to vest the title in C. (and as to this we cannot say) he should have been assessed for this acre, otherwise it should have been assessed to the actual owner.

2. Not if the agreement for the sale is one that is binding on B.

3. No.

Placing Names on Assessment Roll for Voting Purposes.

431—J. L.—1. When names are added to the assessment roll at the township Court of Revision that are supposed to be fraudulently placed there for the purpose of voting on a school question how can they be removed?

2. Can a man deed or lease a portion of his property to his mother and brothers living in another municipality and using the property for voting purposes only?

3. Has a married woman not legally separated from her husband with property in her own name a right to vote on school questions?

4. Is it a punishable offence to fraudulently have names placed upon the voter's list, and if so, how can they be punished?

1. Parties dissatisfied with the decision of the Municipal Court of Revision, on any question before it, are authorized by section 75 of The Assessment Act to appeal to the County Judge. If voters are wrongly entered in the voters' lists, they can be removed therefrom, if disqualified, by appeal to the County Judge pursuant to section 13 and following sections of The Voters' Lists Act (R. S. O., 1897, chapter 7).

2. No. (See section 45 of The Voters' Lists Act).

3. Yes. Section 13 of The Public Schools Act, 1901, provides that "EVERY ratepayer of the full age of twenty-one years, who is a public school supporter of the section for which such person is a ratepayer, etc., shall be entitled to vote at any election for school trustee, or on any school question whatsoever."

4. Section 57 of The Assessment Act and section 48 of The Voters' Lists Act make provision for the punishment of any person who wilfully and improperly inserts or procures or causes the insertion of the name of a person in the assessment roll, or assesses or procures or causes the assessment of a person at too high an amount, with intent in any such case, to give to a person not entitled thereto either the right or apparent right to vote, etc."

Disposition of School Taxes.

432—W. N. D.—For 1903 an assessor rated a 50-acre lot owned by A. for a R. C. separate school. Subsequently the lot was purchased by B., who at the Court of Revision for that year got the said court to rate the lot for a public school. The trustees of the said separate school now claim the school rate in question.

Have they a legal right to the said school tax? B. did not give notice asking for a change previous to the holding of the Court of Revision?

If the Court of Revision made the change asked for under the authority of sub-section 3 of section 49 of The Separate Schools Act (R. S. O., 1897, chapter 294,) and the provisions of The Assessment Act in reference to giving notice of complaint, and proceedings for the trial thereof were strictly observed, we are of opinion that the separate school trustees have no claim upon the school taxes payable in respect of these premises.

Not a Deviating Town Line.

433—A. D. H.—The boundary line between the Townships of K. and H. (see enclosed diagram) is a deviation of the boundary line into the Township of K. and continues on in K., the Township of H. having no further use of the road. As there is no bridge across the river the line north is only used as a foot path. There is on the deviation two bridges, which have collapsed by weight of snow.

Can the Township of K. compel the Township of H. to pay half the cost of the repairing of bridges?

(See question No. 426 for diagram).

This road does not appear to be a deviation of the town line or a road used in lieu thereof, but one wholly located in and under the jurisdiction of the Township of K. We are therefore of opinion that the Township of H. cannot be called upon or compelled to share in the expense of building or repairing bridges on this road.

Construction of Drain on Highway to Take Water from Private Lands.

434—C. E.—Some two years ago a ratepayer of the municipality wishing to run a ditch or drain along the side of the travelled road and to cross the same to an outlet, the then water table along the road not being of sufficient depth to carry off the water from said farm, proposed to the council to put in a tile at a sufficient depth to carry off the water. The then council granted him permission to sink or put in tile to any depth required alongside of and across said travelled road, and gave him a grant of ten dollars which he asked for to enable him to do so, provided he would give a bond or guarantee that he or his heirs would not hold the municipality liable for any action for damages which might be brought by reason of his not putting the road in a reasonably safe state for public travel, or by reason of the tile drain failing to carry off the water in the future. The guarantee bond was given by said

ratepayer freeing the municipality from all liability in the matter on receiving the \$10. Now said ratepayer asks the present council to give him back the bond, as the tile drain works satisfactory and likely to continue doing so. Some of the council are willing to give the bond up if it is legal so to do, provided the municipality would not get into trouble at some future time and request that the matter be submitted to THE MUNICIPAL WORLD.

The council should not have given this ratepayer the privilege of constructing a drain on, along and across the highway to enable him to drain his land, nor have granted him the \$10 to aid him in doing so. He should have been left to his remedy under The Ditches and Watercourses Act (R. S. O., 1897, chapter 285). By an award made under this Act the rights of all parties interested could have been properly adjusted. The giving of the bond does not absolve the council from its liability to persons who may be injured by the construction of this drain, and in the event of the obtaining of a judgment against the municipality for damages sustained by reason of the construction of this drain, a question might arise as to whether the municipality could recover the amount from the ratepayer under the bond. We may say that we doubt very much if the council has any authority to take a bond for such a purpose.

Fencing Land Used for Park—Closing Road.

435—J. A. W.—There is a hill that has never been fenced in, and has been used as a public park as long as any person living at the present time can recollect. Originally it belonged to the adjoining farm. Recently the farm has passed into other hands. The present owner claims the hill or park, and is going to fence it in.

1. Can he legally do so? If not, what means should be taken to stop him?

There is a path along the top of the lake bank that has been used by the public as long as the oldest inhabitant can recollect, being at one time an old Indian trail. The former owner placed a wire fence across it, but placed steps to get over it. The present owner of the farm removed the steps and claims people have no right to use the path.

2. Can he be compelled to replace the steps? If so, what action would be necessary to compel him to replace them?

3. Would a person be justified in cutting the wires?

1. There does not appear to have ever been a dedication or conveyance of this hill by the owner of the land to the public represented by the municipality or otherwise for the purposes of a public park, and we are of opinion that the owner can fence it in when he so desires. The simple fact that the owner suffered the public to temporarily occupy it from time to time for purposes of pleasure or recreation does not vest in them any right to do so for all time to come as against the owner.

2. No.

3. No.

Proceedings to Provide Drainage for Cemetery.

436—C. O. D.—In our municipality there is a cemetery requires draining. Parties along the stream where the outlet is object to the draining of the cemetery into the stream. The cemetery committee are asking the council to allow them to drain on the road allowance and to put in a cesspool. Will it be necessary for the council to prepare a by-law, to put up notices and advertise the by-law so as to give any ratepayer a chance to appeal against the by-law?

We advise the council to leave the cemetery company to take such action as it may be advised to take, because it is difficult to anticipate the difficulties which the council might get into by passing a by-law as suggested.

Time for Submitting By-Law the Second Time.

437—F. J. C.—A by-law was submitted on the 26th inst. to the electors of S., and was defeated by a vote of 121 in favor to 251 against. How long a time must elapse before we can submit another by-law for the same purpose to the people?

The object of this by-law is not stated. If it was a by-law providing for the raising of money by the issue of debentures to aid a manufacturing institution, the council

may re-submit the by-law at any time. If, on the other hand, this is a case where the law makes special provision for delaying the re-submission of the by-law until after the expiration of a certain time (as in sub-section 2 of section 141 of The Liquor License Act, R. S. O., 1897, chapter 245,) it cannot be re-submitted until after the expiry of the time limited.

Duties of Court of Revision.

438—D. McD.—A. was appointed assessor for our township and assesses B., who is a farmer owning a threshing machine and traction engine, which A. assesses also, leaving a schedule with him, and after a few days he sends him a second schedule raising him two or three hundred dollars. B. appeals to the Court of Revision in the ordinary way before the 15th day of May, sending in the first schedule, leaving the second schedule without notice of appeal; therefore the council refused to hear the appeal.

Did the council do right, or should the council receive and dispose of the case on the first schedule, which was legally appealed against, or could the council still take up the appeal and dispose of it at the final Court of Revision to be held in the latter part of June? Would this procedure be legal?

Assuming that this owner filed an appeal in accordance with sub-section 1 of section 71 of The Assessment Act within the time mentioned in sub-section 2 of this section, the Court of Revision should take into consideration his assessment as entered in the assessment roll, and reduce, increase, or confirm it, as it may deem just, regardless of the amount mentioned in either schedule of assessment handed to the owner appealing, by the assessor.

Construction and Maintenance of Drain on Town Line.

439—A. D. H.—Along the boundary line between the township of H. and D. the Government constructed a mile of ditch on both sides of the road, at the east end of the mile where the ditch empties is a river and the volume of water passing down a hill close to the river caused a washout damaging the road. The township of H. receives a notice from the township of D, ordering it to change the watercourse and repair the road.

1. Is the township of H. liable for damage to road, the Government having cut the ditch before said township was an organized municipality?

2. Should not the township of D. have ascertained the watercourse before notifying the township of H.?

3. As the belt of land being very level the ditch after being made created a watercourse. Which municipality is liable for damages done. Please advise the proper steps to be taken?

1, 2 and 3. This drain is apparently on the boundary line between these two townships, which is under their joint jurisdiction, and they are jointly bound to keep it in repair. Neither township seems to be responsible for occasioning the damage to this road, as the drain which causes it was constructed by the Government, and the road should be put in a safe condition for travel at the joint expense of the two municipalities. Proceedings should be instituted either in pursuance of The Municipal Drainage Act (R. S. O., 1897, chapter 226,) or The Ditches and Watercourses Act (R. S. O., 1897, chapter 285,) as the circumstances require, for the construction of a drain. The proper watercourse would then be ascertained and followed by a competent engineer, and the rights of all parties interested properly adjusted.

Expense of Submitting Sectional By-Law.

440—P. P.—1. Should the expenses of submitting a sectional bonus by-law in aid of a railway to the ratepayers of a township be charged against the section of the same petitioning for the by-law or should it be paid out of the general funds of the township?

2. Is it necessary for a council to promulgate such a by-law if finally passed as provided in section 375 of the Municipal Act?

1. There is no provision made for charging these expenses against the ratepayers in the municipality chargeable with the payment of the bonus debentures alone, and they will therefore have to be paid out of the general funds.

2. It is optional with the council as to whether it promulgates a by-law of this kind pursuant to section 375 of The Consolidated Municipal Act, 1903. It need not do this unless it wishes to reap the benefit of section 377, but we think the council should promulgate the by-law. The by-law must be registered, however, in accordance with the provisions of section 396 of the Act.

Proceedings to Compel Removal of Fences from Road Allowances.

441—1. What are the steps to be taken to get people to move their fences off the streets, road allowances and towpath, and should we have to pass a by-law to prevent them doing so in the future?

The council should pass a by-law pursuant to sub-section 3 of section 557 of The Consolidated Municipal Act, 1903, providing for the removal of these fences, and if they have been placed upon the highway by the present owners, sub-section 4 empowers the council to fix the liability for the expense of such removal upon such owners. It is not necessary to pass a by-law to prevent the obstructing of the highways in this way. Any person who erects a fence on the highway is liable to be indicted for creating and maintaining a nuisance thereon.

Proceedings at Council Meetings.

442—P. E. I.—In a meeting a motion is made by A., and seconded by B. After some discussion A. moved an amendment to his own motion which was seconded by C. without the motion being withdrawn or otherwise acted upon. The amendment was then voted on and carried. Is the business legal and in accordance with parliamentary usage?

Since the original motion was not put to the meeting or otherwise dealt with, and no objection was taken to this course either by the mover or seconder, it must be taken to have been tacitly abandoned. What is styled the amendment thus became the original motion, which was carried, but we cannot see that there was anything illegal about these proceedings however the matter may be viewed.

Proper Official to Take Oaths of Members of Court of Revision.

443—C. A. B.—Please be good enough to advise if the oath required to be taken under section 64 of chapter 224 of R. S. O., 1897, may be administered by any other than the clerk of the municipality, i. e., by a J. P. instead of as required by the Act by the clerk himself. The Court of Revision assembled in the town hall here on Wednesday. Although the clerk of the municipality, B., was present in person and acting as clerk under section 66, the oath to the members was administered by H., a local J. P., the night before the sittings. Having certain assessment appeals in hand, I objected to the constitution of the court as being improperly sworn, and required that the oath be taken as prescribed by the Act, which was done although my objection was regarded as trivial or captious and it was even asserted that the Courts of Revision held here had been sworn in the same way for years past and that it was valid and a J. P. not being the clerk or acting for him in the capacity of clerk, either of the municipality or as clerk of the court under section 66, can properly and legally administer the oath notwithstanding section 64. I would be very much obliged if you advise me fully regarding this point, as the whole assessment might be affected thereby.

The section quoted provides that every member of the Court of Revision SHALL, before entering on his duties, take and subscribe the oath therein mentioned before the clerk of the municipality. We are therefore of opinion that the members of a Court of Revision cannot legally take this oath before any other official than the one mentioned in this section, namely, the clerk of the municipality. Had the Legislature intended otherwise, it would have so provided, as it has done in section 315 of The Consolidated Municipal Act, 1903. Your objection was not a trivial one, but a very substantial one. Neglect to observe the plain requirements of the law is very often expensive to municipalities. You are so clearly right in this case we cannot understand why an ordinary layman could not appreciate the force of your objection.

Poundage By-Law—Cattle Causing Damage When No Fence Along Road.

444—D. J. S.—Some years ago our council passed a by-law prohibiting cattle, etc., from running at large upon the highways of the township. They also embodied in the by-law a clause providing for the herding of cows upon the highways if in charge of a competent herdsman.

Later they passed a by-law declaring that a competent herdsman must not be less than fifteen years old, and that if more than ten cows are in one herd they must be in charge of at least two competent herdsman.

1. Have they the right to define who shall herd?
2. Have they the right to limit the number of cows to be in one herd?
3. If A. has no fence along his field bordering on the road, and a number of cows passing that way in charge of any one who endeavors to keep them out of the field and does not succeed and the herd damages the crop growing thereon, is the owner or owners of the herd responsible for the damage?

1 and 2. We can see no objection to the embodying of provisions of this kind in by-laws passed pursuant to sub-section 2 of section 546 of The Consolidated Municipal Act, 1903, restraining and regulating the running at large of cattle.

3. In the absence of any by-law requiring the owner of the land to maintain a fence of a certain description the owner of the cattle doing damage would be liable for such damage.

Raising Money to Pay Debt Illegally Incurred.

445—G. G. A.—The town council for 1903 borrowed from the bank for the then current expenditure in excess of the limit prescribed by section 435 of The Consolidated Municipal Act, 1903, and also expended sums so borrowed in excess of the taxes levied for 1903. As a consequence of the over-borrowing and over-expenditure the town is indebted to the bank for loans made in pursuance of by-laws which authorize loans "for current expenditure." It is now desired to raise money to wipe out the indebtedness to the bank.

1. Can the council now lawfully assess and levy a rate to meet this debt prior to or when striking the estimates for this year under section 402 of the Act.
2. Can the council with the assent of the ratepayers under section 389 of the Act lawfully borrow to pay off the indebtedness by way of debentures extending over a period of 20 years or any shorter period?

See *Fitzgerald v. Molsons Bank*, 29 O. R. 105, which suggests this course, you will observe that the loans are in excess of the borrowing powers of the council, and as a matter of fact are in excess of the estimates for 1903; also that in case this course is adopted our proceedings to repay the bank are not so far advanced as those reported in *Fitzgerald v. Molsons Bank*, where the by-law has been approved by the ratepayers, and Mr. Justice Street while refusing the injunction endorses (see p. 110) the plaintiff's contention as to the invalidity of the bank's claim, as the negotiations were ultra vires the council. The council does not propose to contest the bank's claim, but does not wish to submit a by-law for debentures if the proceedings could be questioned by a person purchasing the debentures.

3. Do you think the council in issuing the debentures would be required to satisfy any purchaser of the debentures that the money when so borrowed from the bank was expended for purposes within the general powers of the council? It would be very difficult, if not impossible, to trace the moneys so borrowed and distinguish them from other moneys in the treasurer's hands, if as a fact, there was any unlawful expenditure.

4. Would it be correct or expedient to recite in the debenture by-law that the money was required to pay the bank the moneys advanced by it for current expenditures?

1. Yes, assuming that the debt is payable within the year, and that the levy of this rate will not increase the aggregate rate to more than two cents in the dollar on the actual value exclusive of school rates and local improvements, and that the money was expended for purposes within the general jurisdiction of the council.

2. Yes. This appears to be a case where the municipality does not intend to resist payment of the money illegally borrowed, but to repay it when furnished with the means of doing so. Mr. Justice Street, in his judgment in the case cited, says on page 110: "It is one

thing to say that money borrowed by a council without the safeguards imposed by the statutes may not be recoverable by the lender. It is quite another thing to say that a municipality having so borrowed money and expended it for the benefit of the ratepayers is to be restrained from being honest enough to pay it back. This is what the plaintiffs invite us to say in the present action, and I am clear we should refuse to say it."

3. No. It will be sufficient to satisfy the purchaser of these debentures that they have been issued pursuant to a by-law which has received the assent of the electors of the municipality and which authorized their issue to pay this debt of the municipality.

4. Yes, and a recital of this nature should be inserted in the by-law, so that the electors will have full information as to its objects, when recording their votes.

Assessment of Standing Timber.

446—J. G.—A sold the timber standing on his property to B. and received payment in full for same. B. was given three years to remove the timber off the property they signed an agreement which is registered. Nothing is mentioned as to who should pay the taxes.

1. Should A. be assessed for all the property or should A. and B. both be assessed as joint owners?

2. In the case of A. and B. being assessed as joint owners and B. should appeal to the Court of Revision, and the court should sustain the assessment, is it your opinion that he would win if he appealed to the county judge?

1. A. should be assessed for all this property. The assessor or Court of Revision has nothing to do with any bargain or bargains A. may have made for the sale of any timber standing thereon.

2. Yes, if his case is properly presented to the County Judge on the hearing of the appeal.

Opening Road Allowance.

447—M. H.—We have a man living on lot 13, on the 11th concession of W. L. The front of his lot has about fifty acres of a very bad swamp on it, and the side road runs along the west side of it, but never was opened. He has a road on the north end of side road to get out and a good road on concession all along the front of his farm but he lives on the back end of the farm, but he says he will compel the council to build him a road to get his children out to school as it is the section he belongs to, but he has a school just about as near to him on the north as he has to the south. Can he compel the council to build road?

No. It is discretionary with the council as to whether it opens this road or not, and it should not do so unless the convenience of the public requires it. It should not open the road simply to accommodate a private owner, especially since he seems to have now ample ingress and egress to and from his premises.

Formation of New Polling Sub-Division.

448—McL.—Our municipality consists of three townships and the people in the west end want a polling booth which would compel us to have two polling booths in place of one as now. Can we have two polling places in the corporation without any extra change with regard to school taxes, etc., such as a ward system?

The council may pass a by-law providing for the establishing of a new polling sub-division in the municipality, if the convenience of the voters requires it, without in any way affecting the arrangement of school sections, or the payment of school rates, and it will not be necessary to divide the municipality into wards. (See sections 535 and 536 of The Consolidated Municipal Act, 1903).

Power to Sell Municipal Property.

449—H. W. E.—Our council purchased a number of years ago a drill shed and the lot on which it stands, they leased it since for a saw mill. The miller now wishes to purchase the said building and lot. Can the council sell the building and lot to him privately for a certain sum and give him a deed, or what process would the council have to pursue in order to sell the building to him?

The council is empowered by sub-section 1 of section 534 of The Consolidated Municipal Act, 1903, to pass a by-law for disposing of property belonging to the corporation when no longer required. If this property is no longer required by the municipality for its uses, and was not conveyed to the village corporation in such a way as to constitute them trustees thereof for the public, the council may sell it privately or by public auction, as they see fit, to the present occupant or any other person or company, and give the purchaser a deed therefor. If these premises were conveyed to the corporation in such a way as to constitute them trustees thereof for the public, statutory authority must be obtained before the council can alienate it.

Mode of Filing Appeal to Court of Revision.

450—T.I.T.—A ratepayer of this town, claims he called at my office on the 14th of May last at the hour of 5.30 p. m., to place in my hands an appeal against his assessment, but finding the office closed at that hour, he delivered the letter at the post office for me. This letter did not reach me until the afternoon of Monday, the 16th May. My office hours are from 9 a. m. to 5 p. m. Can the Court of Revision legally consider this appeal?

Sub-section 2 of section 71 of The Assessment Act provides that this notice shall be given to the clerk within the time therein mentioned. It does not authorize the sending of it to him by mail. Assuming that the assessment roll was returned by the assessor on or before the 30th April, as required by law, a notice of appeal received by the clerk on the 16th of May would be too late, and the Court of Revision had no authority to entertain the appeal. (See the latter part of sub-section 4 of section 71).

Election of Trustees in New Section—Liability for Building Line Fence.

451—J. C.—1. Our council formed a new school section, which does not come in force till the 15th of December. When will the trustees be appointed?

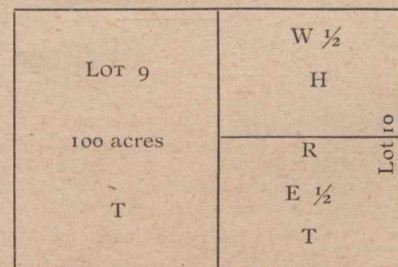
It used to be a branch school. There is one trustee in new section now. Will the one that is in be legal? or will there have to be three elected? Will one have to be elected for one year and one for two years, and the other for three or four years?

To settle a dispute in 1894 T. owned lot 9 and R. owned lot 10. They had the line run and the parts of fencing agreed on. T. built east half of fence, then in 1896 T. bought from R. the east half of lot 9, fifty acres. Then in 1898 R. sold the west half to H. Now H. wants T. to build part of west half.

2. Has T. a right to build it, as he has built the east half already?

3. H. wants to have the line run again. Has T. a right to pay for it again, as he paid once for it?

4. Did H. not step into R.'s place in regard to the line fence?



1. We assume that this by-law is to come into force on the 25th December next, as provided in sub-section 3 of section 41 of The Public Schools Act, 1901. None of the trustees of any of the sections out of which the new section was formed will be ex-officio trustees of the new section. Three trustees for the new section will have to be elected as provided in sub-sections 5 and 6 of section 12 of the Act.

2. We are of opinion that T. should build and maintain his share of the line fence between him and H.

3. If H. is not satisfied with the present line, and employs a surveyor to locate it, he cannot compel T. to pay any portion of the surveyor's fees or expenses.

4. No.

Payment of Cost of Nursing Party Under Quarantine.

452—J. C. R.—A lady over 21 years of age who had always lived at home with her father, who is a wealthy farmer, went to Toronto on a visit. She came home sick and her father called in a doctor, who pronounced her case one of small-pox. The physician then notified Dr. Bryce, of Toronto, who is head of the Provincial Board of Health. Dr. Bryce sent up a lady nurse, who is also an M. D. This nurse claims she was engaged at \$10 a day. It was a mild case and the nurse remained only 23 days. The local Board of Health had no notice of the case till after the nurse was in charge. The local board paid all outside expenses, also \$30 to the nurse for disinfecting the premises.

Has the nurse any further claim on the municipality? If not, who should pay her?

If this lady's father is financially able to pay the nurse's account (as appears to be the case) he is liable for the amount and should be compelled to pay it. We do not consider the municipality in any way liable for its payment. See section 93 of The Public Health Act (R. S. O., 1897, chapter 248).

Power of Railway to Cross Highways.

453—H. L. P.—A certain railway built a switch across a side-road and allows cars to stand on same.

1. Have they a right to build the switch across a road?

2. If not, how will the municipality proceed to cause them to remove it?

1. It is not stated whether this railway is under the jurisdiction of the Dominion Parliament or Provincial Legislature. If the former is the case, the company cannot build a switch across an existing highway without having first obtained leave to do so from the Board of Railway Commissioners for Canada, as provided in section 184 of The Railway Act (Dominion), 1903, unless it has the right to do so under some special Act, but as we do not know what railway company is referred to, we cannot say whether it has such power or not. If the Provincial Legislature has authority in the matter (which is very improbable) the company may cross this highway in the line of the railway without the consent of the council, but the line cannot be carried along the highway without such consent. (See section 29 of chapter 207, R. S. O., 1897).

2. If the railway is under the jurisdiction of the Dominion Parliament, the council should lay the matter before the Board of Railway Commissioners for Canada, which alone has power to deal with it.

Extension of Tax Exemption.

454—J. L. L.—At a recent council meeting a deputation waited on us asking for an extension of their exemption to the fall of 1904, as an Act was passed in 1903 giving the municipal council power to do this. A motion was passed extending their exemption accordingly. The council consists of the reeve and four councillors. One of the councillors being a member of one of the firms, did not vote, and one member voted "nay," but the motion was carried by three out of five. When looking up the Act it was discovered that it requires a two-thirds vote. As one member did not vote, some claim three votes out of the four recorded is sufficient.

1. Does the two-thirds vote mean two-thirds of the council board or two-thirds of the votes recorded? How would the vote count that was not given?

2. If three votes were not enough what steps should the council take to have the error righted? Is it necessary to rescind this motion?

3. If it is not legal, and the council refuses to rescind this motion, what can be done?

1. Section 591b of The Consolidated Municipal Act, 1903, provides that this exemption may be renewed by a municipal council by a two-thirds vote of the MEMBERS THEREOF, that is two-thirds of the members constituting

the council at the time of the vote must vote in favor of the by-law providing for this extension. The member who did not vote must be considered when ascertaining whether the required number has voted in favor of the by-law or not. A resolution is not sufficient for this purpose—it is necessary that a by-law should be passed.

3. We do not consider this resolution legal, and if it was, it did not receive the vote the statute requires to pass it. If the council will not rescind this resolution, it may be quashed at the instance of any ratepayer.

Payment of Separate School Debenture Rate.

455—W. N. D.—I forgot to mention about a debenture rate for school purposes rated on the land in question before it was purchased by the public school supporter.

Can the separate school trustees collect the debenture rate now that the property changed hands?

The Separate Schools Act (R. S. O., 1897, chapter 294,) makes no provision for a case of this kind, and we are of opinion that the land is no longer liable for its share of the separate school debenture levy, after it has been purchased by a public school supporter.

Payment of Assessor for Equalizing Union School Assessments.

456—J. D. F.—What is the meaning of section 4, chapter 32, 1903, Statutes of Ontario?

This section means that the fees of assessors for equalizing the assessment of union school sections in their respective municipalities, and in case of disagreement between them of the inspector, who acts as arbitrator, shall be borne and be paid by the municipalities out of portions of which this union school section is formed in the same proportion as the equalized assessments of the municipalities bear to each other. The further provision in this section that the above costs "shall be borne and be paid by the municipality in which the union school section is situate" is meaningless, as ALL union school sections are composed of portions of two or more municipalities.

Wrongful Digging of Ditch Along Highway—Statute Labor By-Laws.

457—C. N. MCD.—A farmer who owned a farm in the Township of E. dug a ditch some two feet deeper than the natural water-course in clay and shell rock, and diverted the water down a steep hill on the adjoining farm, where it floods over the other farmers' fields and washed the ground down on a low field, so that the farmer that owns the land below the hill cannot get it cropped this spring,

1. Can the farmer whose land is flooded by the water diverted by the farmer above the hill compel him to carry the water to a proper outlet some 60 rods below the hill?

2. Can the farmer whose land is flooded come on the farmer who diverted the water down the hill for damages?

3. A portion of the water diverted by the farmer above the hill finds its way to the public highway, and the road ditches are not large enough to carry the water to a proper outlet. Can the council order him to fill this ditch; he dug two feet below the natural depth?

The council of E. Township passed a by-law at its first meeting in January, 1904, abolishing statute labor entirely in the township of E. without repealing the by-law passed by the council of E. Township, 1903, commuting statute labor at 50 cents per day.

4. Is the by-law passed by the council of 1904 legal when they did not repeal the by-law passed by the council of 1903?

5. Can the council raise money under the by-law passed in 1904, when the by-law of 1903 was not repealed or revoked?

1. The owner of the lands flooded can obtain from the courts an injunction restraining the owner who has diverted this water from its natural course and deposited it upon his land from further offending in this way.

2. Yes.

3. Yes, and they should require him to do so. If he refuses he may be indicted for creating a nuisance on the highway and maintaining it there.

4. The statute makes no provision in terms providing for the passing of a by-law entirely abolishing the payment of commutation of statute labor. If in this case it was desired to accomplish this, a by-law should have been passed repealing the by-law commuting statute labor and subsequently passing one entirely abolishing it.

5. Whether the by-law abolishing statute labor is good or bad, no money can be collected under it.

Voters' List for By-Law Vote—When Assessment Roll Finally Revised.

458—J. R.—This township votes on a by-law granting a large sum of money to electric railway on June 21st. The Court of Revision was held on June 7. In your answer to question No. 429 you state that the clerk is to prepare a list from the *then last revised assessment roll*. In our case what list will have to be taken or what roll will I have to use—1903 or 1904?

2. If there are no appeals to the Judge will I not have to use the 1904 roll?

3. Our village has police trustees, but are not incorporated, and have taken over the statute labor, sidewalks, etc. Can we collect poll tax from tenants and others that are of age who are not ratepayers?

1. The voters' list to be prepared under section 348 of The Consolidated Municipal Act, 1903, to be used at the taking of this vote must be based on the assessment roll for 1903, as the assessment roll for 1904 cannot be considered to be finally revised until the 6th July, 1904, after the date fixed for the taking of the vote. Section 3 of the Act provides that "for the purposes of this Act an assessment roll shall be understood to be finally revised when it has been so revised by the Court of Revision for the municipality, or by the Judge of the County Court in case of an appeal as provided in The Assessment Act, or when the time within which the appeal may be made has elapsed."

2. No. This is not allowable for the reasons given in our answer to question number one.

3. We assume that the council of the township in which this police village is located has passed a by-law commuting statute labor therein, and allowed the police village the benefit of the amount paid in this way in making the agreement with the trustees referred to in section 740 of The Consolidated Municipal Act, 1903. We do not know what is meant by the "taking over" of sidewalks, etc., by the police trustees. They may let contracts for the making of sidewalks, etc., pursuant to section 741 of the Act, but the liability for accidents caused by their non-repair would be the township's, since the police trustees are not incorporated under section 751 of the Act. The police trustees cannot collect the tax mentioned in section 100 of The Assessment Act. The township council through its collector only has such power. Section 97 of The Assessment Act does not apply to a case of this kind.

Secretary-Treasurer of School Section May be Collector of Taxes—Assessment of Doctor's Income.

459—J. D.—1. One of the school trustees in our public school is secretary-treasurer for the school board, and has been appointed collector of taxes for the village. Is this irregular?

2. Our medical doctor has been assessed for income same as men have been who are working on salary. His only income is from his professional services. What amount of this is exempt?

1. We see no objection to an appointment of this kind.

2. Sub-section 26 of section 7 of The Assessment Act (as amended by section 3 of chapter 21 of The Ontario Statutes, 1903,) provides that "the annual income of any person derived from his personal earnings to the amount of \$1,000 and the annual income of any

person to the amount of \$400 derived from any source other than personal earnings" shall be exempt from taxation. The assessor should make his assessment in this case in accordance with the above provisions.

Township Clerk May be License Inspector.

460—G. B.—Can a township clerk be also a license inspector under The Liquor License Act (R. S. O., chapter 245)?

Yes.

Obstruction of Government Road.

461—S. A. F.—In the District of Parry Sound some twenty years ago the Government built a road through our township. It does not take a straight course. A farmer recently had some surveying done by a P. L. S., who set his corner stake within ten feet of the centre of the road. The farmer is now putting up a fence from this stake straight across his farm. The fence will sometimes be in the ditch and other times touching the roadbed?

1. Can our council claim 33 feet from the centre of the roadbed?

2. Must he leave his fence crooked all along 33 feet from the centre of this roadbed, providing the roadbed is in the same place as first made by the Government?

3. What course in the interest of the public would you advise us to take in this matter?

1, 2 and 3. This road having been built by the Government was probably surveyed, and its location and limits ascertained and defined by a surveyor in the employ of the Government, prior to its construction. Field notes or particulars of the survey by the Government employee are likely to be found in the office of the Commissioner of Crown Lands, Toronto. The Commissioner should be communicated with, with a view to definitely locating this road, and when this is done the council should take proceedings to cause the removal of all fences erected thereon.

Liability for Accident Caused by Stone on Highway.

462—D. McD.—The county council built a steel bridge on the townline between the Townships of A. and B., letting the contract for furnishing the material and building the abutments to C., who finished the contract and it was accepted and passed by the county bridge inspector. C., the county contractor, left some of the quarry stone by the side of the road for over a year, about 140 feet from the bridge. A funeral procession was proceeding along the road and D.'s horse got frightened at the stone and broke the buggy and harness and injured the man. D. and his wife threatened to take an action against the municipal councils of A. and B. and notified them accordingly. A. and B., after considerable parleying with D., settled the case with him on what they considered reasonable terms.

1. Can the councils of A. and B. recover from the county council the amount they paid to D., as C. was, as we think, an employee of the county council, also after the accident one of the county commissioners removed the stone off the roadside and paid a party for it?

2. Did the township council do right in settling with D., or should the township council have defended the action in the courts and brought in the county council as one of the defendants?

1. No. This was a voluntary payment on the part of the councils of A. and B. without the request of the council of the county, and the former have no right of action to recover the amount from the latter.

2. If the councils of A. and B. considered or were advised that the county corporation was liable, under the circumstance of the case, for the amount of the damages sustained by D., they should not have settled with D. without the concurrence of the council of the county. If the council of the county refused to become a consenting party to the settlement, the councils of A. and B. should have defended an action brought against them by D., and had the county municipality joined as a party to the action, as provided in section 609 of The Consolidated Municipal Act, 1903.

Opening and Establishing of Streets Laid Out on Plan.

463—C. D.—1. Where streets have been laid out under registered plan, but have never been opened for public travel, and in some cases are still enclosed within the original fences, is it necessary for the municipal council to pass a by-law to open and establish said streets, and if so, under what section of the Act should the by-law be passed?

2. Having declared the street open and established for public travel, is the council compelled to expend township funds to build culverts and make the streets passable?

3. Can a person who owns a lot on an enclosed street or where the street upon which his lot fronts has been fenced by parties owning adjoining property, compel the council to open up the street? Where a petition has been presented to council for that purpose, what action should the council take?

1. The making of surveys or plans on which streets are indicated of towns and villages since 1849, of cities, towns and villages or parts thereof since 1887, and of townships since 1897, and the sale of lots shewn thereon as abutting upon these streets, has the effect of constituting these streets public highways, which by force of section 601 of The Consolidated Municipal Act, 1903, are vested in the municipality. (See *Roche v. Ryan*, 22 O. R. 107). Section 607 of The Consolidated Municipal Act, 1903, and section 39 of chapter 181, R. S. O., 1897, provide that the corporation shall not be liable to keep in repair any road, street, bridge, or highway, laid out by a private person, until established by by-law of the corporation, or otherwise assumed for public uses by such corporation. Therefore the council MAY pass by-laws establishing and assuming these streets, but they cannot be compelled to do so, nor should they do so unless the convenience of the public requires it.

2. If the council exercises its discretion and assumes these streets and opens and establishes them as public highways, it must keep them in such a state of repair as will render them safe for public travel.

3. No. It is optional with the council as to whether it opens this street or not, and it should not do so to accommodate a private individual. The council should take no action on a petition of this kind, unless the convenience of the general public requires the opening of the street.

Council Not Liable for Plough Broken Doing Statute Labor.

464—A. T. S.—I am the road overseer on F. road.

I took my plough to oblige the people because we were working near my place, and the man that was using it had the luck to break the beam of my plough.

Will I have to bear the loss of it or will the council have to pay for it?

The council is not liable for the injury done to this plough. The owner will have to bear it, unless he can recover it from the person who did the damage.

Warden Has No Casting Vote on Appointment of County Treasurer.

465—W. P.—In case of a tie on the question of an appointment of a county treasurer can the warden or any other member of council give a casting vote?

No. Section 274 of The Consolidated Municipal Act, 1903, provides that "the head of the council or the presiding officer or chairman of any meeting of ANY council, except in cases where he is disqualified to vote by reason of interest or otherwise, may vote with the other members on all questions: and, except where otherwise expressly provided by this Act, any question on which there is an equality of votes shall be deemed to be negatived."

A Disputed Audit—Qualification of Clerk.

466—J. E.—The council as usual appointed two auditors to audit the treasurer's books. They made their audit and the council accepted it, had it printed and circulated. The audit was wrong

and useless in almost every particular. I will enclose one for you to see. The auditors, without any foundation, made statements in their report with reference to the treasurer's books and his manner of keeping them, such as not entering items under their proper headings, etc., also the stub of an order, being \$2.00 more than the order, claim they had to go to the treasurer's residence for correction, so wasted a whole day. No truth in such a statement, they had the by-law book with them, the only place they could correct it. In many other items the statements are so vague as to cause lots of trouble to auditors. The treasurer's security on which the auditor's should report we cannot find in the by-law. They say the treasurer's security is fixed by the council at the sum of nine hundred dollars in himself and two others. A new bond is to be executed. The treasurer claims the above statements with reference to his books and bond are all incorrect. He took his books to the council. They examined them, and pronounced them all right, everything properly entered under right headings. They ordered a new audit. We have not seen it yet. The council have paid for both audits. As the auditors left out the receipt, \$31.58, non-resident tax, and added the same amount to the taxes, 1902, the collector has put in a claim to the council that he paid the treasurer that much more than his receipts cover. The payment of schools are \$20.00 more than they should be and \$5.00 for charity left out altogether. Liabilities of schools are all wrong and the report did not agree with itself. The treasurer claims the report is damaging to him, and as the council accepted and circulated it and would not make him any redress he has resigned and intends to collect damages from the council.

1. If the treasurer can prove, as he claims above, and can prove it is damaging to him, can he recover from the council the amount of damage he can prove it is to him?

2. The council have appointed a clerk to commence his services on the first of July. He was a United States citizen, who has lived and has paid taxes here for the past year, but has not taken the oath of allegiance. Can he hold a municipal office in Ontario, or is there any statute of limitation as to how soon he can hold office? Some say four years.

1. We are of opinion that the treasurer has no right of action against the council for what it has done in this matter. The treasurer can state his grievance to the Provincial Municipal Auditor, who can use his discretion, under section 19 of chapter 228, R. S. O., 1897, as to whether he deems it advisable, under the circumstances, to make a special audit of the books of the municipality.

2. There is nothing in the facts stated to prevent the council's making this appointment to the clerkship of the municipality.

Licensing Hawkers and Peddlars.

467—X. Y. Z.—1. There is a wholesale and retail dealer living in the Town of O., said town being in the County of Y. Said dealer or merchant handles teas extensively within the County and has one or more vehicles going through the county selling tea, which he supplies from his place of business. His clerks or hired men, as you may choose to call them, carry the tea with them and solicit custom, and sell the tea wherever they find customers, and the question has arisen can the county compel the said wholesale and retail tea merchant to take out a license, he being a resident of the county and a large taxpayer?

2. Do you know of any case that has been so decided? If so, kindly refer to it.

3. If he sells by sample and makes up the several orders at his store and has his servants deliver same within the county, can he be compelled to take out the county license for so doing?

1. The clerks or employees of this merchant are persons who go from place to place and to other men's houses bearing goods and merchandise for sale within the meaning of clause 1 of the by-law and of sub-section 14 of section 583 of The Consolidated Municipal Act, 1903, and they should take out licenses under the by-law. In *Re Ford and McArthur* (37 U. C. R. 432) Mr. Justice Wilson doubted whether a license under The Municipal Act to a hawker or peddler is personal to the licensee only or extends to a servant. He inclined to the opinion that it was personal, but did not determine the question.

2. There are a number of cases decided under this sub-section, but we know of none that will make it more certain that this case comes within the meaning of the by-law.

3. No. This merchant is a resident within the county, so clause (a) of sub-section 14 has no application.

Requisites of a Lawful Pound—Time When Poundage By-Law May Take Effect—Responsibility for Trespassing by Cattle, Where No Fence.

468—S. J. E.—1. What constitutes a lawful pound for cattle, sheep and pigs? Will any ordinary farmer's buildings do?

2. Can a by-law passed in council to prohibit cattle from running at large take effect at once, or should there be six months' notice given?

3. Can a farmer who has no fence at all impound cattle for trespassing when all the rest of his neighbors have fences and are willing to let cattle run at large?

1. Any enclosure that will keep the animal impounded in confinement, without occasioning it any injury, will be sufficient to fill the requirements of the law.

2. A by-law of this kind may take effect on the date of its passing, or at such time thereafter as may be, by the by-law provided.

3. Whether these cattle are legally *running at large* on the highway or not, the owner or owners will be liable for any damage done by them by trespassing on the lands of owners adjoining the highway, whether such lands are fenced or not, as the owners of cattle should take care of them, so as to prevent their occasioning injury to anyone.

Liability to Build Bridges Over Ditches Along Highways.

469—C. S. T.—A. lives along the main road. In front of his place is a high turnpike and a deep ditch on both sides. A few years ago A. built a bridge in front of his house, and one to go back his lane. They both need repairing. Is A. or the council obliged to repair them?

If these ditches were dug by the municipality, and their digging rendered it necessary that A. should have these bridges constructed to pass to and from his premises, he would be entitled to compensation for the outlay thus necessitated if claimed within the proper time. If A. built these bridges originally at his own expense, and without consulting the council, and made no claim on the latter for compensation, within the time mentioned in section 438 of The Consolidated Municipal Act, 1903, he is not now entitled to compensation, nor can he compel the council to repair this bridge.

Location of Cement Sidewalks in Village.

470—T. H.—Our village council are building a number of cement sidewalks and two or three of them will cross the C. P. R. track.

1. How near the rails should the cement be laid?

2. Who has control of the street at railway crossing, the municipality or the company?

3. Fifteen property owners, which includes all but non-residents, have petitioned for a cement walk on a residential street. Ten of the petitioners want it built say ten or twelve feet from the street line outside of a row of shade trees. The other five object and threaten a law suit if the council do not build it where the old plank walk is on the street line. What should the council do in this case? Should they carry out the wishes of the majority and build it outside the tree line, and if they do so have the minority any legal claim against them?

1. This walk can be laid only to the limit of the railway company's lands, unless the company consents to its being extended farther.

2. The railway company to the extent of its roadway.

3. We assume these property owners represent at least two-thirds in number of the owners of real property to be benefited by the construction of this walk, including non-residents, according to the last revised assessment roll of the municipality, and at least one-half in value of such real property, as required by sub-section 1 of section 668 of The Consolidated Municipal Act, 1903. The council

and their engineer can exercise their discretion as to where this walk is to be laid, subject to the claim of any ratepayer for any damages he may sustain by reason of the construction of the walk. Before the final determination of the matter as mentioned in sub-section 1 of section 668, and afterwards, by consent of the County Judge, ratepayers may withdraw their names from the petition, and in this way render it impossible for the council to proceed.

Location of Limits of Highway.

471—J. C. M.—If road fences are out in roads should councils find corner stakes for owners of lands, or should owners find the proper place for fences themselves?

Councils are not bound to locate fences along the road for owners of lands adjoining the highways in the municipality. It is the duty of such owners to ascertain the proper line between their lands and the highway, and to see that their fences do not encroach on the latter to a greater extent than is mentioned in the proviso appended to sub-section 5 of section 557 of The Consolidated Municipal Act, 1903.

Clerk's Duties as to Drawing By-Laws—Time for Passing By-Law Altering School Boundaries—Appointment of Fenceviewers.

472—C. W.—1. Is it the duty of the clerk to frame by-laws in all cases? A member of the council always gives notice that he will introduce a certain by-law. Has that member to furnish the by-law or the clerk? Some by-laws necessitate more legal skill than can be expected of an average township clerk.

2. Public Schools Act, 1903, section 41, sub-section 3, requires that a by-law for altering boundaries shall be passed before the first day of June. Has the passing to be done in the same year, or will it do to have one or all the readings done in the year previous?

3. The Poundkeepers Act, chapter 272, section 20, provides that three fenceviewers have to be appointed, one by complainant, one by defendant and one by the poundkeeper. The Line Fences Act, chapter 284, section 4, sub-section 4, says: "that the owners notified may object to any or all the fenceviewers. Is it necessary at all for the council to appoint fenceviewers?"

1. The clerk cannot be required to prepare all by-laws to be passed by the council, unless the by-law appointing him so provides. It is customary for the clerk to prepare all ordinary routine by-laws of his council, but if the preparation of a by-law requires legal skill or knowledge the council should employ some solicitor to prepare it.

2. A by-law of this nature should be passed prior to the first day of June in the year in the December of which it is to take effect.

3. Section 537 of The Consolidated Municipal Act, 1903, renders it optional with municipal councils as to whether they appoint fenceviewers or not; but if, in order to carry into effect the provisions of any Act of the Legislature, it is necessary that there should be such officers in the municipality, the council ought to appoint them.

Qualification of Voters on Money By-Law—Penalty for Wrongfully Taking the Oath.

473—J. E. E.—1. Can a farmer's sons who appear on the voters' list as F. M. F., but are not actual owners, take the oath and vote on a by-law for the purpose of bonusing a railway company?

2. Who is entitled to vote on a bonus by-law?

3. What penalty is attached to a voter taking the oath and voting who has no vote?

1. The ordinary municipal voters' list cannot be referred to to ascertain whether a ratepayer has the right to vote on the submission to the electors of a by-law of this kind. The list to be used is one to be specially prepared by the clerk from the last revised assessment roll of the municipality, under section 348 of The Consolidated Municipal Act, 1903. Farmers' sons, assessed as joint owners under section 14 of The Assessment Act, who are

not actual owners, are not qualified to vote on this by-law. Ratepayers entitled to vote as freeholders under section 353 of the Act, must be, as a matter of fact, freeholders at the time of taking the vote, and rated as such on the last revised assessment roll of the municipality.

2. The ratepayers mentioned in sections 353 and 354 of the Act.

3. If a voter wilfully takes the oath prescribed, knowing that he has not the qualification to vote, he is liable to be prosecuted for perjury, and to be punished for that crime as the statutes provide.

Qualification of Voters on Money By-Law.

474—J. McD.—The Village of B. is voting on a by-law on the 25th inst. to bonus a manufacturing industry by way of fixing its assessment for a term of years.

The voters' list for 1904 is not yet printed. The assessment roll for 1904 has been finally revised.

1. Can a ratepayer vote who is on the assessment roll and voters' list of last year, 1903, (the list which will have to be used) as a tenant, but who is now on the assessment roll, 1904, as an owner, he having become a freeholder this year?

2. Can a person vote on said by-law who has sold his property since the last list was made, although he is on the list as a freeholder?

1. The voters' list to be used in voting on a money by-law is one to be specially prepared by the clerk pursuant to section 348 of The Consolidated Municipal Act, 1903, from the then last revised assessment roll of the municipality of persons entitled to vote under sections 353 and 354 of the Act. Under no circumstances should the ordinary municipal voters' list be taken as the basis of the list to be prepared as above. It is stated that the assessment roll for 1904 has been finally revised. This cannot be the case if the assessment was made between the 15th February and 30th April last. Section 3 of the Act provides that "for the purposes of this Act an assessment roll shall be understood to be finally revised, when it has been so revised or confirmed by the Court of Revision for the municipality, or by the Judge of the County Court, in case of an appeal as provided in The Assessment Act, or when the time within which the appeal may be made has elapsed." This time does not expire until the 6th July next. (See sub-section 19 of section 71 and sub-section 2 of section 75 of The Assessment Act.) Assuming that the assessment was made at the time above mentioned, the clerk must use the assessment roll for 1903 as the basis for the preparation of the voters' list under section 348 of The Consolidated Municipal Act, 1903. If this ratepayer is not now a tenant within the meaning of section 354 of the Act, and rated as such on the roll of 1903, he should not be placed on this list.

2. On the above assumption, this ratepayer is not entitled to be placed on the list for the reasons given in our answer to question number one, unless he is at the time of the voting actually a freeholder in the municipality and is rated as such on the assessment roll for 1903.

Effect of Trustee Absenting Himself From Meetings of Board.

475—A. T. S.—1. If a trustee is away and cannot attend, and another trustee is appointed in his place until he comes back, then he goes away, can the old trustee act without the section being notified, or can the trustee and the secretary appoint him on again and it be legal?

2. What can the section do if not legal?

1 and 2. These questions are somewhat difficult to understand. Section 104 of The Public Schools Act, 1901, provides that if any trustee absents himself from the meetings of the board for three consecutive months without being authorized by resolution entered upon its minutes, he thereby *ipso facto* vacates his seat, and the

remaining trustee or trustees shall declare his seat vacant and forthwith order a new election. The remaining trustee or trustees or their secretary-treasurer have no authority to appoint anyone to act officially in the place of the absent trustee.

Compelling Removal of Fence from Road Allowance.

476—P. R. D.—In 1886 the council of this township passed a by-law widening about 20 feet a part of an old forced road which runs through this township. The owner, A., of a small lot refused to move in his fence and the council did not compel him to do so. Some years afterwards a verbal understanding was reached with him by the reeve whereby he consented to move his fence back about one-third of the 20 feet on the understanding that that would be sufficient. A. has now sold the lot to B. without any reserve as to the other two-thirds, and B. wishes to erect a building on it. Will he be safe in doing so?

The council have never had possession of this part nor paid anything for it. Has not their claim lapsed?

Assuming that the by-law of the municipality expropriating this 20 feet of land was in proper form and passed in accordance with the then existing provisions of The Municipal Act, we are of opinion that it is still effectual, and that A. and his successor in title (B.) have not acquired a title to this land as against the municipality. Twenty years possession after the acquisition by the municipality of the land under the by-law would be necessary to bring about this result. We are therefore of opinion that it would be unwise for B. to erect any building on this strip of land. The question of compensation need not be considered, because, if any such existed, it should have been made within one year from the time when the latter part of section 438 of The Municipal Act became law (1891.)

Liability for Building Sidewalks on County Roads.

477—W. J.—I notice a couple of articles in the April and May numbers of your paper with reference to the keeping in repair, etc., of sidewalks in unincorporated villages where the county has taken over the roads, and it appears quite clear to me from the articles I have read in your paper that the county is responsible for the maintenance of all sidewalks on the said county roads. We have sidewalks in our village and the road on which they were built were taken over by the county and designated as a county road, but our county council says it is the duty of the township council to keep the sidewalk in repair while they (the county council) will keep the road in repair. I would be pleased to have a personal letter from you on the matter.

Since our replies to the questions to which you refer, our attention has been called by a member of the county council, at whose instance it was passed, to section 9 of chapter 26 of The Ontario Statutes, 1903. This section provides that "a county council shall not be liable for the building, maintenance or repair of sidewalks on any county road or portion thereof." This section is out of place, and should have been inserted in The Consolidated Municipal Act, 1903. Without considering the question as to whether any municipality is liable for damages occasioned by a defective sidewalk in such a case as this, it is clear to us that the township municipality in which such a road is located is not bound to build or keep in repair sidewalks on such a road, nor would it be responsible in damages to any person injured by reason of their unsafe condition, for the reason that the road is vested in the county and the township has no jurisdiction over it.

Mr. N. H. Young has resigned the clerkship of the Village of Blyth, and Mr. A. Elder (the treasurer) has been appointed to fill the vacancy.

* * *

Mr. Edward M. Elliott has been appointed clerk and treasurer of the County of Peterborough, to succeed Mr. R. P. Watt (resigned) and Mr. George Stewart (deceased) respectively.

Municipal Legislation, 1904

AN ACT RESPECTING BOARDS OF EDUCATION IN CERTAIN CITIES, TOWNS AND VILLAGES.

This is an Act to authorize the councils of cities having less than 100,000 inhabitants, and of towns and incorporated villages to declare by resolution passed at a meeting specially called for the purpose, the expediency of amalgamating the board of high school trustees or board of education and the board of management of technical schools, if any, and of electing a board of education in lieu thereof, as provided in the Act. The full text of the Act is as follows :

His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :

Boards of Education in Cities of Less than 100,000 Inhabitants, Towns and Villages.

1. (1) The council of any city having less than 100,000 inhabitants and the council of any town or incorporated village not included in a high school district may, on or before the first day of October in any year at a meeting specially called for the purpose, by resolution declare that it is expedient that the board of public school trustees and the board of high school trustees or board of education (in case the public and high school boards have been united) and the board of management of technical schools, if any) of such city, town or incorporated village should be amalgamated and a board of education elected in lieu thereof as provided by this Act.

(2) In pursuance of the resolution passed under sub-section 1 of this section in lieu of the board of public school trustees and the board of high school trustees and the board of education (in case the public and high school boards have been united) and the board of management of technical schools, if any, theretofore elected or appointed in such city, town or village there shall be a board to be styled "The Board of Education for the City, Town or Village of " (*naming the city, town or village*) which shall possess all the powers and perform all the duties theretofore possessed and performed by the boards of high school trustees and public school trustees or board of education (in case the public and high school boards have been united) and the board of management of technical schools of such city, town or village, and upon the organization of the said board of education all the property vested in the board of public school trustees and the board of high school trustees or board of education (in case the public and high school boards have been united) and the board of management of technical schools of such city, town or village shall become vested in the board of education and all debts, contracts and agreements for which the said respective boards were liable shall become obligations of the board of education.

Composition of Board.

2. The said board of education shall be composed as follows :

(1) In cities having more than 50,000 but less than 100,000 inhabitants, twelve members to be elected and two to be appointed by the separate school board of such city. In cities having less than 50,000 inhabitants, nine members to be elected and one to be appointed by the separate school board of such city. In towns and incorporated villages not included in a high school district seven members to be elected and one member to be appointed by the separate school board, if any, of such town or village.

Mode of Election.

(2) The members to be elected as aforesaid shall be elected by general vote of the persons qualified to vote for public school trustees in any such city, town or village and the election shall be held at the same time and place and by the same returning officer and shall be conducted in the same manner as the election of and shall be conducted in the same manner as the election of mayor; and, save as otherwise provided by this Act, all the provisions of *The Public Schools Act* respecting the election of trustees by ballot shall apply to the said election of members of the board of education, but no person shall vote more than once for members of the said board.

Number of Votes for Candidates.

(3) Each person qualified to vote as aforesaid shall be entitled to as many votes as there are members to be elected to the said board but may not give more than one vote to any one candidate.

Term of Office of Elected Members.

(4) At the first election under this Act, the full number of members of the said board shall be elected, and one-half of the members

so elected, where the number of elected members is an even number, and the next number of elected members higher than one-half when the number of elected members is an odd number who receive the highest number of votes shall continue in office for two years thereafter and until their successors have been elected under this Act, and the new board organized and the remaining members shall continue in office for one year and until their successors have been elected under this Act and the new board organized.

Election to Fill Places of Members Retiring.

(5) At each annual election after the first, a sufficient number of members shall be so elected for two years to fill the places of members retiring. The members retiring shall be eligible for re-election.

Determining Question of Retirement Where Two Members Have Equal Number of Votes.

3. In case by reason of two or more members receiving an equal number of votes at the first election, the question of the retirement of one or more of them at the end of the first year is in doubt, and in case no agreement as to which of such members shall retire is reached at the first meeting of the board, then at the next meeting the question shall be determined by lots to be cast by the secretary or secretary-treasurer in the presence of the board, and the result shall be entered upon the minutes of the board.

Vacancies Among Elected Members.

4. In case the office of an elected member becomes vacant from any cause, the remaining members of the board shall, at the first meeting after such vacancy occurs, elect some duly qualified person to fill such vacancy, and the person so elected shall hold his seat for the remainder of the term for which his predecessor was elected.

Appointment by Separate School Board.

5. (1) The appointment of a member or members to the said board by the separate school board shall be made at the first meeting of the separate school board in the year in which the first election of members is held under this Act and at its first meeting in every second year thereafter.

Term of Office of Appointed Member.

(2) Any member so appointed shall hold office for two years and until his successor is appointed and shall be eligible for re-appointment.

Member of Separate School Board Not Eligible.

6. No member of the separate school board shall be eligible for appointment or election as a member of the said board.

Vacancy in Representation of Separate School Board.

7. In case any person appointed to the said board of education by the separate school board shall die, resign or remove from the municipality or vacate his office before the expiration of the term for which he is appointed, the vacancy so caused shall be filled forthwith by the separate school board, and the person appointed to fill such vacancy shall hold office for the unexpired term of the person whose place became vacant as aforesaid.

First Meeting of Board.

8. The first meeting of the said board of education in each year shall be held at the hour of eight o'clock in the afternoon of the Thursday after the first Monday in January at the usual place of meeting of the former public school board.

Chairman, Secretary, Treasurer.

9. (1) At the first meeting of the said board in every year the members of the board shall elect a chairman, and at the first meeting held after the passing of this Act the board shall also elect a secretary and treasurer or a secretary-treasurer who shall hold office until removed by the board.

Secretary to Preside at First Meeting Until Chairman Elected.

(2) The secretary or secretary-treasurer for the previous year shall preside at the first meeting of the board until the chairman is elected, or if there be no secretary or secretary-treasurer then such member of the board shall preside as may be appointed for that purpose.

Quorum.

10. A majority of the members of the board shall form a quorum.

Equality of Votes in the Election of Chairman.

11. (1) In case of an equality of votes at the election of chairman the member who is assessed for the largest sum on the last revised assessment roll shall have a second or casting vote in addition to his vote as a member of the board.

(2) In case of an equality of votes on any other question, if no decision is arrived at during the same meeting or after the board has voted twice on the question at a meeting specially called for that purpose, the member of those entitled as members to vote on the question, who is assessed for the largest sum on the last revised assessment roll shall have a second or casting vote in addition to his vote as a member of this board.

Vote of Chairman.

12. The chairman of the board may vote with the other members of the board on all questions.

Separate School Representative Not to Vote on Public School Matters.

13. The member or members appointed by the separate school board shall not vote or otherwise take part in any of the proceedings of the board of education exclusively affecting the public schools.

Qualification of Members.

14. No person shall be elected to the board of education who is not qualified to be elected as a trustee of a public school board under *The Public Schools Act*.

15. The provisions of *The Public Schools Act* and *The High Schools Act* respecting the disqualification of persons from being elected or appointed to, and from sitting and voting as members of the said boards respectively, shall apply to the said board of education as if the said board was named therein instead of the board of high school trustees or board of public school trustees respectively.

Board to be a Corporation.

16. (1) Every board of education constituted by this Act shall be a corporation by the name of "The Board of Education for the City, Town or Village of _____" (naming the city, town or village) and shall have and possess all the powers usually possessed by corporations so far as the same are necessary for carrying out the purposes of this Act and of *The Public Schools Act* and of *The High Schools Act* and of *The Act Respecting Technical Schools* and of all amendments to the said Acts and of any by-law of the municipality establishing or relating to a technical school.

First Election of Members.

(2) The first election of members for the Board of Education under this Act shall take place at the time of holding the next ensuing municipal elections for the year following the passing of the resolution mentioned in section 1 of this Act; but nothing in this Act contained shall affect the public school board or high school board or board of education (in case the public and high school boards have been united) or the board of management of technical schools of such city, town or village for the year in which the said resolution has been passed.

Appointment of Inspectors.

17. The Board of Education of every such city or town separated from the county shall appoint an inspector of the public schools for such city or town.

Special Courses of Instruction in High Schools.

18. The Board of Education may make such modification of the prescribed high school courses of study to be undertaken in each of the high schools under its jurisdiction as it deems expedient, and may provide for special or advanced instruction in any of such courses, and may designate such schools, or any one of them, as English, Science, Commercial, Technical or Classical High Schools, according to the course or courses of instruction provided for each, but all such courses must be approved by the Minister of Education, and the accommodation and equipment of the school and the qualifications of the staff be subject to the regulations of the Education Department.

19. This Act shall be read with and as part of *The Public Schools Act* and *The High Schools Act* and of *The Act respecting Technical Schools* and the said Acts are amended to conform to the provisions hereinbefore contained.

THE PUBLIC PARKS ACT.

The following amendments are made to this Act (R. S. O., 1897, chapter 233), by The Statute Law Amendment Act, 1904 :

57. Section 5 of The Public Parks Act is amended by adding thereto the words "the council may refuse to appoint any or all of the persons so nominated, in which case further nominations shall be made by the mayor, warden or reeve until six persons are nominated who are approved by the council."

58. Section 17 of The Public Parks Act is amended by striking out the word "March" in sub-section 1 and substituting the word "February" and by striking out the words "first day of April" in sub-section 2 and substituting the word "fifteenth day of February."

THE TOLL ROADS EXPROPRIATION ACT, 1901.

This Act is amended as follows by The Statute Law Amendment Act, 1904 :

68. The Toll Roads Expropriation Act, 1901, as amended by the Act to amend The Toll Roads Expropriation Act, 1901, passed in the second year of His Majesty's reign, and chaptered 35, is further amended by adding thereto the following section :

5a. In case the council of any county has heretofore, or shall hereafter, pass a by-law providing for the purchase or expropriation of the toll roads lying in the county, and in case portions of one or more of such roads are situate in an adjoining county and the total mileage of such road or roads in such adjoining county does not exceed two-fifths of the total mileage of such road or roads, it shall not be necessary for the initiating county to obtain the consent of the council of such adjoining county before proceeding to fix the amount to be paid to the owners of such road or roads as provided in section 4 of this Act, but the council of the initiating county shall cause a copy of the by-law to be served upon the clerk of the adjoining county and the council of the adjoining county shall contribute such amount towards the purchase or expropriation of such road or roads as may be agreed upon or as may be determined by arbitration as provided in section 4 of this Act, and any portion of such road or roads lying in such adjoining county shall become the property of and shall be maintained and kept in repair by the corporation thereof.

AN ACT TO AMEND THE HIGH SCHOOLS ACT.

His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :

Trustees May Collect a Fee From Parents for Books, Etc.

1. Section 16 of *The High Schools Act* is amended by adding thereto the following as paragraph 11 :

11. To collect at their discretion, from the parents or guardians of the pupils attending school a sum not exceeding twenty-five cents per month, per pupil, to defray the cost of text books and other school supplies; or to purchase, for the use of pupils, text books and other school supplies at the expense of the corporation.

Contribution by City Council to Cost of Maintenance of Pupils at School in Adjoining Municipality.

2. Section 34 of *The High Schools Act* is amended by adding thereto the following sub-section :

(9) When the trustees of any high school situate in a municipality contiguous to a city shall give notice to the city clerk that such high school is open to city pupils on the same terms as it is open to the resident pupils of the municipality in which the high school is situate, the city council shall in all such cases pay to the high school board a sum equal to 80 per cent. of the average annual cost of maintenance.

This sub-section shall come into force and take effect on, from and after the 1st day of January, 1905.

REGULATION OF SPEED OF MOTOR VEHICLES.

Chapter 27 of 3 Ed. vii. is amended by The Statute Law Amendment Act as follows :

70. Sections 2, 3 and 4 of The Act to Regulate the Speed and Operation of Motor Vehicles on Highways are repealed and the following sections substituted therefor :

2. Every resident of this Province who is the owner of a motor vehicle, and every non-resident owner whose motor vehicle shall be driven in the Province, shall pay to the Provincial Secretary a registration fee for each motor vehicle. The Provincial Secretary shall issue for each motor vehicle so registered a permit properly numbered, stating that such motor vehicle is registered in accordance with this section, and shall cause the name of such owner with his address and the number of his permit, to be entered in a book to be kept for such purpose; provided that the Lieutenant-Governor in Council may make regulations regarding the registration and operation of motor vehicles owned by manufacturers or dealers and not kept by such manufacturer or dealer for private use or for hire.

3. Such permits shall be issued from the office of the Provincial Secretary, and shall be subject to such conditions regarding renewals or transfers thereof, payment of such fees therefor or otherwise as the Lieutenant-Governor in Council shall determine.

4. Every motor vehicle while being driven upon the public streets, public roads, parks or other public highways of this Province, shall carry and have exposed on the said motor vehicle the permit issued as aforesaid by the Provincial Secretary, and shall also have attached or exposed upon the back of every such motor vehicle, in a conspicuous place, the number of the said permit, so as to be plainly visible at all times during daylight, such number to be in plain figures not less than three inches in height.

THE ONTARIO VOTERS' LISTS ACT.

The Statute Law Amendment Act, 1904, contains the following amendments to The Ontario Voters' Lists Act :

1. (1) Section 61 of The Ontario Voters' Lists Act is amended by striking out the word "annually" in the second line and substituting the word "biennially" therefor.

(2) The said section is further amended by adding thereto the following words : "provided that the Lieutenant-Governor in Council may by proclamation direct that voters' lists for the unorganized territory or for any specified electoral district therein shall be prepared at an earlier date than that herein directed, and shall so direct when an election is about to be held and the voters' list to be used thereat would otherwise be at the date of such election more than one year old."

2. Section 63 of The Ontario Voters' Lists Act is amended by inserting after the word "convenient" in the second line the words "but not later than the 1st day of July."

3. Section 74 of The Ontario Voters' Lists Act is repealed and the following is substituted therefor :

"Unless and until a new voters' list has been prepared and certified under this or some other Act of the Legislature of this Province the voters' list last prepared and certified as aforesaid shall at any election to the Legislative Assembly be the lawful voters' list for the polling sub-divisions to which such voters' lists are applicable."

THE PUBLIC LIBRARIES ACT.

The Statute Law Amendment Act, 1904, makes the following amendments to this Act :

54. Section 12 of The Public Libraries Act is amended by striking out the words "first day of April" and substituting the words "fifteenth day of February" therefor.

55. Sub-section 1 of section 4 of The Public Libraries Act is amended by inserting after the word "property" in the eighth line the words "and by a vote of two-thirds of all the members of the council may increase such rate to an amount not exceeding in the whole three-fourths of a mill on the dollar."

56. (1) Sections 15 and 22 of The Public Libraries Act are amended by adding the following proviso at the end of each of the said sections :

"Provided, however, that the board may impose such fee as seems proper on any non-residents who may desire to use the library, reading-room and museum."

(2) Sub-section 1 of section 11 of the said Act is amended by inserting after the word "public" in the third line of the said sub-section the words "and non-residents."

TRACTION ENGINES.

The Statute Law Amendment Act, 1904, introduces the following amendment to chapter 242, R. S. O., 1897 :

60. Sub-section 3 of section 10 of The Act to authorize and regulate the use of traction engines on highways as enacted by section 43 of The Statute Law Amendment Act, 1903, is amended by adding at the end thereof the following words and proviso, "of less than eight tons in weight" :

"Provided however that before crossing any such bridge or culvert it shall be the duty of the person or persons proposing to run an engine or machinery mentioned in any of the sub-sections of this section to lay down on such bridge or culvert planks of such sufficient width and thickness as may be necessary to fully protect the flooring or surface of such bridge or culvert from any injury that might otherwise result thereto from contact of the wheels of such engine or machinery; and in default thereof the person in charge and his employer, if any, shall be liable to the municipality for all damage resulting to the flooring or surface of such bridge or culvert as aforesaid."

THE JURORS' ACT.

The Statute Law Amendment Act, 1904, contains the following amendments to The Jurors' Act (R. S. O., 1897, chapter 61) :

17. (1) Sub-section 1 of section 11 of The Jurors' Act is amended by adding after the word "Treasurer" in the third line thereof the words "of the county and the treasurer of any such city."

(2) Sub-section 2 of section 11 of The Jurors' Act is amended by adding after the word "city" in the fourth line thereof the words "the treasurer of the county and the treasurer of the said city" and by adding after the word "warden" in the seventh line thereof the words "and treasurer" and adding after the word "mayor" in the twelfth line thereof the words "and treasurer."

AN ACT RESPECTING HOUSES OF REFUGE

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :

Agreements for Extending Sewerage System to House of Refuge.

1. The council of any county and the council of any city or town within such county may from time to time enter into agreements for connecting any house of refuge, house of industry or industrial farm heretofore or hereafter established by the council of such county with the sewerage system of such city or town, and may pass all by-laws and do all things necessary to carry every such agreement into effect.

Contracts for Supplying Water and Electric Light and Power.

2. The council of any county may contract with any municipal corporation, company or individual owning or operating a waterworks system in any city or town, or any plant producing and supplying electricity for light, heat or power in such city or town, for the supply of water for domestic purposes and for fire protection, and of electricity for lighting and power purposes at the said house of refuge, house of industry or industrial farm, or for either of such services as the council of such county may see fit.

Power to Carry Necessary Works Over Intervening Lands

3. For the purpose of connecting such house of refuge, house of industry or industrial farm with such sewerage or waterworks system or electrical works the corporation of such county and the officers, servants, agents or workmen of such county may enter upon and pass over any lands and roads lying between such house of refuge, house of industry or industrial farm and such city or town; and may dig up such lands and roads, and may construct sewers and lay down any pipes and place all necessary poles and wires, and do all necessary work in or upon such intervening lands and roads. but the corporation of such county shall pay to any owner of such lands or roads due compensation, and such compensation in default of agreement shall be determined by arbitration in the manner provided by *The Consolidated Municipal Act, 1903*.

Assent of Electors to Borrowing for House of Refuge not Required.

4. Notwithstanding anything in *The Consolidated Municipal Act, 1903*, contained, it shall not be necessary for the council of any county to submit to the electors or to obtain the assent of the electors to any by-law for providing for the issue of debentures for the purchase of a site or the erection of buildings for a house of refuge, a house of industry or industrial farm or for the construction of the works authorized by this Act unless the amount to be raised under such by-law with the amount, if any, theretofore raised by the issue of debentures for the said purposes or any of them will exceed in the whole the sum of \$40,000.

THE DITCHES AND WATERCOURSES ACT.

The Statute Law Amendment Act, 1904, makes the following amendments to chapter 285, R. S. O., 1897 :

62. Section 16 of The Ditches and Watercourses Act is amended by inserting therein as sub-section 2a the following :

2a. The period prescribed for the engineer to make his award shall be exclusive of the time required to obtain the approval of the works or the specifications or plans thereof by the Board of Railway Commissioners for Canada where such approval is necessary.

63. Sub-section 8 of section 22 of The Ditches and Watercourses Act is amended by inserting after the word "proceedings" in the fourth line of the said sub-section the words "or has neglected his duty."

THE MUNICIPAL DRAINAGE ACT.

The following amendments to this Act are made by The Statute Law Amendment Act, 1904 :

51. Section 76 of The Municipal Drainage Act is amended by adding at the end thereof the following :

"Any such drainage work constructed out of the general funds of one or more municipalities or out of funds raised by local assessment under a by-law which is afterwards found to be illegal, may in like manner and under the like procedure as provided in the case of repairs under this section be deepened, widened or extended, including a new outlet for the whole or any part thereof."

52. Section 80 of The Municipal Drainage Act is amended by inserting therein after the words "in default of" in the eighth line the words "such consent or."

IMPROVEMENT OF PUBLIC HIGHWAYS.

Chapter 32, 1 Ed. vii., is amended by The Statute Law Amendment Act, 1904, as follows :

66. Sub-section 1 of section 2 of The Act for the Improvement of Public Highways passed in the first year of His Majesty's reign, chapter 32, as heretofore amended, is further amended by striking out the figures "1905" in the second line and inserting the figures "1906" in lieu thereof.

67. Section 4 of The Act for the Improvement of Public Highways, passed in the first year of His Majesty's reign, chapter 32, as heretofore amended, is further amended by striking out the figures "1906" in the 5th line and inserting the figures "1907" in lieu thereof.

MISCELLANEOUS AMENDMENTS.

The following general amendments to Statutes relating to municipal matters are made by The Statute Law Amendment Act, 1904 :

Returns of Convictions.

24. Section 5 of the Act respecting returns of convictions and fines by Justices of the Peace is repealed and the following is substituted therefor :

5. "The Clerk of the Peace to whom such returns are made shall, within two weeks after the times hereby limited for the making of the returns, post up in the court house and also in a conspicuous place in his office for public inspection a schedule of the returns so made by the Justices and the same shall continue to be so posted and exhibited for a period of three months, and for every schedule so made and exhibited by the Clerk of the Peace he shall be allowed in his accounts with the county a fee of \$4, which shall be paid by the treasurer of the county."

Sittings of Courts in Districts.

25. Section 21 of The Unorganized Territory Act is amended by striking out the word "November" in clause 6 of the said section and substituting therefor the word "December."

Persons Dying in Houses of Refuge.

41. Sub-section 1 of section 2 of The Ontario Anatomy Act is amended by adding thereto the following proviso :

Provided that any county councillor shall be deemed to be a bona fide friend for the purposes of this section when members of the county council are so declared by by-law in that behalf.

Members of Council to See that Recommendations of Municipal Auditors are Carried Out.

53. Section 14 of the Act to make better provisions for keeping and auditing Municipal and School Accounts is amended by inserting after the words "hereinbefore mentioned" in the sixth line thereof the words "when concurred in and approved of by said auditor personally."

Fast Driving Over Bridges.

59. Section 10 of the Act to regulate travelling on Public highways and bridges is amended by inserting after the word "burden" in the second line the words "on or."

Early Closing By-Laws.

61. Sub-section 1 of section 44 of The Ontario Shops Regulation Act is amended by adding after the word "retail" in the third line of clause (a) of the said sub-section the words "and barbers' shops."

Algoma Land Tax.

72. Sub-section 1 of section 2 of The Algoma Land Tax Amendment Act, 1903, is amended by striking out the word "January" in the sixth line and substituting therefor the word "July" and by striking out the words "thirty-first day of December" in the tenth line and substituting therefor the words, "thirtieth day of June."

Easement Not Acquired by Telephone or Telegraph Companies.

74. No telephone or telegraph company shall be deemed to have acquired, or shall hereafter acquire, any easement by prescription or otherwise in respect of wires or cables attached to private property or buildings or passing through or carried over such property unless in cases where the company has obtained a grant from the owner of the property.

Cost of Inquest on Body of Non-Resident Dying in City or Town.

78. Where an inquest is held upon the body of any person who has died in a city or separated town and the jury find that the death was caused by violence, accident or unfair means which arose or took place outside of such city or town the coroner shall make an

order for the payment of the fees and expenses in connection with such inquest on the treasurer of any city or town in which the inquest is held, who shall thereupon pay the same ; and the amount so paid, shall on demand be repaid by the treasurer of any city or separated town in which the matter causing the death is found to have arisen or taken place, and in other cases by the treasurer of the county in which such violence, accident or unfair means arose or took place as aforesaid.

At a recent meeting the council of the Town of Sandwich, by resolution, instructed the solicitor to proceed against its late collector for a deficiency of \$390.50 on the collector's roll for 1902 and of \$6.92 on the roll for 1901.

Two actions for damages were recently settled at the winter assizes for the County of Middlesex which are of interest to townships. Some months ago a threshing engine was being hauled across a wooden bridge which spanned a small stream in the Township of Metcalf, when the structure gave away, precipitating the machine and a number of men into the ditch below. Messrs. Munro and McKenzie, husbands of the plaintiffs in the above actions, were among the number who met their death, being caught under the thresher and killed. The plaintiffs claimed that the township was responsible for the maintenance of the bridge, and that if the latter had been kept in proper repair the accident would not have happened. When the court met a settlement was made, Mrs. Munro being awarded judgment for \$1,800, of which she gets \$1,000, three children \$100 each, and another \$500. Mrs. McKenzie got a verdict for \$1,600, she to receive \$1,300 and the balance to be divided among the children.

Not long ago the council of the Township of Collingwood passed a by-law to open a new road on the townline. The purpose of the deviating road was to avoid a heavy hill. The proposed new road was to start in from the townline, whence it ran west partially across an intervening farm to a point where it turned south till it reached a point some ten rods into the farm of one Donald Smith. From that point it was to run again westerly almost the entire length of Mr. Smith's two farms. Here it again turned south and crossing another farm came out on the sideroad. It was alleged that this new road would be an injury to the property it crossed, and Mr. Smith, who was chiefly affected, applied to the court to have the by-law set aside. It was contended that no notice was given to the applicant, that the width of the road was not defined in the by-law, and that the by-law was not passed in the interests of the public, but for a particular class. The court made an order quashing the by-law without costs, on the ground that the width of the road was not defined in the by-law.

One Cochrane brought an action against the City of Hamilton recently for damages for personal injuries sustained by him by reason of the alleged non-repair of a road and Mr. Chief Justice Meredith gave him judgment for \$500. The defendants appealed from this judgment, and the Divisional Court has held that sufficient evidence is given, if believed, to show defective construction of the road at the point of accident. There had been no provision made for the flow of water from a gully which is blocked by the road, and there is usually an overflow there upon and over the road in case of flood, thaw or rain. This could easily and at small cost be remedied by a bigger ditch at the side or a culvert below. Upon the evidence (which is contradictory to some extent) it is impossible to say that the verdict is one which should be set aside. It is not proved by the great weight of evidence that the accident was the result of exceptional and unforeseen circumstances. The appeal was dismissed with costs.