

# THE MUNICIPAL WORLD

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## Contents:

	PAGE
Editorial Notes.....	190
Voting on By-Laws and Municipal Elections on same day.....	190
Nominations.....	191
Nomination Proceedings.....	191
Municipal Officers of Ontario—	
Clerk of the Township of McNab.....	192
Nomination Statements.....	192
Another Defaulting Treasurer.....	192
Engineering Department—	
Windsor.....	193
The Waterworks.....	193
Street Improvement.....	193
Requisites for Road Gravel.....	194
Dry Rot.....	195
Frontenac County Roads.....	195
Progress.....	196
Road Management.....	196
Question Drawer—	197
487 No change in Collector's Duties Since 1901.....	
488 Final Audit of Township Accounts.....	
489 These Parties Must pay Either Separate or Public School Taxes.....	
490 Liability for School Taxes of Lands Over Three miles from School House.....	
491 Limit of County Councils Power to Enforce Payment of County Rates.....	
492 Local Treasurer Disqualified as County Councillor.....	
493 Returning-Officer to Select Polling Places at referendum Vote.....	
494 Fees of Engineer Under the Ditches and Watercourses Act.....	
495 Grant of Use of Street for Laying Water-Pipe to Private Party.....	
496 Placing Arrears of Taxes on Collector's Roll.....	
497 Payment of Councillor Hired by Council.....	
498 Assessment of Bees.....	
499 Prevention of Disturbance at Council Meeting.....	
500 Levy of Annual Rates Should be Provided for by By-Law of Council.....	
501 Responsibility for Repair of Bridge in Township.....	
502 Separate School Supporter not Legally Chargeable with Part of General School Levy.....	
503 Apportionment of County Grants to High Schools.....	
504 Procedure at Meeting of Public School Board.....	
505 These Townships Have Commuted Statute Labor.....	
506 Payment of Fees by Non-Resident Pupils.....	
507 Municipality Should Keep Highway in Repair—Right of Local Municipality to Purchase Road from County.....	
508 Collector's Bonds Should be Retained by Council—Collector Cannot Alter Figures on his Roll.....	
509 Public School Trustee Disqualified as Councillor.....	
510 Duties of Collector—Liability of Petty Trespassers.....	
511 Maintenance of Bridges over Drainage Work.....	
512 Law as to Statute Labor in Unorganized Township.....	
213 Proceedings at Nomination Meeting—What Constitutes Filing of Notice of Complaint Under the Voters' Lists Act.....	
514 Dedication of Road as a Public Highway.....	

## Calendar for December, 1902.

- DEC. 1. Chairman of Board of Health to report to the Council on or before this date.—Public Health Act, schedule B, section 3.
- Last day for appointment of School Auditors by Public and Separate School Trustees.—Public Schools Act, section 22, (1); Separate Schools Act, section 28, (5).
- Municipal Clerk to transmit to County Inspector statement showing whether or not any County rate for Public School purposes has been placed upon the Collector's Roll against any Separate School supporter.—Public Schools Act, section 72; Separate Schools Act, section 52.
- Last day for councils to hear and determine appeals where persons added to Collector's Roll by Clerk of Municipality. Assessment Act, section 166.
5. Make returns of contagious diseases to Registrar General. R. S. O., chapter 44, section 11, subsection 4.
8. Last day for publishing notice of county council nomination. S. 132, (2) Municipal Act.
10. Last day for Public and Separate School Trustees to fix places for nomination of Trustees. Public Schools Act, section 60 (2); Separate Schools Act, section 31 (5).
- Returning Officers to be named by resolution of the Public School Board (before second Wednesday in December.) Public Schools Act, section 60 (2).
14. Last day for payment of taxes by voters in local municipalities passing by-laws for that purpose.—Municipal Act, section 535.
- Last day for collectors to return their rolls and turn over proceeds, unless later time appointed by council.—Assessment Act, section 144.
- Local assessment to be paid Separate School Trustees.—Separate Schools Act, section 58.
15. Municipal Council to pay Secretary-Treasurer Public School Boards all sums levied and collected in township.—Public Schools Act, section 71.
- County Councils to pay Treasurer High School.—High Schools Act, section 35.
- Councils of towns, villages, townships hold meeting.—Municipal Act, section 304 (6).
- Rolls to be finally revised by judge when assessments taken between 1st of July and 30th of September.—Assessment Act, section 58 (1).
- Pass all accounts for subscriptions, due the MUNICIPAL WORLD, and order election supplies, etc.
- Nomination Day, where fixed by by-law of County Council. Section 125, Mun. Act.
20. Last day for treasurer to send clerk list of all who have not paid their taxes.—Municipal Act, section 292.
22. Public and Separate Schools close.—Public Schools Act, section 97 (1); Separate Schools Act, section 81 (1).
- High Schools close first term.—High Schools Act, section 45.
- County Council Nomination Day.—Section 133.
23. Last day for publishing Notices of Nomination.—Section 127, Municipal Act.
24. Last day for posting up Annual Statement of Assets and Liabilities in Townships, Towns and Villages.—Municipal Act, section 304, (7).
25. CHRISTMAS DAY.
- High School treasurer to receive all monies collected for permanent improvements.—High Schools Act, section 39, (1).
- By-Law for dis-establishment of Township Boards takes effect.—P. S. Act, s. 31, (1).
- New Schools, and alteration of school boundaries go into operation or take effect.—Public Schools Act, section 25, (2); section 41, (3); section 42, (3); section 46, (10).
26. Last day for notice of first meeting of trustees in New School Sections to be posted up by the Township Clerk.—Public Schools Act, section 12, (5).
29. Nomination Day.
31. Road Commissioners cease to hold office. Assessment Act, section 120.
- License Commissioners cease to hold office.—Liquor License Act, section 3.
- Protestant Separate Schools Trustees to transmit to County Inspector names and attendance during the last preceding six months.—Separate Schools Act, section 15.
- Trustees' report to Truant Officers due.—Truancy Act, section 11.
- Auditors' report of Cities, Towns, and Incorporated Villages, to be published by Trustees.—Public Schools Act, section 65, (11).
- Persons liable to Municipality on Mortgage to state balance due thereon to head of Municipality.—60 Vic., c. 48, s. 22.
- Annual Public and Separate School Meeting.—Public Schools Act, section 14; section 60, (1); Separate Schools Act, section 27, (1); section 31, (1).
- JAN. 1. A HAPPY NEW YEAR TO ALL.
- Renew Subscriptions to the MUNICIPAL WORLD for 1903.

515 Mode of Registering By-Law—Fees of Clerk Under Drainage Act.....	
516 Collection of Arrears of Taxes Irregularly Placed on Roll.....	
517 Qualification of Public and Separate School Trustees—Powers of Clerk to Act as D. R. O. Change in Alignment of Road.....	
518 Powers of Clerk to Act as D. R. O.....	
519 Initiating and Contributing Municipalities Must Pass Separate By-Laws for Raising Money for Drainage Work.....	
520 Electric Light Inspection—Rights of the Public to the use of Hotel Premises.....	
521 Offering Commission to Municipal	

Officers Purchasing Supplies, an Indictable Offence.....	
522 Submission to Electors of Statute Labor By-Law.....	
523 County "Councillor" the Proper Term.....	
524 Collection of Cost of Bridge over Drain.....	
525 Qualification of Voters.....	
526 Entry of Items in Govern't Cash-Book.....	
527 Qualification of Village Treasurer for Membership in County Council.....	
528 By-law Disqualifying Tax Defaulters from Voting—Jurisdiction of Justice of the Peace.....	
529 County Constable Can Qualify as County Councillor.....	



# The Municipal World

PUBLISHED MONTHLY

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

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ST. THOMAS, DECEMBER 1, 1902.

*If the number on your address label is 144 your subscription ends with this issue.*

\* \* \*

We have to thank both the members of councils and officials for their cooperation during the past year.

\* \* \*

We will be pleased to receive renewals of subscriptions from all, and from those who may be retiring, a recommendation to their successors.

\* \* \*

During the year we have published answers to 1080 questions submitted by our subscribers. This is a decided increase over any previous year. The character of the questions has also improved.

\* \* \*

No other publication does as much for its subscribers as we are doing. Appreciation of our efforts can best be expressed by patronizing the supply department, which is most complete in every particular.

Our stock of election supplies, sufficient for the whole Province, is ready for immediate distribution. The possibility of a delay in the mails (which always are crowded at this season) or a mistake on the part of an express company, should be considered and election supplies ordered at the earliest possible date.

Although we always prefer direct orders a few municipalities procure election supplies through a local stationer or printer. When placing orders of this kind, specify MUNICIPAL WORLD forms. This will insure satisfaction.

The annual catalogues will be forwarded during this month in souvenir form to every municipality

We are desirous of hearing from subscribers generally in reference to the following questions:

1. What particular feature of the WORLD pleases you most?

7. Is there any subject you would like to see referred to in the WORLD?

3. Are there any improvements you could suggest?

\* \* \*

The month of December is usually one of the busiest for municipal officers and councillors, the former have to prepare for the election and the latter to secure election. This always increases the demand for legal and other special information. Subscribers should take advantage of the "Question Drawer" in preparing for the canvas or Nomination Day. All the questions will be answered promptly by mail during this month. The WORLD office will be kept open evenings from December 15th to January 3rd, so that all who may decide to communicate with us by telegraph or telephone at the reduced rates, may do so and receive prompt attention.

\* \* \*

Mr. John Speirs, treasurer of the Town of Sandwich has resigned, and Mr. C. H. Ashdown, the clerk, has been appointed to that office in his stead.

\* \* \*

Mr. Jonas Gosnell, of the township of Orford, has been appointed clerk of the county of Kent, to succeed Mr. J. C. Fleming, who was recently appointed treasurer of that county.

\* \* \*

Mr. Hugh Murray, who, since the year 1869, has been clerk and treasurer of the township of Bruce, died last month. A portrait of Mr. Murray, and a brief biographical sketch, will be found on page 127 of the WORLD for the present year.

\* \* \*

A by-law to fix the assessment of D. Maxwell & Son's factory for ten years at \$25,000 was voted on by the electors of St. Marys, last month, resulting as follows: For the by-law, 470; against, 104. The necessary three-fifths of the eligible voters was 445.

\* \* \*

The introduction of politics into municipal elections is sometimes most objectionable. Candidates who are politically ambitious should not be allowed to further their own interests at the expense of the municipality.

\* \* \*

Good municipal officers can only be secured by the united action of interested citizens who have the courage to vote for or against men and measures regardless of the fact that they are supported or opposed by a particular party.

## Voting on By-Laws and Municipal Elections on Same Day.

A large number of by-laws will no doubt be submitted to the electors of municipalities throughout the Province on the 5th of January next, the day fixed by statute for holding the municipal elections. The idea seems to prevail in many quarters that the Voters' Lists, poll books and other forms required by the statutes to be used at municipal elections will also answer for taking a vote of the electors on a bonus or money by-law. To prevent possible future litigation and expense, we desire to call attention to, and emphasize the fact that this cannot legally be done. The Voters' List required to be used at elections of municipal councils (parts I and II of that last finally revised and certified to, by the County Judge, or other proper official, for the municipality) cannot legally be used when the voting is on a money by-law. The qualifications of the electors present a wide difference, as will be seen by a reference to Secs. 85, 86, 87, 353 and 354 of the Municipal Act. In the latter case, the Voters' List should contain only the names of those persons "appearing by the then last revised assessment roll of the municipality to be entitled under the provisions of Sections 353 and 354 of the act," to vote on the by-law. This list should be prepared by the Clerk of the Municipality from the *then last revised assessment roll*, and wholly without reference to the *then last, revised Municipal Voters' List*, and delivered by him to the several deputy returning officers before the poll is opened, under the authority of sec. 348 of the act. The names of the persons so entitled to vote should be entered by the clerk in the poll books for the several polling sub-divisions, before they are delivered by him to the deputy returning officers. Then again the forms of ballot, the directions for the guidance of voters, the declaration and appointment of agents, and the oaths to be taken by electors are different in form, and the filling in by the deputy returning officers of the other incidental documents are different in every particular. Separate sets of election envelopes must be supplied, otherwise the municipal election and the by-law ballots would have to be mixed together.

It is true economy to avoid possible litigation and trouble in case of a scrutiny or recount in all matters as important as municipal elections and voting on by-laws. No municipal council or officer can vary the statutory regulations.

One of the dangers to be guarded against in an election, is making promises to secure votes.

This has destroyed the career of many a councillor who in the excitement of the campaign was led to commit himself. No one who cannot act independently should be elected or appointed to look after the interests of his fellow citizens.



**NOMINATIONS.**

The provisions of the Municipal Act divide the municipalities into nine classes for nomination purposes.

The following tabular statement will show when and where nomination meetings for 1902 should be held, and the municipal officers to be nominated.

**STATEMENT.**

MUNICIPALITY	DATE.	MAYOR.	WHERE.	ALDERMEN	WHERE.
I. CITIES . . . . . Sections 118 and 119.	29 December . . . . .	10 a. m., to 11 a. m. . . . .	At City Hall . . . . .	12 noon to 1 p. m., or if by-law passed under section 120, 7.30 p. m. to 8.30 p. m.	At City Hall or place in each ward fixed by by-law.
II. CITIES Having a population of 100,000 or more . . . . .	29 December, or if by-law passed by the council, before 15th of Nov. under s. 119a on 22nd December.	10 a. m. to 11 a. m. . . . .	At City Hall . . . . .	12 noon to 1 p. m., or if by-law passed under sec. 120, 7.30 p. m. to 8.30 p. m.	At City Hall or place in each ward fixed by by-law.
III. TOWNS Divided into wards; population over 5,000 . . . . . Sections 118 and 119.	29 December . . . . .	10 a. m. to 11 a. m., or if by-law passed under section 120, 7.30 p. m. to 8.30 p. m.	At Town Hall . . . . .	(Councillors.) 12 noon to 1 p. m., or if by-law passed under section 120, from 7.30 to 8.30 p. m.	At Town Hall or place in each ward
IV. TOWNS Not divided into wards; population over 5,000 . . . . . Sections 118 and 119.	29 December . . . . .	Same . . . . .	At Town Hall . . . . .	Same . . . . .	At Town Hall . . . . .
V. TOWNS Divided into wards; population, 5,000 and under . . . . . Sections 118, 119 and 71a.	29 December . . . . .	10 a. m. to 11 a. m., or if by-law passed under section 120, 7.30 p. m., to 8.30 p. m.	At Town Hall . . . . .	Same . . . . .	At Town Hall or place in each ward
VI. TOWNS Not divided into wards; population 5,000 and under . . . . . Sections 118, 119, and 71a.	29 December . . . . .	Same . . . . .	At Town Hall . . . . .	Same . . . . .	At Town Hall . . . . .
VII. VILLAGES . . . . . Sections 119 and 120.	29 December . . . . .	12 noon to 1 p. m., or if by-law passed under section 120, 7.30 p. m. to 8.30 p. m.	At Town Hall . . . . . or at such place as may be fixed by by-law.	Same . . . . .	At Town Hall or at such place as may be fixed by by-law
VIII. TOWNSHIPS . . . . . Sections 119, 122 and 123.	On 29 December, or if by-law passed by county council under section 125 on 15 December.	12 noon to 1 p. m., or if by-law passed under section 122, 1 to 2 p. m.	At Town Hall . . . . . or place fixed by by-law under section 123.	12 noon to 1 p. m., or if by-law passed under section 122, 1 to 2 p. m.	At Town Hall or place fixed by by-law under section 123.
IX. COUNTIES . . . . . Section 133.	22 December . . . . .	(County Councillor.) 1 p. m. to 2 p. m. . . . .	At place in each district fixed by Nom. Officer, sec. 132, (1) (a) and sec. 7, c. 23. 61 Vic.		

**Nomination Proceedings.**

**NOTICE.**

It is the duty of the clerk or other returning officer to give at least six days' notice of nomination meeting. For county council nomination, two weeks notice is necessary. Notice may be given by advertisement in newspapers, or printed posters.

**NOMINATIONS, SECTION 128.**

The persons nominated to fill each office shall be proposed and seconded (*seriatim*) and every such nomination shall be in writing, and state the full name, place of residence, and occupation of the candidate, and shall be signed by his proposer and seconder and be filed with the return-

ing officer or the chairman within one hour from the time of opening the meeting.

The change in the law requiring nominations to be in writing came into force on the first of January, 1899. Nomination forms should be provided for use at the nomination meetings.

The tabular statement shows the municipal officers to be nominated at the meetings. In town where ward elections have been abolished, either by by law or the amendments of the Act of 1898, the number of councillors has been reduced.

**RESIGNATIONS**

may be handed to the returning officer at nomination meeting, or on the following day, at any time before nine o'clock p. m.

Except in the case of county council nominations, when resignations may be filed at any time during the following day.

At the nomination meeting candidates proposed may resign verbally, but after the nomination meeting all resignations must be in writing, signed and attested by a witness, and delivered to the clerk or returning officer within the time mentioned. When resignations are not received in time or in proper form, a clerk has no alternative but to hold the election.

To overcome the effect of the decision in re E. J. Parke, Police Magistrate of the City of London (30 O.R. 498) sec. 8 of Chap. 29 of the Ontario Statutes 1902 was passed. It provides as follows: "Sub-section 1 of section 128 of the

(Continued on page 204.)



## Municipal Officers of Ontario.

Clerk of the Township of McNab.

Mr. McNab was born in the month of April, 1822, on the Island of Malta, at which his parents sojourned for a short time on their journey to Cephalonia, in the Kingdom of Greece. Mr. McNab's father was an officer in the Commissariat Department of the British army. After six years' residence in Greece, Mr. McNab's mother died, his father obtained leave of absence, and returned with his family to England, where he remained until he received orders to proceed to By-town, Canada (now the city of Ottawa). The Rideau canal was then in process of construction. The subject of this sketch and his brother were, in the meantime, attending a school in Fulham, England. The elder Mr. McNab, having married a daughter of Captain Street, of the Royal Navy, and settled in the township of March, where he was living on half-pay, sent for his children, and they arrived in Canada in June, 1834. Mr. McNab, shortly afterwards, left home, to work his own way in the world, and located at White Lake, in the township of McNab, in January, 1838, and has resided there continuously ever since. He was first appointed clerk in 1862, and remained in office until the end of 1866. He filled the office during the year 1878, and in 1887 received his appointment, for the third time, and still efficiently discharges its duties, making a total of twenty-two years spent in the service of the municipality. In former years he followed, at different times, the business of farming, lumbering and grist milling. He is a staunch member of the Presbyterian church, having been Precentor of the White Lake congregation for over fifty years, and in politics is a Liberal.

### Nomination Statements.

An important feature of all nomination meetings is the presentation of a clear and concise statement of the financial position of a municipality. Auditors' reports are not always complete or easily understood by ratepayers. Members of councils should endeavor to correct this and present a statement of the financial affairs in such a manner as to be easily understood.

In stating the receipts and expenditures, separate the fixed expenditures over which the council for the year have had no control from those for which the council are directly responsible.

The fixed or uncontrollable items are always the largest. They include payments for debentures, schools, drainage, police, waterworks, lighting, fire protection, officers' salaries, etc.

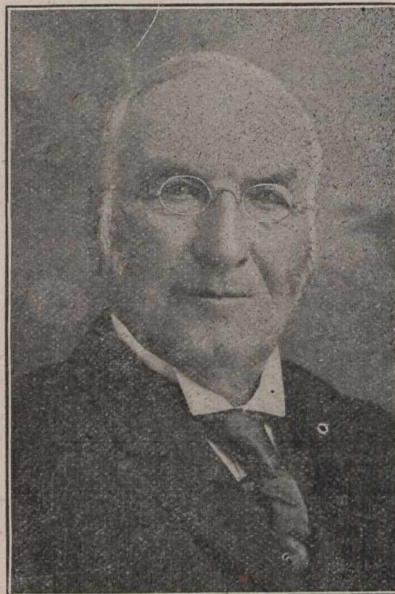
Expenditures incurred under by-laws, passed with the approval by vote of the electors can sometimes be shown to be the cause of a high tax rate, especially in urban municipalities.

The assets should also be classified as permanent and available.

1st. *Permanent Assets*, such as waterworks, electric light system, fire protection apparatus, markets schools, town halls, hospitals, etc.

2nd. *Bonded Assets*, which include sinking funds and other funds held in trust or due the municipality under special agreements or legislation.

3rd. *Available Assets*. The available assets are the most important items, and should be stated. These include cash on



MR. J. D. McNab.

hand, cash in banks, water and lighting rates in arrears, rents, advance for public works to be paid by debenture issue, advance on local improvements or drainage works in progress, etc.

Liabilities should also be classified.

*Bonded or fixed liabilities* include debentures or notes outstanding and not yet due.

*Current liabilities* usually include the items on which the success of the council is determined, such as debentures and loans due and unpaid, accounts due, salaries, county rates, statute labor and other indebtedness. In townships in which drainage work is carried on extensively, the balances due the different works for debenture moneys not expended, should not be overlooked.

The careful analysis of the business of a municipality will generally show the controllable expenditure to be small in proportion to the total taxes. Councils

are required to devote considerable time and attention to the details of municipal management, which do not affect the tax rate. They are usually judged by their decisions in small matters within the comprehension of the average ratepayer.

### Another Defaulting Treasurer.

An audit of the accounts of the treasurer of the Township of Romney, by auditor F. H. Macpherson, of Windsor, led to the accidental discovery of a shortage of some \$2000 in the account between treasurer Shambleau of the County of Kent, and that township. The county treasurer was suspended by the warden, pending the further examination of his books. A shortage of some \$12,000 in his accounts was thus discovered. At a special meeting of the county council, subsequently held, Mr. Shambleau was dismissed from office and Mr. J. C. Fleming the clerk of the county, appointed in his place. The county is secured against the defalcation of the late treasurer by a bond in the Dominion Guarantee and Accident Company. The above is another example of the perfunctory and unsatisfactory nature of the ordinary municipal audit, as no doubt this shortage has been accumulating for some years, under the noses of the gentlemen who have been annually appointed by the county council to audit the books and accounts of the treasurer.

Tilbury North township a few years ago abolished the old statute labor system in two divisions (Nos. 7 and 9), and purchased an improved road machine from the commutation money at 50 cents per day in these two divisions. The experiment has proved so successful that the township has practically decided to abolish statute labor in the entire township, to take place probably next year or the year following, without the formality of a vote.

We are in receipt of a new book of conveyancing and other forms by Mr. A. H. O'Brien, M.A., of Osgoode Hall, Barrister-at-Law, just issued and published by the Canada Law Book Co., of Toronto. The new work is a great improvement on the first edition which was issued in 1893. Many forms which had become obsolete are omitted and new ones added. Those which are entirely new relate principally to companies, banking, copyright, Crown Lands, mining, bills and notes, and Maritime law. An important feature of the book is the insertion of notes of cases and extracts from statutes, where these are valuable to explain the necessity for any particular clause, in the text, or to call attention to some danger of error. The work of the printer is excellent, and on the whole the work is a full, accurate, and practical collection of legal forms, which should in every way meet the requirements of those engaged in the business of conveyancing.



# Engineering Department

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

## WINDSOR.

THE CITY of Windsor, Ontario, is delightfully situated on the Detroit River, and opposite the American City of Detroit. It is connected with the latter city by a ferry service crossing the river every ten minutes, while an electric railway connects it with the two towns of Walkerville and Sandwich. It has a population of 12,642, and an assessment of \$5,313,025 and has numerous important manufacturing industries. For some years it has been favored with a supply of natural gas which unfortunately, at the present time, shows indications of failure. There is a good fire department; the streets are well paved, and the waterworks, owned and operated by the city, is well equipped. The city has a municipal electric plant, for street lighting only, arc lamps of 2,000 candle power being used.

### The Waterworks.

The original waterworks system was constructed in 1872, by the municipality. Until the year 1889, it was controlled by the Fire, Water and Gas Committee of the council, in which year commissioners were appointed, by whom the works have since been managed. Two members of the Board of Commissioners are elected, the third member being ex-officio, the mayor. For the present the year commission consists of mayor J. F. Smyth, Jas. Dixon, and E. W. S. Bauer. One commissioner is elected annually.

#### SOURCE OF SUPPLY.

The River Detroit is the source of water supply. Water flows from the river, through intake pipes into wells at the pumping station. In these wells are screens which intercept weeds or other material entering the intake, these screens being lifted and cleaned daily.

There are three wells, two of equal size being 8 feet in diameter, 19 feet in depth, water level 7 feet 7 inches, holding 2,713 gallons each. The third well is 12 feet in diameter, 16 feet in depth; water level 8 feet 5 inches holding 5,342 gallons. A 20 inch intake pipe extends into the river, from which by closing valves on the pipe leading to the wells, water can be drawn by direct suction.

#### THE PUMPING STATION.

The original waterworks pumping station was destroyed by fire September 13th, 1888, and was at once replaced by the present main building, to which additions have since been made. These works are situated on the north side of Sandwich street, east, somewhat to the north of the main portion of the city, and adjacent to the river. The building is a substantial structure of red brick, and includes the pump room, boiler room, well room and coal room, the latter being a recent addition. For some years natural gas has been used as fuel, but with the supply apparently failing, it has been necessary to return to the use of coal. To facilitate the handling of the latter, a switch has been laid from the railway to the pumping station, whereby coal may be unloaded from the cars to the coal room.

The pumping plant consists of three engines. Two of the engines made by the Kerr Engine Company of Walkerville, have a pumping capacity of 3,000,000 gallons in 24 hours, one being installed in 1883, and the other in 1889.

The third engine installed by the Deane Steam Pump Company, in 1884, has a capacity of 1,500,000 gallons per day.

The four boilers are erected in pairs, two boilers being of 60 horse power each, one installed in 1884, and the other in 1888. The remaining pair are of 140 horse power each, one installed in 1901, and the other in the present year.

The ordinary pressure maintained at the works is 40 pounds, which for fire purposes is increased to 80 pounds. The suction lift is seven feet.

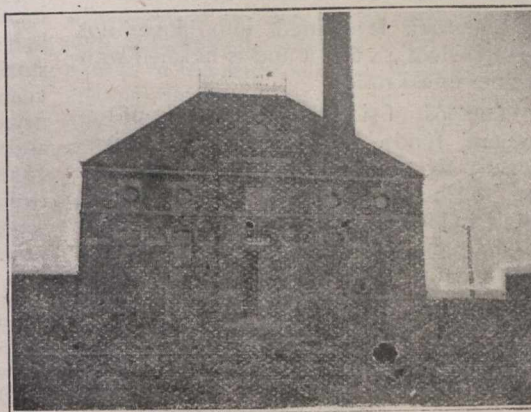
#### DISTRIBUTION SYSTEM.

To the end of 1901, there were 30 18 miles of street mains, with 263 hydrants and 257 valves.

The distribution system is as follows:

16 inch pipe.....	9,535 feet.
12 inch pipe.....	6,690 feet.
6 inch pipe.....	22,238 feet.
5 inch pipe.....	14,043 feet.
4 inch pipe.....	106,853 feet.

Total..... 159,359 feet.



WATERWORKS PUMP HOUSE, WINDSOR.

#### DEBENTURE DEBT.

The cost of the Windsor Waterworks system, as indicated by the debenture debt, was \$308,784. Of this, there has been redeemed, \$138,528.40, leaving an outstanding debt on December 31st, 1901, of \$170,255.60.

#### INCOME AND EXPENDITURE.

The total income from ordinary water rates was in 1901, \$26,986.84; and from meter rates \$7,591.02, there being 31 meters in use on the system. With revenue from permits, licences and miscellaneous small items, the total revenue for the year was \$379,13.45.

The principal items of expenditure included salaries, \$5,245.52; fuel \$6,585.49; repairs to machinery and building, \$215.06; repairs to street mains and intake, \$666.82; supplies, \$599.74; miscellaneous, \$3,278.52; debentures and interest, \$20,939.96; total \$37,535.11.

#### RATES.

Following a principle generally applied in England, a uniform assessment on the dollar of assessed value, is levied on all properties, whether vacant lots, occupied or unoccupied buildings, fronting or abutting on streets along which water mains are laid, whether the owners or occupants of such properties use the water or not. This water rate, in Windsor is two and two-ninth mills on the dollar of assessment, but

a minimum rate of \$1.11 is charged on all vacant lots assessed for \$500 or under.

Where water services have been installed, however, and water is being used, the following schedule takes the place of the general rate:

On properties assessed for the sum of \$1,000 and under.....	\$ 4 44
On properties assessed for more than \$1,000 and not more than \$1,500..	5 56
On properties assessed for more than \$1,500 and not more than \$2,000...	6 67
On properties assessed for more than \$2,000 and not more than \$2,500...	7 78
On properties assessed for more than \$2,500 and not more than \$3,000	8 89
On properties assessed for more than \$3,000 and not more than \$3,500...	9 99
On properties assessed for more than 3,500 and not more than \$4,000....	11 11

On properties assessed for more than \$4,000, the sum of \$11.11 and a rate two and two-ninth mills on the dollar upon such excess over \$4,000.

In addition, there are extra rates for bakeries, blacksmith shops, factories, laundries, etc., and special uses. Meter rates, in addition to the property charge are 7 8-10 cents per 1,000 gallons.

### Street Improvement.

The City of Windsor in 1899 adopted a by-law providing for the expenditure of \$200,000 on street improvement, the work to be extended over ten years. The by-law provided that \$20,000 shall be raised annually for ten years, by the issue of debentures, certain streets being allotted for each year's work. The estimate is based on a plan for paving with macadam the principal thoroughfares and most commonly travelled streets.

The debentures are payable in annual instalments for twenty years from the date of issue, that is, the debentures issued in 1900 were payable up to and including 1920; while the last \$20,000 of debentures, to be issued in 1910, will be payable up to and including 1930. Should the residents on any streets desire and petition a better pavement than macadam, the difference in cost is levied upon the property on the street according to frontage. The aggregate length of the streets, included in the by-law, is 15.70 miles. Under this by-law, there has been constructed in the three years, 1900-1902, inclusive, 2 1/2 miles of macadam pavement and 1 1/3 miles of asphalt block. A special act of the legislature was obtained at the session of 1900 to validate this by-law, its provisions not being in accordance with the general Municipal Act.

#### ASPHALT BLOCK.

Asphalt block has been laid on the main streets, chiefly in the business section, which had previously been paved with cedar block and rubble stone. This paving material is manufactured and used to a considerable extent in the United States, but Windsor is the only city in Ontario where it has been laid.

These blocks are composed of finely-crushed granite and asphaltic cement. In manufacture, the materials are heated, thoroughly combined in mechanical mixers, and then, passing into a pressing



machine, very similar to that used in pressing bricks, the mixture is moulded into blocks measuring 4 x 4 x 12 inches.

The blocks weigh between 17 and 19 pounds each, and require 25 for a square yard of pavement. The price is \$67.20 per 1,000 f. o. b., Windsor, but the city pays for the blocks on the basis of \$1.68 a square yard, measured in the pavement, so that this price includes an allowance for waste.

The cost of this pavement, per square yard, is estimated by the street commissioner as follows:

Removal of cedar blocks, per sq. yard.....	\$ 10
Concrete, 4" foundation.....	45
Sand cushion.....	05
Asphalt blocks.....	1 68
Laying blocks.....	10
Hauling asphalt blocks.....	045
Duty on blocks, 20%.....	336
<hr/>	
Total per square yard.....	\$2 76

The process of laying these blocks is very similar to that of laying vitrified brick. The pavement consists of a substantial foundation of concrete, broken stone or gravel; next a sand cushion, then the surface of asphalt blocks, which is covered with a temporary covering of clean fine sand to fill the joints.

In all, about 20,000 square yards of asphalt block has been laid in Windsor. This has been put on a broken stone foundation, not on concrete as specified in the foregoing estimate. Petitions have been received and granted for laying this pavement, extending over about 2 2-5 miles. Among the qualities claimed for this pavement are that it does not require skilled labor and an expensive plant to lay and repair, as does sheet asphalt, being on a par with vitrified brick in this respect; that it is not so noisy as vitrified brick; that it forms a smooth and practically impervious pavement because, under the action of sun and traffic, the asphalt is compressed, and the blocks are cemented together, making a healthy and pleasant pavement.

#### MACADAM.

Broken stone for macadam roadways and for the foundation for the asphalt pavements is now largely obtained at Hagersville, the cost being \$1.25 a ton delivered on the street. The general width of roadways on residential streets is being reduced to 24 feet, and on the streets macadamized to the present, there has been laid a depth of twelve inches of stone from curb to curb. All work has been done by day labor under the supervision of the street commissioner.

#### CURB.

Concrete curbs with gutter have been laid on the streets paved with asphalt block, the cost being 45 cents per lineal foot. The concrete core is composed of five parts broken stone, one part sand, and one part Portland cement; and the surface finish, one inch in thickness, one

part of Portland cement to two parts of sand.

#### CONCRETE SIDEWALKS.

The city has about eight miles of cement-concrete walks, or about 200,000 square feet. These are laid by contract, the price this year being 11 cents a square foot. The nearest gravel obtainable is not of a good quality, and is about four miles distant, so that very little is used for street work. The city sidewalk specifications require:

(1) The excavation to be to a depth of 10 inches below the finished grade of the walk.

(2) A 6 inch foundation of soft coal cinders.

(3) A 3-inch base of concrete, mixed in the proportion of one part of Portland cement, two parts of sand, and five parts of crushed stone.

(4) A one-inch surface finish, mixed in the proportion of one of cement to two of sand.

The surface of the walk is given a fall towards the street of one quarter of an inch to each foot in width of the walk.

The walk is divided into blocks not greater than 4 x 6 feet and is finished with a fine-ribbed roller.

The cost of sidewalks is paid out of the general funds. The contractor receives fortnightly payments to the amount of 80% of the work finished. On the first of May following completion he is entitled to half the money retained, and on the first of May of the second year following completion, he is paid the remainder, if the walks have been kept in perfect order, have given satisfactory evidence of proper construction.

#### MACHINERY.

The principal machinery owned by the town consists of a steam roller and two graders. The roller is of twelve to sixteen weight, and was purchased in 1898 at a cost of \$2,800 set up in Windsor. The life of a road grader is indicated by the fact that one of the graders has been in use since 1885, and is still giving good service, while the other has been in use for thirteen years.

#### Requisites For Road Gravel.

To be suitable for road building purposes, gravel should fulfil the following conditions: (1) The fragments should be so hard and tough as not easily to be ground into dust by the impact of wheels and hoofs; (2) the pebbles should be of different sizes, each in the proper proportion; and (3) there should be intermixed with the coarser particles some material which will cement and bind the whole into a solid mass.

1.—DURABILITY.—Having been transported considerable distance by water and ice, gravel is usually fairly durable, since the softer and more friable fragments have been worn away.

Although gravel is not equal to the best crushed stone for road building, in many parts of the country the rocky fragments transported by the water and ice are more durable than any of the native rocks. From the nature of their origin, it is apparent that gravel may differ widely in the character of the stones composing it. Not only do different gravels differ from each other, but any particular gravel may be composed of fragments of a variety of rocks. Since the gravels of any locality are likely to contain substantially the same rocky fragments, there is not much opportunity for choice under this head; and therefore this phase will not be treated here; although it will be considered incidentally later.

2.—SIZES.—If the fragments are too large, the road will not be homogeneous, and the large stones will work to the surface under the action of the traffic and frost; but, on the other hand, if the pebbles are too small, the gravel will partake too much of the character of sand and will be difficult to bind properly. The best results are obtained when the largest pebbles are not more than three-fourth inch to one inch, or at most one and one-half inches in greatest dimension. With stones larger than one inch it is difficult to keep the surface from breaking up when dry. Small gravel makes a pleasanter road and one that is easier to keep in order. If stones larger than one and one half or two inches are present, they may be screened out and be used in the foundation.

It is desirable that the several sizes should be so proportioned that the smaller ones are just sufficient to fill the interstices between the larger ones, since then less binder is required. The binder is usually the least durable ingredient, and hence the less there is of it the better. Gravel can often be improved by screening, either to remove on undesirable size or to separate it into several sizes afterward to be combined in new proportions. The proper proportion depends upon the nature of the gravel, whether the binding material is already present in the form of dust, or whether some of the pebbles must be crushed to produce the binder.

3.—BINDER.—The most important requisite for good road building gravel is that it shall bind or pack well. If it does not pack well, the wheels will sink into the gravel and increase the force of traction, and the rain will penetrate the road bed and soften it. To bind well, the several fragments should be in contact with one another at as many points as possible, in order that they may be firmly supported, and that friction may act to the best advantage to resist displacement. To secure contact at every point, all the interstices between the fragments should be filled, those between the large pebbles, with small pebbles, those between the small pebbles, with sand grains; and finally, those between the sand grains, with some finer material, called a binder. The bind-



ing material must be very finely divided, so that it can be worked in the smallest interstices, and for this reason it is the least durable part of the gravel, being easily washed out or blown away. For the best results, then, the sizes of the coarser particles should be so adjusted as to require a minimum amount of binder.

The binding material may consist of clay, loam, silica, stone dust, iron oxide, etc., or some ingredient which will crush under traffic and furnish a fine dust. Clay is by far the most common material; but the only recommendation for it is (1), that it is easily reduced to an impalpable powder by the action of the wheels or by water, and (2) that it is often found already mixed with the gravel, and (3) that if it must be artificially mixed, it is plentiful and cheap. Clay is an undesirable binder, since its binding action depends in a large measure upon the state of the weather. During the rainy period it absorbs water and loses its binding power, and the road becomes soft and muddy; while in dry weather it contracts and cracks, thus releasing the pebbles and giving a loose surface. Clay is also very susceptible to the action of frost, and consequently when the frost is going out a gravel road with a clay binder ruts up badly and frequently breaks entirely through. When the weather is neither too damp nor too dry, a gravel road with a clay binder is very satisfactory. The clay should be no more than enough to fill the voids in the pebbles and sand, and for a good road gravel should not exceed fifteen to twenty per cent. of the mass. Not infrequently much greater quantities are present. The surplus may sometimes be removed by screening, but often it can be removed only by washing a process which is usually so expensive as to be prohibitive.

Loam is chiefly clay mixed with sand and a little vegetable matter, lime, etc., and as a binding material it has all the characteristics of clay. A very finely divided silica, easily mistaken for clay, is occasionally present in gravel, and makes an excellent binding material.

Iron oxide is frequently found as a coating on the pebbles in such quantities as to cement them firmly together. These ferruginous gravels, when broken up and put upon a road, will again unite, often more firmly than originally because of the greater pressure, and form a smooth, hard surface, impervious to water.

Comparatively coarse gravel frequently contains some ingredients, as, for example, fragments of limestone or shale, which, under the action of traffic and the weather, reduce to a powder and form a good binding material. Sometimes gravel contains bits of ironstone (clay cemented with iron oxide) in the form of thin flat chips which break and crush easily under the wheels, which, if present in any quantity, make a most excellent binding material.

The binding action referred to above is wholly mechanical, but there is another action which sometimes plays an important part in binding a gravel road. Laboratory

experiments prove that if a fine powder of certain stones is wetted with water and subjected to compression, the particles adhere or stick together with considerable force. This action has not received much attention from road builders, having been studied only by the Massachusetts Highway Commission with reference to broken stone roads, but this cementation seems to be due to the particles being forced so closely together as to bring molecular forces into action. The office of the water seems to be to expel the air and thus permit the faces of the small particles to come into intimate contact. The adhesion between the minute particles is very much the same as that of two sheets of glass that have been forced into intimate contact by sliding one over the other, with or without a film of water intervening. In consequence of this molecular action, some stones when broken into small fragments, wetted and traversed by heavy wheels or by a road roller, will be cemented together to a considerable degree.

This cementation is due to the fact that the friction of one small piece of stone upon another produces a very fine powder at a point of contact which, when wetted and compressed, forms a weak cement. Owing to the round surfaces of water-worn pebbles, this cementing action is much less with gravel than with rough angular fragments of broken stone, but with gravel composed of undecayed rocky fragments this action takes place to a considerable degree. As a rule, pebbles of a bluish color will thus cement together, while reddish or brown ones will not, which accounts in part at least for the well known superiority of blue gravel for road purposes. Trap rock possesses the property of cementation in a high degree, and hence trap gravel is a very excellent road building material. Limestone possesses a fair degree of cementation, but is too soft to wear well. Quartz wears well, but produces little or no dust for cementation, and besides its surfaces are so smooth and hard that the binder has but little effect, and therefore it rarely happens that a gravel of which more than one-half of its bulk is white quartz pebbles proves to be a good road gravel.—*Prof. Baker in Engineering News.*

#### Dry Rot.

To prevent dry rot, it is important that the timber should not have been felled while too young or when full of sap. The timber should be well seasoned by stacking in a dry, airy position, and in such a manner that air can circulate freely round it. In buildings the timber should be exposed to the air as far as possible, and where used in confined positions, such as under the ground floor, air bricks should be arranged so as to ventilate the space between the floor timbers and the ground. Dry rot is the result of the growth on the surface of the timber of a quick-spreading fungus or plant, the effect of which is to reduce the wood to a powder. The

favorable conditions for dry rot are a warm, humid atmosphere, insufficient ventilation, and the presence of any green sap in the timber. When dealing with a case of dry rot, it is advisable to cut away not only the wood which is already attacked, but also any portions suspected; the surrounding woodwork should then be washed with a strong solution of corrosive sublimate, and care taken to insure a free circulation of air round the timber. In all except very slight cases it is probably better to remove the whole of the timber and put in new

#### Frontenac County Roads.

The Frontenac county council, on the 21st of last month, held an important session for the consideration of a plan for establishing a system of county roads under the Highway Improvement Act, this to include the existing toll roads, and other roads to be agreed upon with the various township councils. The session was attended by a deputation of the citizens of Kingston who urged upon the council the reasons why tolls should be abolished, and the detriment they were to the trade of the city. The following report was received from a special committee.

"Your committee appointed to inquire into the matter of tolls, beg leave to report as follows:

Through our county engineer, we have ascertained the length of the several toll roads in the county, and their approximate value, which information is contained in Appendix A.

We have made diligent inquiry into the system of county roads in Hastings, where there are some four hundred miles of roads under the direct control of the council, and maintained at an annual cost of about \$30 per mile, not including bridges. After five years' experience of the contract system of keeping their roads in repair, Hastings abandoned that system as unsatisfactory. At present they have a general superintendent of roads at a fixed salary and the four hundred miles are divided into sections over each of which is a foreman and gang of men. The county council appropriates the amount to each section, and the money is laid out under the direction and supervision of the superintendent. This system has proved very satisfactory, and Hastings county boasts of the best roads of any county in the province, and would not on any account go back to the old system of toll roads. In the scheme which we respectfully offer for your earnest and careful consideration, we suggest that the county buy up the several toll roads at a fair valuation, and in addition assume certain leading roads as county roads. The details of the management of said roads could be arranged later. We would recommend that the county clerk communicate with the provincial road commissioner, Mr. Campbell



with a view to ascertaining what proportion of the \$1,000,000 road grant the county of Frontenac is entitled to. We would further suggest that the clerk ascertain what proportion of said grant should go to each township and report to the county council.

With a view to ascertaining the amount of money necessary to raise in order to purchase the several toll roads, we would recommend that the clerk write the several road companies for their "asking price."

We have ascertained the number of days of statute labor in the county, and would strongly urge upon the several townships the advisability of commuting all statute labor.

We would further suggest that a vote be taken at the municipal elections on the question of buying up the several toll roads of the county and assuming certain other roads as county roads.

(Signed)

W. H. REYNOLDS, Chairman.

WM. PILLAR, Secretary."

This report was adopted on resolution of Councillor Reynolds, seconded by Councillor Avery.

The following resolution was then presented by Councillor Reynolds, and carried, seconded by Councillor Avery.

"That the county buy up the several toll roads at a fair valuation, to be fixed by mutual agreement or arbitration; that the council assume or place under county control the following roads:

1. Cataraqi to Plevna, seventy-seven miles to Harrowsmith, Verona, Bedford Station, Parham, Soles' Corners and Ardoch.

2. Mountain Grove to Arden, six miles, from Frontenac road to Mt. Grove by Arden.

3. Cataraqi to Sydenham, thirteen miles, by Kepler.

4. Kingston to Battersea, fourteen miles, by Sunbury.

5. Kingston to Collinsby, six miles, by Bath Road.

6. Kingston to Perth Road, sixteen miles by Inverary.

7. Barriefield to Leeds line, twenty miles, by Joyceville.

8. Barriefield to Leeds line, sixteen miles by Front Road.

9. Bedford Station to Fermoy, ten miles.

10. Harrowsmith to Sydenham, three miles.

That Wolfe Island and Simcoe Island receive \$300 per annum towards ferry service, Howe Island, \$50, and Garden Island, \$25 towards the same purpose, and that said islands be exempt from paying any proportion of cost of toll roads, except the York road; that Pittsburg receive the sum of \$1,000 as compensation for roads which they have freed of tolls. That this scheme be submitted

to the ratepayers for their approval at the municipal elections in January next."

Warden Spoor considered that the council was taking a progressive step in passing the resolution. A great deal of hard work had been done by the council, and they were leaving the frame work for next year's council to fill in. The different townships could act in the manner they pleased, and he had no doubt, if next year's council entered into the matter in the same spirit as this year's council had done, toll gates would soon be abolished in the county of Frontenac.

#### Progress.

To the end of 1901, there was seventy-three townships which had abolished or commuted statute labor, in whole or in part. By how many more this will have been augmented by the end of the present year, definite information is not available, but reports indicate that a large number of townships will make the change. Of these seventy-three townships, seven have wholly abolished the system, and for road purposes collect a rate on the township system. Forty-eight commute all statute labor at a rate per day, and the eighteen remaining townships have partially commuted.

The new methods of doing road work of making and maintaining roads, and the new system of management is no longer an experiment. Township after township has made the change, and wherever it has been given a fair trial, in a business-like way, the results have been a success beyond expectation. The universal testimony from townships where statute labor has been removed is that the roads improve much more rapidly than in surrounding municipalities where the old system is retained. In some cases it is affirmed that one year of the new methods has been worth five years of the old system in actual improvement to the roads.

Changes in settled methods have at all times been opposed, particularly in the introduction of new machinery or new systems which affect or reduce labor. All familiar with these matters must appreciate the fact that it takes a considerable time make a distinct change in any part of our municipal system. When we consider that the methods of roadmaking in this country have held for a century, it is apparent that the point of greatest difficulty in road reform has been passed.

To bring about these changes, there has not been any special effort concentrated upon individual townships or sets of townships. The advocacy of road reform has been general, and the awakening is general. A few years ago a change in a single township was regarded as a good omen. To-day, townships are not changing singly but in groups. The campaign has been general, and the results are now making themselves apparent in a corresponding manner.

A discussion of new methods of road management is to-day, in all districts, a vastly different matter from what it was when the office of the Good Roads Commissioner was first created by the Ontario government. Any reference to the defects of the statute labor system was then very apt to create much opposition. To-day a very different feeling exists. The people have learned that the advocacy of the better methods of road control is not being made with an unfriendly spirit towards statute labor. On the contrary, the good that it has done must, in all honesty, be recognized and applauded. The greatest enemy to the statute labor system is, to-day, the man who insists that it be asked to do work for which it was never intended.

For pioneer conditions, statute labor is all that could be wished. But Ontario has outgrown that, and if the province is to make the progress which every patriotic citizen must earnestly desire, the highways of the country, the chief arteries of agricultural and commercial development, must not be neglected in any degree. To this end it becomes a duty of every man to see that the best possible use is made of our means of maintaining the roads. No true friend of the statute labor system, however kindly he may think of its past results, can risk its reputation by prolonging it into present and future conditions for which it is not fitted. The truest friend of the system is he who welcomes every opportunity of making reforms such as tend to a well adjusted balance of economy and good roads.

#### Road Management.

The question of road improvement should be handled in a shrewd, business-like manner, like the affairs of any large successful corporation. Men should not be appointed to have charge of roads simply because they have influence, without the first qualifications to fill the position successfully. This is a great reform, and calls for the hearty co-operation of our best citizens.

The construction and maintenance of roads is an art, and the men engaged in this work should have as careful training as the physician, manufacturer or educator.

The most skillful road builder the world ever produced, John Loudon MacAdam, was a practical man and road engineer, who by experience acquired the art of road construction and maintenance. Before his methods were recognized by the government, he had expended his private fortune in demonstrating to the public the value of properly constructed roads. Finally he was requested to appear before the British parliament with suggestions for road improvement, which were adopted in full. In appreciation and acknowledgement of his work in improving the roads of the kingdom and in perfecting his system of roadmaking, parliament, voted him a grant £10,000, and afterwards his son was knighted as a further testimonial.



## Question Drawer.

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

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

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

### No Change in Collector's Duties Since 1901.

487—J. S.—1. Have any important changes been made in the law governing collection of taxes in rural municipalities since 1901?

2. If there are any changes or amendments of what nature are they?

1. No.

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

### Final Audit of Township Accounts.

488—S. W.—At first council meeting, January council appoints two auditors. Second council meeting February auditors report before the Board of council. The council did not accept the auditors report, but made order and paid the auditors. At same meeting the council appointed the reeve and one of the councillors to make a financial audit. Third council meeting, March, the reeve and councillor who were appointed to make the financial audit reported auditor's report correct though they found some clerical errors. The reeve and councillor who were appointed to audit, billed the council with \$2.00 each and received their pay. Are they entitled to that money?

2. If not, can they be made pay it back to the treasurer? They took shelter under section 307 of the Municipal Act.

1. The council had no legal authority to pay this money. Section 307 of the Municipal Act provides that "the council shall, upon the report of the auditors, finally audit and allow the accounts of the treasurer and collector, etc." There is no authority for the appointment of a member or members of the council or a committee thereof to make this final audit.

2. Neither the reeve nor the councillor was entitled to receive any payment for the services rendered and may be compelled to pay back the money.

### These Parties Must Pay Either Separate or Public School Taxes.

489—F. L. T.—A union Roman Catholic separate school section was enclosed within well determined boundary lines, part of which is in one township and part of it in the adjoining township, and the trustees claim that the same has been filed at the Department of Education in Toronto. Now, several ratepayers have given notice of their withdrawal from the said Roman Catholic separate school, but do not join the public school. The trustees of the latter claim that they are unable to have them pay their taxes to their school, owing to the said boundary lines which were drawn years ago. If I understand right, I believe these lines are an agreement between the inspectors and trustees of each school.

This is to be read in connection with question number 456 in our November issue. There is no provision in the Separate Schools Act (R. S. O., 1897, chap. 294) or elsewhere for the establishment of separate school sections having

defined territorial limits. Provision is made by the Separate Schools Act for the establishment of *separate schools* in any school section in a township municipality and the supporters of such separate schools are such as give the clerk of the municipality, notice, under sec. 42 of the Act, or who have been entered in the assessment roll of such pursuant to the authority of section 49 of the Act and subsection 5 of section 13 of the Assessment Act. No agreement between school inspector and school trustees can be effectual in establishing limits to a school section not authorized by statute. If these parties have legally withdrawn their support from a separate school, which, under the terms of the statute, they should support, if its provisions were complied with, they can and should be taxed for the support of the public school in the sections in which their lands are respectively situated, whether they are willing or not. They cannot escape the payment of school taxes altogether.

### Liability For School Taxes of Owners of Lands Over Three Miles From School House.

490—D. M.—We have a few settlers who are over three miles from the school-house "as the crow flies" and refuse to pay school tax on these grounds. Are they liable or not.

Your municipality being an organized township, section 12 (and not section 25) of the Public Schools Act, 1901, is applicable to this case. Subsection 1 of section 12 provides that "the municipal council of EVERY township shall subdivide the township into school sections so that every part of the township may be included in some section, etc., provided that no section formed hereafter shall include any territory distant more than three miles in a direct line from the school-house." It is to be observed that this statute does not exempt from the payment of school taxes, parties whose lands are distant more than three miles from the school-house, as it does in cases governed by section 25. The lands of these parties may have been improperly included in this school section, but so long as they remain in the section they are liable for their proportionate share of the school taxes. If these parties desire to be freed from the payment of these taxes they must apply to the council, under section 41 of the Act, for the passing of a by-law altering the boundaries of the school section, so that their lands will be taken out of it, and added to the section in which the school-house is not more than three miles from their lands.

### Limit of County Council's Power to Enforce Payment of County Rates.

491—COUNCILLOR.—Has a county council power to pass a by-law and charge a township interest on the latter's portion of the annual county rate that may not have been paid over by a date named in the county by-law? Our county council is attempting to do this, and also to apply arrears of taxes due to us, upon the interest they so claim from us. Is this legal?

We are of opinion that a county council has no authority to pass a by-law making provisions of this kind. Sections 267 and 268 of the Assessment Act provide for the payment over of county rates by a township municipality to the county, and for the enforcement of such payment, in case of default. Sec. 268 authorizes the county treasurer to retain or stop out of ANY moneys which would otherwise be payable by him to the local municipality, a sum equal to the amount for which the latter is in arrear. No provision is made for the charging or collection of interest on these arrearages except when the amount has been in arrear for three months, when this section empowers the treasurer to direct by warrant under his hand and seal, the sheriff of the county to levy and collect the amount so due with INTEREST and costs, from the municipality in default.

### Local Treasurer Disqualified as County Councillor.

492—REEVE.—Can the treasurer of a local municipality be elected and sit as a county councillor for the county council division in which he resides?

We are of opinion that a township treasurer is not qualified for the office of a county councillor of the county in which the municipality of which he is treasurer is situated. If the treasurer desires to be a candidate for this office in his county, he should resign the office of treasurer of his municipality prior to the day of nomination. Subsection 1 of section 80 of the Municipal Act provides that "no treasurer of ANY MUNICIPALITY shall be qualified to be a member of ANY municipal corporation." A township treasurer is a treasurer of a municipality and a county is a municipal corporation (see subs. 9 and 10 of section 2 of the Act.) If the Legislature had intended to exclude a county from its definition of a municipal corporation, it would have so provided as it has by subsection 2 of section 2 of the High Schools Act, 1901.

### Returning Officer to Select Polling Places at Referendum Vote.

493—G. H. S.—Has the council of a local municipality the right to designate where the building in which a poll is held for a Provincial election shall be held, considering that the municipality bears the cost of same? Granting that the coming referendum vote will be dealt with as a Provincial election.

No. Subsection 1 of section 43 of the Ontario Election Act (R. S. O., 1897, chap. 9) and section 10 of the Liquor Act, 1902, provide that "the returning officer shall, on receiving the writ of election, fix one polling place for each subdivision into which a city, town or other LOCAL municipality is subdivided in



the most central and convenient place for the electors of such subdivision."

**Fees of Engineer Under the Ditches and Watercourses Act.**

**494**—G. W.—Provision is made by subsection 2 of section 28 of the Ditches and Watercourses Act, for engineer receiving his fees in case any owner has not completed his portion of ditch, but if the engineer finds that all the owners have completed their work, how can he then obtain his fees? Should he assess all the owners, or should he allow sufficient amount at time of writing his award, for the final inspection which may take place after one or more "time extensions?"

Subsection 1 of section 28 of the Act, as amended by section 26 of chap. 12, Ontario Statutes, 1902, provides that "the engineer *the expiration of the time limited by the award for the completion of the ditch, SHALL inspect the same. etc.*" This inspection is the last duty the engineer is required by the Act to perform in connection with the making of an award, and his fees for making it should be provided for in the original award. If, on this inspection, he finds all the work done in accordance with the provisions of the award, that is the end of the matter. If any portion of the work has not been performed, he may let it under the authority of this section, and his fees and charges for so doing are payable by and chargeable against the lands of the party in default (see subsection 3). If he finds that there is good reason for the non-performance of the work, "he may, in his discretion, and upon payment of his fees and charges, extend the time for performance" (see subsection 2). This appears to have been the case here. To sum up the whole question: The fees and charges of the engineer for his inspection, should be paid at the time by the party in default, if he, in his discretion, sees fit to extend the time for the performance of the work, and his fees for making the final inspection should be included in his costs mentioned in the award as filed.

**Grant of Use of Street for Laying Water-Pipes to Private Party.**

**495**—W. H. C.—You were rather in error in quoting your section re granting of privilege to lay water plant, and I think if you search you will find that section 566 has been amended, and an individual has equal rights to a company. The party in question does not seek to supply hydrants or furnish water to the corporation, but only to private water takers. Does not this make a difference?

Owing to a typographical error, the number of the section given in our answer to question No. 484 in our November issue was 565. It should have been 566. The amendments to this section, since the consolidation of the Act, which we examined in framing our answer, will be found in section 24 of chapter 12 of the Ont. Stats., 1901, and in sections 20 and 21 of chap. 29 of the Ont. Stats., 1902. These amendments have not extended the powers of councils so as to enable them to grant the use of their streets for the laying of water pipes to

private individuals. Clause A 8 of subsection 4 of section 566 (enacted by section 35 of chap. 26 of the Ont. Stats., 1899) has not the effect of conferring this power. The intention of the party to supply water to private individuals only does not alter our answer in any way.

**Placing Arrears of Taxes on Collector's Roll.**

**496**—F. J. C.—In answer to my question 370, August number, you use these words: "It is to be observed that the Legislature *does not say that the clerk shall not place these arrears on the collector's roll more than once.*" Then question 484, in the November number, you say: "Therefore, since municipal corporations are the creatures of the statutes, and can do nothing that they do not authorize, the council has no power, etc." Now, according to this last contention, the council has no power to order to be done what the legislature has expressly said given them power to be done. Now from this it appears that the clerk can do anything that the legislature has not forbidden, while the council can do only such things as the legislature says they may do, or in other words, the clerk may do anything that the legislature does not forbid doing, while the council can only do just what the legislature authorizes them to do, and according to this contention the clerk has a power to do what the council cannot do. Now, notwithstanding all that has been said, I still claim that neither the council nor the clerk can legally do anything that is not expressly given them to do by the legislature.

We are sorry that our correspondent cannot see "eye to eye" with us in this matter. We have nothing to add to or take from our answers to questions numbers 350, 370 and 372 (1902) which contain a full explanation of the position we take, and we venture to assert that no part of these answers can be construed into an allegation contrary to the claim "that neither the council nor the clerk can legally do anything that is not expressly authorized by the legislature."

**Payment of Councillor Hired by Council.**

**497**—J. D.—Our council has a man hired who acts as overseer of roads, constable, and in fact, he has charge of all repairs of town under council. The road committee hired one of their number to work on the roads at \$2.00 per day. They hired him outside of the council and one of our ratepayers has notified the treasurer, the clerk and the council in writing, not to pay the member of the council for his work. Now as a member of the council, I would like you to answer this question in your next issue.

Clause (a) of subsection 1 of section 1 of section 537 of the Municipal Act provides that "Nothing in this Act shall prevent any member of a corporation from acting as commissioner, superintendent or overseer, over any ROAD or work undertaken and carried on, in part or in whole, at the expense of the municipality; and it shall be lawful for the municipalities to PAY such member of the corporation acting as such commissioner, superintendent or overseer." The fact that the constable has been hired as overseer of roads, will not prevent the council from employing one of its members to superintend any particular work, and paying him for it. If the council has employed this member simply as a day laborer for wages at the rate of \$2 per day, the contract is void

and would be so held in an action against the municipality to recover the amount (see section 83 of the Act), and under the provisions of subsection 1 of section 80 of the Act, the member engaging to do the work, can be disqualified as a councillor, on the institution of the proceedings mentioned in section 208 of the Act.

**Assessment of Bees.**

**498**—TWEED.—One of our residents keeps a large stock of honey bees from which he derives an income of five or six hundred dollars a year.

1. Are the bees liable to be assessed for municipal purposes?

2. Is the owner liable to pay tax on the bees or not?

1. Bees are personal property and, as such, subject to the exemptions mentioned in subsections 24 and 25 of the Assessment Act, are assessable at their actual value, the same as other assessable personalty, under the provisions of the Act.

2. This property, being assessable, should be charged with its proportionate share of municipal taxes.

**Prevention of Disturbance at Council Meeting.**

**499**—E. S.—1. What are the proper steps to take to punish a man when he comes into the council chamber and starts to abuse the council because he cannot get just what he wants, by swearing and threatening to slap them?

2. Has the mayor power to commit him to jail or to fine him?

1. The latter part of section 267 of the Municipal Act provides that "the head or other chairman of the council may expel and exclude from any meeting, any person who has been guilty of improper conduct at such meeting."

2. If the council of the municipality has passed a by-law pursuant to sub-sec. 2 of section 549 of the Municipal Act, and the language used by this person comes within the purview of the language of this subsection, and the by-law passed under its authority, he can be proceeded against in a summary way, and fined under the by-law.

**Levy of Annual Rates Should be Provided for by By-Law of the Council.**

**500** SUBSCRIBER.—The different rates of our municipality amount to about \$2,000, and said amount has to be collected in taxation this year. Last September our municipal council passed a resolution, not a by-law, to levy and collect said amount of the rateable property of our municipality.

1. Can said council collect the same in taxes in the absence of a by-law, legally?

2. If the ratepayers insist on not paying these taxes, will the council or members thereof be personally liable for not exercising the authority given them by statute? Please state section that gives power to pass by-laws?

1. Section 325 of the Municipal Act provides that "the powers of the council shall be exercised by by-law, when not otherwise authorized or provided for." Subsection 1 of section 402 provides that "the council of every municipal corporation, etc., SHALL in each year assess and levy on the whole rateable property



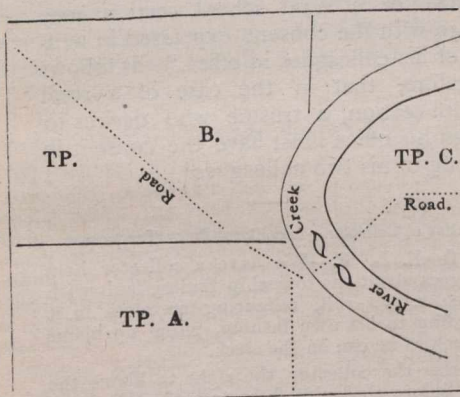
within its jurisdiction sufficient sum to pay all valid debts of the corporation, etc." The latter subsection does not authorize the making of this levy otherwise than by by-law, hence a resolution of the council passed for the purpose is not sufficient, and a levy so made illegal.

2. We are of opinion that the members of the council cannot be held personally responsible for the commission of this error and although the ratepayers might successfully resist the payment of the taxes imposed by this resolution, it would be unwise on their part to do so. The valid debts of the corporation must be paid, and if there are no funds on hand to pay them, the several creditors may sue, and recover judgment against the corporation to be collected by a levy to be made by the sheriff, under the authority of clause (b) of subsection 1 of section 471 of the Act.

**Responsibility for Repair of Bridge in Township.**

501—FAIR PLAY.—The bridge referred to in the enclosed diagram is wholly in township A and this season became unfit for traffic. Nearly all of the traffic over said bridge comes from township B or through it. Last summer township B notified township A that bridge was in a dangerous condition. After some delay, township A built a new bridge, having the promise of a grant from township B of \$10. Bridge will cost perhaps \$150. Can township A make township B pay half the cost or any proportion of it?

2. If so, how should township A proceed.



1. Section 600 of the Municipal Act provides that "the municipal council of every municipality shall have jurisdiction over the original allowances for roads and BRIDGES within the municipality." By section 601 every bridge in a township is vested in the municipality, and section 606 provides that "every public road, street, BRIDGE and highway shall be kept in repair by the corporation." Therefore, this bridge, if it has not been assumed by the county, being located wholly within township A, must be maintained and kept in repair by that township, and township B cannot be compelled to pay any portion of the cost of its repair and maintenance. Even if the bridge in question is one under the joint jurisdiction of the two townships, township A cannot recover any part of the moneys paid by it from township B.

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

**Separate School Supporter not Legally Chargeable With Part of General School Levy.**

502—J. A. A person notified township clerk that he is a supporter of separate school in an adjacent municipality and is placed in roll as such. Township raises the statutory \$150 for each teacher, and \$100 for assistants, by general rate as usual, levying on supporters of separate school same as others. Are trustees of separate school entitled to share of general levy, or only to rate raised from the section of which supporter is a ratepayer? Separate school trustees requested same rate from their supporters as was levied on other ratepayers in the section.

Subsection 1 of section 70 of the Public Schools Act, 1901, provides that "the municipal council of every township shall levy and collect by assessment, upon the taxable property of the *public school supporters* of the whole township, in the manner provided by this Act, and by the Municipal and Assessment Acts, the sum of \$150, etc." Subsection 1 of section 42 of the Separate Schools Act (R. S. O., 1897, chapt r 294) provides that "every person paying rates, whether as owner or tenant, who, by himself or his agent, on or before the 1st day of March in any year, gives to the clerk of the municipality notice, etc, shall be exempted from the payment of ALL rates imposed for the support of PUBLIC SCHOOLS, etc." This exemption extends to the levies to be made under section 70 of the Public Schools Act. Therefore the council has no authority to levy and collect any part of the general or any other PUBLIC school levy, from any supporter of a separate school in the municipality.

**Apportionment of County Grants to High Schools.**

503—S. R. W.—Do sub-sections eight and nine of section two of chapter forty-two, 1902, now govern what the county council should pay to the high school trustees in case of separation of the municipality in which the high school is situated, or is section 34, sub-section 1 of chapter 40, 1901 still in force?

2. Is it the duty of the county council to still deduct the fees received from county pupils as provided for in sub-section 1 of section 34 chapter 40, 1901, and then deduct the amount which the municipality separated from the county would have paid to the municipality if part of the county, and then is it the intention of the Act that the county council should pay 80% of the balance as provided in sub-section 9 of chapter 42, 1902?

1 & 2. In the case of a town separated from the county in which it lies, the amount to which a high school within it is entitled must be ascertained in the manner provided by sub-sections 8 and 9 of section 2 of chapter 42 of the Act of 1902, and in the case of other high schools within the county the amount to which each high school is entitled must be ascertained in the manner provided by subsection 1 of section 34 of the High Schools Act. Sections 8 and 9 of the Act of 1902 also deal with other schools not before provided for, that is, schools in villages, towns and cities adjacent to a county and provide the manner in which the liability of the county for such High Schools must be ascertained. As the High School in which you appear to be interested is located in a city, the

amount to which it is entitled is governed by subsection 1 of section 34.

**Procedure at Meeting of Public School Board.**

504—A. C.—1. At a school board meeting there are five members present besides the chairman. A motion is correctly put, two vote for and two against this motion. The remaining trustee declines to vote, whereupon the chairman calls the vote a tie and cast his vote in favor of motion. Is this correct, or should the other trustees present have been compelled to vote?

2. Is legality of motion effected thereby?

3. Another motion was moved and seconded, which chairman refused to put to vote on the ground that it would nullify former motion if carried. Was the chairman justified in his action?

1. The chairman of a school board has the same right to vote on any question before the Board as any other member. Subsection 4 of section 64 of the Public Schools Act, 1901, provides that "a majority of the members of the board shall be necessary to form a quorum at any meeting, and the vote of the *majority of such quorum* shall be necessary to bind the corporation." At the meeting mentioned there were six members of the board (including the chairman) present. Assuming that these six members formed a majority of the members of the board, a quorum was present. To carry a resolution binding on the board, he votes of at least FOUR of the members present were necessary. Since only THREE of the members (including the chairman) present voted for the resolution, a majority of the quorum did not vote for the resolution, and it was therefore defeated.

2. As stated above the motion was not carried.

3. Since the former motion was defeated the chairman had no reason for refusing to put this one to the meeting. In any event, unless some rule of order, adopted by the board, prevented it, he was not justified in refusing to put the second motion to the vote of the meeting.

**These Townships Have Commuted Statute Labor.**

505—J. F. K.—How many townships in the Province of Ontario have adopted the system of doing away with statute labor? Give me the names of a few of the municipalities and the name of the clerk or reeve of each if possible, as I wish to find out if it has worked satisfactorily and the system they adopted of road improvement.

The following is a partial list of the townships in Ontario in which statute labor has been commuted wholly, or in part, with the names and post office addresses of their respective municipal clerks:

TOWNSHIP.	CLERK.	POST OFFICE.
Ancaster,	Henry Pim,	Ancaster.
Assiginack,	A. J. McLean,	Manitowaning.
Shegnandah,		
Bidwell,	J. H. Jamieson,	Rannoch.
Blanshard,	H. Bryant,	Hamilton.
Bartons,	W. B. Switzer,	Binbrook.
Binbrook,	P. Kelly,	New Durham.
Burford,	Patrick Hart,	Osceola.



Brant, J. H. Cannon, Chesley.  
Bertie, A. H. Kilman, Ridgeway.  
Basard and Burgess, W. Beatty, M. P. P.,  
[Delta.]

Clinton, G. W. Tinlin, Beamsville.  
Caledon, J. L. Meek, Alton.  
Carlow, P. Stronger, Boulter.  
Crosby, N., J. H. Whelan, Westport.  
Dumfries, S., W. Fleming, Glenmorris.  
Fullarton, John Wilson, Fullarton.  
Gloucester, C. Billings, Billings Bridge.  
Goulbourne, A. Abbott, Stittsville.  
Grimsby, N., W. H. Nelles, Grimsby.  
Grimsby, S., Ed. Irvine, Smithville.  
Louth, Clark Snure, Jordan.  
Malden, J. Honor, Amherstburg.  
Monaghan, N., G. W. Bennett, Peterboro.  
Monck, W. H. Spencer, Bracebridge.  
Nelson, D. McLaren, Nelson.  
Niagara, John Knox, Queenston.  
Nissouri, W., Wm. Lee, Thorndale.  
Norwich, S., A. McFarlane, Otterville.  
Orillia, J. C. Ross, Orillia.  
Oxford, E., E. G. Jackson, Woodstock.  
Pelham, J. C. Crow, Ridgeville.  
Peele Island, W. Stewart, Pelee Island.  
Pickering, D. R. Beaton, Whitevale.  
Reach, Wm. Spence, Manchester.  
Saltfleet, F. M. Carpenter, Fruitland.  
Sarawak, J. McKenzie, Presque Isle.  
Stamford, F. A. Hutt, South End.  
Sidney, F. B. Prior, Wallbridge.  
Springer, O. LaFrance, Sturgeon Falls.  
Toronto Gore, N. Harrison, Castlemore.  
Tilbury North, J. A. Tremblay, Tilbury.  
Whitby, D. Holliday, Brooklin.  
Winchester, Geo. Quart, Winchester.  
Yonge & Escott Front, J. F. Kelly, Mal-  
[lorytown.]  
Zorra, E. J. Anderson, South Zorra.

#### Payment of Fees by Non-Resident Pupils.

**506**—G. S.—Would a school section have to pay for children going to other schools, while there is no teacher in the section to which they belong?

The trustees of the school sections to which the schools attended by these non-resident children belong, are required to furnish school accommodation in their respective school sections, for only two-thirds of the children between the ages of five and sixteen years in such sections (see subsection 3 of section 65 of the Public Schools Act, 1901). They are not bound to allow non-resident pupils to attend these schools unless their parents or guardians pay such fees as may be mutually agreed upon. The school sections in which these non-resident pupils reside are not liable for these fees, but the parents or guardians of the non-resident children attending these schools, are.

#### Municipality Should Keep Highway in Repair.—Right of Local Municipality to Purchase Road From County.

**507**—G. G. A.—1. The municipal council of a municipal corporation which has long since adopted the local improvement system, desiring to initiate a local improvement on a highway (assumed by the municipality) is defeated by a sufficient number of property owners protesting against the improvement. To what extent, if any, under these circumstances, is the corpora-

tion liable to indictment for non-repair, assuming want of repair is probable? In other words is the inability of the council to initiate the local improvement a good plea for the defence? Do you think *Rex vs Hatfield 4 A. & E. (1835)* and *Queen vs. Midville 4 Q. B. p 240 (1843)* in point? Kindly cite any other cases of which you know.

2. Is there any authority for a local municipality purchasing from the county municipality a portion of a county road (formerly a toll road) and agreeing to indemnify the county against want of repair thereof. Cite cases.

1. We do not think that the cases cited have any application to the case put by you. Sec. 606 of the Municipal Act makes it the duty of every municipal corporation to keep the roads within its jurisdiction in repair, and whether a particular road is maintained out of the general funds of the municipality or not at the expense of the property abutting upon it or by statute labor, it is the duty of the corporation to see that it is kept in proper repair in order to escape liability.

2. Section 658, subsection 9, of the Municipal Act, provides for the abandoning of roads by county councils with consent of councils of local municipalities interested. It is unnecessary for the township to indemnify the county.

#### Collector's Bonds Should be Retained by Council.—Collector Cannot Alter Figures on His Roll.

**508**—W. D. M.—1. A collector furnishes bonds for the collection of all taxes entered on his roll, or show good cause why such can not be collected. After his work is complete and he makes full returns to the treasurer and obtains clear receipt therefor, is he entitled to have his bond returned to him, or is it the property of the corporation? If he is not entitled to it, on what grounds is it withheld?

2. Has the collector or any person any right to make changes in the roll after it has been handed over to him duly certified?

1. As soon as the bond of a collector has been executed by him and his sureties, and accepted as sufficient by the council, it should be filed with the clerk, to be kept by him and his successor in office for all time to come as one of the municipal records. It should on no account be delivered to the collector or his sureties at any time or cancelled. If the collector has duly collected and paid over to the treasurer of the municipality all moneys on his roll, that are collectible, and legally accounted for any balance that may remain uncollected, and otherwise properly performed the duties of his office, neither he nor his sureties can suffer or be in any way prejudiced by the retention of the bond by the council. If, on the other hand, a deficiency in the collector's accounts and returns should, at any future time, come to light, the existence of the bond in the possession of the council, by its clerk, uncanceled, would prove of the utmost importance to the municipality in enforcing its rights against a defaulting collector.

2. No, and the only entries the collector has any legal authority to make on the roll are the dates of the delivery of the notice or demand (as the case may be)

mentioned in section 134 of the Assessment Act, and of the payment of the taxes.

#### Public School Trustee Disqualified as Councillor.

**509**—L. S. T.—1. A is a member of our township council and also a public school trustee, rural, elected at last annual meeting. What effect will the Legislation of last session upon this point, have upon him, and what course should he pursue in order to qualify for councillor for 1903? Please give full particulars.

2. Should he be required to re-sign his position of trustee, state latest date at which such resignation should take place?

3. Can he act in his capacity as trustee at the meeting of school Board where part of the business of said meeting will be to consider his resignation?

4. If so, can he move, second or vote upon his own resignation?

1. In order to enable this party to qualify as councillor for 1903, he must resign his office as a member of the board of public school trustees, and this resignation should be accepted by the board, prior to the 29th day of December next (municipal nomination day.)

2. The resignation must be accepted at some time prior to the 29th of December next.

3. Yes, except such part of the business, as relates to the receiving and accepting of his resignation.

4. Subsection 9 of section 15 of the Public Schools Act, 1901, provides that "a trustee of a rural school section may resign with the consent expressed in writing of his colleagues in office." It follows therefore, that in the case of a rural school section, a trustee who desires to resign his office must have the consent in writing of his two colleagues.

#### Duties of Collector.—Liability of Petty Trespassers.

**510**—F. L. T.—We have a collector here who goes about the township finding fault with the collector's roll, refiguring the rates in it according to his own fashion, piling up blame as much as he can on the clerk.

1. Has the collector the right to blame the clerk before the public bringing discredit upon said clerk?

2. Has the collector the right to refigure the rates as set down on the collector's roll, using a different rate, so as to have ground for his accusation?

3. If the collector find mistakes in the collector's roll, what is his duty in the case?

4. Suppose that the reeve and part of the councillors are not in favor of the clerk, and that the collector's roll be proved correct or incorrect, and has to be revised to be audited, where should the roll be sent to safeguard the integrity of the clerk?

5. I am annoyed with hunters and trespassers walking over my land, mostly woodland it is true, but it is through speculation. Have I the right to stop them, and how?

1. The collector has no moral right to make charges against the clerk in this or any other regard, but we do not see what legal remedy the clerk has against the collector, unless his assertions or allegations amount to what the courts would consider "slander" punishable in damages. As to this we cannot give an opinion, not having sufficient particulars.



2. No. After the clerk has completed the addition of his roll, certified to it and delivered it to the collector, neither the collector nor any other person has any right to make any alteration in the figures therein, except as authorized by the council of the municipality. The only entries the collector can legally make in the roll, are the date of the making of the demand or delivery of the notice (as the case may be) mentioned in section 134 of the Assessment Act, and the date of the payment of the taxes.

3 He should lay the matter before the council.

4. The collector has no authority to tamper with the roll while it is in his possession, and after its return to the treasurer in accordance with section 147 of the Assessment Act, the latter should preserve it intact, to be inspected by the auditors appointed under section 299, of the Municipal Act, or special auditor appointed under the authority of chap. 228, R. S. O., 1897. After the municipal auditors have examined the roll, it is usually handed over to the clerk of the municipality to be kept by him with the other municipal records in his custody.

5. You can post up notices on your lands warning trespassers for sporting purposes, or otherwise, that they will be prosecuted, and, if they persist in their trespassing, you can proceed against them in a summary way before a justice of the peace in your vicinity, and have them fined. See chap. 120, R. S. O., 1897.

#### Maintenance of Bridges Over Drainage Work.

511—J. M. C. B and E are two adjoining townships. Along B's side of townline and wholly within the road allowance there is a drain constructed under the Drainage Act, which is a direct drainage for lands in B and cut-off for lands in E. Are both townships jointly and equally responsible for maintenance of bridges over said drain and joining concession roads in B to townline?

These bridges appear to have been rendered necessary by the construction of the drainage works along the town line. They are therefore part of the drainage scheme. Subsection 1 of section 9 of the Municipal Drainage Act (R. S. O., 1897, chap. 226), provides that "the engineer or surveyor SHALL, in his report or estimates, provide for the construction, enlargement or other improvement of any bridges or culverts throughout the course of the drainage work rendered necessary by such work crossing any public highway or the travelled portion thereof; and he SHALL, in his assessment, apportion the costs of bridges and culverts between the drainage work and the municipality or municipalities having jurisdiction over such public highway, as to him may seem just." Section 14 of the Act, provides that, "the engineer or surveyor shall determine and report to the council of the municipality by which he was employed, whether the drainage work shall be constructed and MAINTAINED solely at the expense of such

municipality and the lands assessed therein, or at the expense of ALL the municipalities interested and the lands assessed therein, and in what proportions." Therefore the drainage work, including the bridges, should be maintained at the expense of all the municipalities interested and the lands and roads therein assessed for the construction of the drainage work, in the proportion fixed by the engineer. See subsection (b) of section 68 of the Drainage Act.

#### Law as to Statute Labor in Unorganized Township.

512—W. J. E.—1. The townline of H in the district of N. an unorganized township, elected a board of road commissioners under the Bettes Act for 1902, and appointed pathmasters dividing the townships into beats. The work was to be done between June 10th. and July 20th. and the secretary instructed the pathmasters to send in returns by August. Some of the landholders did not do their work after being notified by pathmasters. Scarcely any one has a deed to his land yet and not being organized we cannot enter it on tax roll. How shall we proceed, first with resident defaulters and second with non-resident defaulters?

2. If they have no property in the township other than the lot in their names, and for which they have no deed and where said lot has no improvements, what should we do?

3. If the matter is not settled this year, can next year's commission deal with it?

4. In case of a pathmaster delaying his report till November, does that make it illegal?

5. In case of a pathmaster refusing or neglecting to obey instructions, is he liable for the work himself?

6. Should the commission have appointed pathmasters at all, and if so have they the same power as organized townships?

7. Can the annual meeting change the number of commissioners from three to five?

8. Is there any date by which the next annual meeting should be held?

9. Who should be chairman of next annual meeting?

1 and 2. The law regulating the performance of statute labor in unorganized townships is to be found in the Assessment Act (R. S. O., 1897, chap. 224) sections 111 to 128, inclusive. No Act was passed in 1902 or in any year since 1897 amending any of these sections in any of the particulars about which you desire information. The time to be appointed for the performance of statute labor shall, unless the meeting of the landholders otherwise directs, be not EARLIER than the 20th day of June, nor later than the 20th day of July, in any year. (See section 122 of the Act.) We presume that, in this case, the date was changed to the 10th day of June at the last meeting of the landholders. Section 127 of the Act provides that "any person liable to perform statute labor under the next preceding 16 sections, who, after six days notice requiring him to do the same, wilfully neglects or refuses to perform at the time and place named by the commissioners, the number of days' labor for which he is liable shall incur a penalty of \$5, and in addition \$1 for each day in default, etc." This applies to both owners and locatees of land whether

resident or non-resident. (See section 123 of the Act.)

3. No.

4. No, but the commissioners should fix a time for the return of the statute labor lists.

5. No.

6. Yes. See the latter part of section 124.

7. Yes. See section 115.

8. Yes. Some time during the month of January next. See section 126.

9. Such person as the landholders present at the meeting select by the vote of the majority of those present, to fill the position.

#### Proceedings at Nomination Meeting—What Constitutes Filing of Notice of Complaint Under the Voters' Lists Act.

513—R. C.—1. Are municipal nomination papers that have been signed by proposer and seconder, but not so in the presence of the returning officer, valid? Would a returning officer be justified in refusing to accept same or should an elector object?

2. Must a returning officer allow a poll if no elector demands one openly?

3. Is a nomination paper valid on which a seconder signs himself by what is commonly called a "nick-name", his rightful name appearing on assessment roll and voters' list?

4. A township clerk refused to accept appeals against his voters list which were found on his outside doorstep on the afternoon of the 3rd day after posting of said list. He remained in his office until 10.30 P. M. of the 30th day and then went home. No member of his family heard of any one trying to arouse the household, but now parties claim they left appeals at his door before 10 P. M., and that this constituted a service. Has the clerk taken a proper course?

1. The nomination papers are sufficient and a returning officer would not be justified in refusing to accept them.

2. Yes, "if more candidates are proposed for any particular office than are required to be elected." In this case subsection 3 of section 128 of the Municipal Act provides that "the clerk (or other returning officer or chairman) shall ADJOURN the proceedings for filling such office until the first Monday in January next thereafter, when (unless there is an election by acclamation, etc.) a poll or polls shall be opened, etc."

3. We are of opinion that a nomination paper of this kind is valid, and the signature of the seconder sufficient to meet the requirements of the Act which provides (subsec. 1 of section 128) simply that the nomination paper shall be SIGNED by the proposer and seconder." In any event the returning officer or chairman should not constitute himself a judge as to the sufficiency of these nomination papers. This is a question for the decision of a court or judge before whom a complaint as to the legality of the election proceedings is heard.

4. Section 7 of the Ontario Voters' List Act requires that the "voter, or person entitled to be a voter, making a complaint, shall give to the clerk or leave for



him at his residence or place of business, notice in writing, etc." In re Madoc voters' lists (37 C. L. J. 102) it was held that the sending of the list of complainants to the clerk by registered letter through the mail, was a sufficient compliance with the above provision. If the person filing these appeals did all he could to get them in the hands of the clerk within the statutory time, and they afterwards come to the knowledge and into the possession of the clerk (as appears to have been the case) we are of opinion that the requirements of the statute have been complied with. In any event the clerk should not take on himself the responsibility of deciding whether these appeals were filed in time or not, but he should leave the question to be decided by the judge, on objection to be raised at the time of hearing.

#### Dedication of Road as a Public Highway.

**514**—N. V.—In your November issue I see two questions asked and answered, the questions by T. R. K. S. about deviation roads on townline between the townships of O and N. They do not give all the facts. Instead of the present owner having possession only for five or six years, he has had it for twenty years and has paid taxes on the whole property, no exception having been made for road way, and less than ten years previous to that the patent was taken out from Crown Land Office, and the property has never been fenced, being a commons up to the present time. It is not so much the pay for the land the owner requests as that the road be made in its proper place, that being possible, and that township money has been spent on the rock on townline with that intent as it cuts off front of owner's farm. Can he not compel municipalities to make road on townline when the cost would not exceed \$300 to make it good?

The question of importance is not the length of the time the present owner has been in possession of the land through which the road runs, but of the period the public has been using the road as a public highway. If the statement made in question number 454 (November issue, 1902), that the public have used the road as a highway uninterruptedly for about 40 years, it is highly probable that the courts would hold, following the analogy of the cases we cited in our answer, that this user would amount to the dedication of the roadway actually travelled, to the public as a highway. It would make no difference whether it had been fenced in or not during the whole or part of that time. If, however, on the facts adduced in evidence, the courts should hold that this road is not a public highway, but the property of the owner of the adjoining lands, it is optional with the council whether it opens the road on the original road allowance or not. The council cannot be compelled to do so, and should not open it unless the convenience of the public generally requires it.

#### Mode of Registering By-Law.—Fees of Clerk Under Drainage Act.

**515**—CLERK.—1 In registering a by-law under the Drainage Act, is it required to send to the Registry Office the original by-law or a copy thereof, or will a printed copy (section 22) signed and sealed do?

2. The engineer in his report for the construction of a drain amongst the incidental expenses says, clerks fees \$10. Does that cover all the work to be done by the clerk, such as preparing by-law, making copy for printer, attending Court of Revision, sending notices and placing amount on collectors roll, also registering by-law?

1. Section 1 of section 396 of the Municipal Act, as amended by subsection 1 of section 2 of chapter 26 of the Ont. Statutes, 1899, provides that "a duplicate original or a copy certified as is in subsection 3 of section 396, provided," shall be sent to the registrar. If a copy is sent, subsection 3 provides that it "shall be certified and authenticated by the seal of the municipal corporation, and the signature of the head thereof, or of the person presiding at the meeting at which the by-law was passed, and that of the clerk of the corporation."

2. The engineer in his statement of the cost of drainage works, in his report usually inserts a separate item providing for the cost of registering the by-law, including a fee for the clerk for getting it ready for registration. If the engineer has not done this, in this instance, the only sum the clerk is entitled to is the \$10 mentioned. Of course, the clerk can charge to the drainage account the amount he would have to pay the registrar for registering the by-law.

#### Collection of Arrears of Taxes Irregularly Placed on Roll.

**516**—H.—In 1901 the town council by by-law directed that all taxes, rates etc., be paid in to the treasurer; after the first of December they appointed a collector to collect the still unpaid taxes, specifying in same by-law that he was to return the roll not later than the first of February 1902. This, the collector did not do, but continued collecting until September when his services as collector were dispensed with without there being a return of the roll and statement of arrears with reasons therefor as required by the Assessment Act. Their being unpaid taxes by parties assessed who had sufficient chattels to levy on, and no instructions by council not to collect, it was impossible for him to make the declaration required upon the return of roll, so that it was simply handed in to the treasurer, and the taxes unpaid thereon were entered as arrears on the 1902 roll.

1. In what position is the collector for 1902 now in regard to these arrears, especially those upon properties where there was sufficient distress to realize the taxes for last year?

2. Does the irregularity in return of roll and the collecting after time specified for its return invalidate or prevent the collection in the ordinary way of these arrears along with the present year's taxes?

1. The course pursued by the council in this matter was irregular, and likely to result in loss to the municipality. Instead of dismissing the collector, the council should, by resolution, have authorized him to continue the collection of the taxes, until he had got in all he could and returned his roll to the Town treasurer, or if the collector's dismissal was considered necessary, some other person, should have been authorized by resolution to continue the levy and collection of the unpaid taxes (see sec. 145 of the Assessment Act). In case any of the parties against whose premises the arrears or unpaid taxes for

1901, are placed on the roll for 1902, resist payment of such arrears or unpaid taxes, the collector cannot legally enforce payment by distress. (See *Caston vs. city of Toronto*, 30 S. C. R., 390.)

2. If the persons against whose lands these arrears or unpaid taxes for 1901, are placed on the collector's roll for 1902, object or refuse to pay the amounts with which they are respectively charged, payment cannot be enforced by the collector, nor can the lands be sold to realize the amount in the ordinary way. There is no authority for placing the arrears of taxes for 1901 on the roll for 1902. Arrears of taxes are required to be returned by the treasurer to the clerk, and placed by the latter upon the collector's roll of his municipality when they have been due for and in the third year, or for more than three years preceding the year in which they are placed on the collector's roll. See section 173 of the Assessment Act. See also *Deveril vs. Coe*, 11 O. R., 222, and *Donovan vs. Hogan*, 15 A. R., 432.)

#### Qualification of Public and Separate School Trustees.—Powers of Clerk to Act as D. R. O.—Change in Alignment of Road.

**517**—J. M.—1. Can a person who is trustee of rural public or separate school qualify for member of township council?

2. Can a clerk of the township hold one of the polls in the township at municipal election? I believe the Act makes it imperative that the clerk shall perform this duty when the township is not divided into polling sub-divisions. If, however, there are more than one, the council shall appoint D. R. O's who shall make their returns to the clerk. My idea is that a "deputy" is one who acts for another, and that when there are more polls than one it is necessary to give assistance to clerk in holding the poll. It seems absurd that the clerk is the proper person in one instance and disqualified in the other.

3. An original road allowance was left by the government and the road was built fifty years or more. About thirty years ago, it was found that the road was not in its proper place and the township bought a piece of land from the person on whom the road encroached and paid for it and had the deed registered. Can the road be now changed against the wishes of the council?

1. No. Trustees of rural public or separate schools are "members of school boards for which rates are levied," and cannot qualify as members of a township council. (See section 5 of chapter 29 of the Ont. Statutes, 1902, The Municipal Amendment Act.)

2. We must be governed by the law as we find it, and as to this question, its enactments are very plain. Section 106 of the Municipal Act provides that in municipalities in which the election is to be made by wards or polling subdivisions, "the clerk of the municipality shall be the returning officer for the whole municipality, and, in case a poll is required, the deputy-returning officers shall make to him the returns for their respective wards or polling subdivisions," and section 107 provides that in case of a local municipality in which the election is not to be by wards or polling subdivisions, the clerk shall be the returning officer etc., "and he



shall also perform all the duties hereinafter mentioned, assigned to deputy-returning officers." See also section 152 and 157, of the Act.

3. No private individuals have any right to interfere with the location of this road, whether against the wishes of the council of the municipality in which it is located or otherwise. The council can open, establish, close, etc., a road or highway, if it deems it in the interests of the public convenience to do so, by by-law passed under the authority of section 637 of the Municipal Act, after the preliminary proceedings proscribed by section 632 of the Act have been strictly observed.

Powers of Clerk to Act as D. R. O.

518—J. D.—Can I, as the returning officer at the coming municipal elections, act as deputy returning officer?

It is not stated whether your municipality is divided into wards or polling subdivisions or not. If it is, subsection 2 of sections 106 of the Municipal Act, provides that "the clerk of the municipality shall be the returning officer for the whole municipality," and in case a poll is required, the deputy-returning officer shall make to him the returns for their respective wards or polling subdivisions." In this case the clerk cannot act as a deputy-returning officer. If the municipality is one which is not divided into wards or polling subdivisions, section 107 provides that "the clerk shall be the returning officer to hold the nomination of candidates at all elections after the first, and he shall also perform all the duties hereinafter mentioned, assigned to deputy-returning officers."

Initiating and Contributing Municipalities Must Pass Separate By-Laws for Raising Money for Drainage Work.

519—F. M.—A drainage work is initiated in one municipality, and continued into an adjoining one. After the council of the initiating municipality has served the head of the adjoining one with copy of report, etc., according to section 61, is it necessary for the initiating municipality to carry out all the provisions of section 16 and following sections, or simply pass the required by-law and revise the assessments upon its own ratepayers?

Sec. 16 of the Act (chap. 226, R. S. O., 1897), requires the clerk with whom the report is filed, to mail the notice therein mentioned to ALL parties assessed within the area described in the petition filed pursuant to subsection 1 of section 3 of the Act. Subsection 7 of section 9 of the Act (as enacted by section 5 of chapter 28 of the Ont. Stats., 1899), requires the clerk of the municipality, upon whose head the report, etc., has been served under the provisions of section 61, to "notify the parties assessed of such assessments and the amount thereof." The language of section 16 is broad enough to cover the owners of lands outside of the initiating municipality which are located in the area described in the petition, and assessed by the engineer, and the clerk of

the initiating municipality should send them the same notice as owners of lands in the initiating municipalities. The by-law of the initiating municipality providing for the carrying out of the drainage works and all formalities incident to its passing, such as holding of a court of revision thereon, etc., should deal with and have reference to only lands assessed in that municipality. The contributing municipality, after its head has been served with the report, etc., pursuant to section 61, must pass its own by-law to raise the sum it is required to contribute towards the drainage scheme, by the engineer's report (or by the court of appeal or referee, in the event of an appeal from the report), and hold its own court of revision to settle the assessment of parties interested within its limits, as directed by section 62 of the Act.

Electric Light Inspection—Rights of the Public to the Use of Hotel Premises.

520—SUBSCRIBER.—1. Our town has installed the meter system for electric lights. What is the Government law about meters being inspected by an officer before being used, and who pays for it, and what is the penalty for not having an inspection by the town authorities?

2. What privilege has a man in a hotel who is not a guest? Is he trespassing or being a nuisance to go there and talk to a friend or do business in the sitting room? If ordered by the landlord to leave, and if he resists being ejected, who is guilty of assault?

1. The Act providing for Electric Light inspection is chap. 39 of the Dom. Statutes for 1894. An Act amending this in some minor particulars is chapter 29 of the Dom. Stats. for 1901, for orders-in-council passed pursuant to section 37 of the Act of 1894, see page XVII of Dom. Stats. for 1896. A careful examination of these statistics will give our correspondent all the information he seeks in this matter, more fully than space in these columns will permit.

2. A man has no legal right to use another's hotel premises for the purpose of loitering or transacting his private business against the will of the proprietor. If he refuses to leave when the latter orders him to do so, the proprietor is justified in treating him as a trespasser and in ejecting him, using of course, only such force as is necessary for the purpose. If in resisting ejection the loiterer, commits what the law would consider amounts to an assault on the landlord, he can be held responsible and punished for it.

Offering Commission to Municipal Officers Purchasing Supplies, an Indictable Offence.

521—X. Y. Z.—A publishing house has sent out private circulars to clerks in which it offers a commission as an inducement to order supplies required for the municipality from them. Can they do business in this way, or is it contrary to law.

The following sections of the Criminal Code show that the making or accepting of such a proposition is an indictable offence:

136. CORRUPT PRACTICES IN MUNICIPAL AFFAIRS.—Every one is guilty of an indictable offence and liable to a fine not exceeding one thousand dollars and not less than one hundred dollars, and to imprisonment for a term not exceeding two years and not less than one month, and in default of payment of such fine to imprisonment for a further term not exceeding six months, who directly or indirectly

(c) makes any offer, proposal, gift, loan, promise or agreement to pay or give any money or other material compensation or consideration to any officer of a municipal council for the purpose of inducing him to perform or abstain from performing, or to aid in procuring or preventing the performance of, any official act; or

(d) being a member or officer of a municipal council, accepts or consents to accept any such offer, proposal, gift, loan, promise, agreement, compensation or consideration as is in this section before mentioned; or in consideration thereof, votes or abstains from voting in favor of or against any measure, motion, resolution or question, or performs or abstains from performing any official act.

No prosecution for any offence under this act can be commenced after the expiration of two years from its commission. (1.)

Submission to Electors of Statute Labor By-Law.

522 W. E. H.—In our township we have a police village, which is struck off from our township for road purposes and in the year 1901 the council of the township passed a by-law commuting statute labor in the said police village. Our council has decided to submit a by-law to the ratepayers at the annual election held in January 1903 to find out if they are in favor of commutation of statute labor to fifty cents per day. Will the ratepayers of the police village have a vote on said by-law?

The law makes no provision whatever for the submission of a by-law of this kind to the vote of the electors. It is not a necessary preliminary to the passing of a by-law commuting statute labor throughout the municipality. It is a voluntary act on the part of the council and seems to us to be an unnecessary trouble and expense. The council may desire to know the views of the ratepayers in the rest of the township, and assuming that such a by-law can be submitted at all, we do not see why it cannot be confined to a part of the township and the submission of such a by-law will in effect exclude the ratepayers in the police village. Section 103 of the Assessment Act authorizes the council of any township to pass a by-law of this kind applicable to the whole or any part of the township at any time it sees fit to do so.

County "Councillor" the Proper Term.

523—J. C.—There seems to be difference of opinion as to which is the proper word to be used when speaking of the office of a member of a county council. I notice in the last issue of the *Clinton New Era* that the editor states positively that the correct word is "commissioner" and not "councillor." Will THE WORLD please give the proper word to use?



The Clinton *New Era*, is in error. Nowhere in the statutes are members of county councils designated or referred to as county "commissioners." Wherever a member of a county council is mentioned in the statutes, he is styled either a "member of a county council" or a "county councillor." By way of example we refer to the following amongst other sections of the Municipal Act: Sections 132, 141, 142, 143, 155, 160, 167, 168, 203 and 217.

#### Collection of Cost of Bridge Over Drain.

**524**—D. H.—Can a municipality legally collect pay for bridge by assessing only a portion of ratepayers and not serving us with notice of assessment until we get it in our tax demand? The bridge is a town line bridge. The drain in connection with bridge is not in repair and has not been for the last five years.

We assume that this is a bridge over a drain constructed under the provisions of the Municipal Drainage Act (R. S. O., 1897, chap. 226), and, if so, the cost of the building or repair and maintenance of the bridge should be charged against and collected from the persons assessed for the original construction of the drain.

#### Qualification of Voters.

**525**—J. J. J.—A takes up free grant lands from the crown; should he be assessed as tenant or owner? If assessed as tenant, does he not run the risk of losing his municipal vote unless he actually resides on the property for the thirty days previous to the date of election? In this municipality we have a large number of locatees who have taken up land and who perform their settlement duties during the months from April to October, and after the first of October go into the neighboring town to work and reside. These men are assessed as tenants, and shown on the voters' list as such. Does their non-residence in the municipality for the months from October until April of the following year prevent them from exercising their municipal franchise?

A should be assessed as owner of the interest he has in the lands granted to him by the crown, unless he is actually a lessee of the lands from the crown, and holds the same under a verbal or written lease. (See section 23 of the Assessment Act.) Locatees assessed as tenants and on the voters' list of the municipality as such, to be entitled to vote at municipal elections, must be RESIDENTS of the municipality in which they tender their votes on the DAY OF ELECTION, and must have resided in the municipality for one month prior to election day. (See subsection 1 (secondly) of section 86 of the Municipal Act.) If these locatees are working and residing in a neighboring town (a separate municipality) on the date of the election, and have been so situated since October last, they cannot vote in the municipality in which their land is located, or take the oath mentioned in section 113 of the Act, if objection is raised to their right to vote. If your municipality is located in one of the territorial districts, section 18 of chapter 225, R. S. O., 1897, makes provision for the qualification of voters at municipal elections. Subsection 1 provides that "every

male FREEHOLDER and RESIDENT householder, whose name appears in the revised assessment roll upon which the voters' list used at the election is based for the municipality is entitled to vote." That is, the freeholders have the right to vote at municipal elections, whether residents or not; but householders (which term includes tenants) must be residents of the municipality in which they tender their votes on the day of election.

#### Entry of Items in Government Cash Book.

**526**—A. B. C.—Please let me know to what the following accounts should be charged, or in what column of the Government cash book they should be placed:

1. Reeve, taking indigent person to House of Industry, \$2.00
2. Commissioner on "Simpson Drain," commission fees, \$10.00
3. Clerk, postage, \$198
4. Clerk, registering deaths, births and marriages, \$31.80,
5. Reeve, attending meeting of Board of Health, \$2.00
6. Sheep inspector valuing sheep killed by dogs, \$150.
  1. Miscellaneous.
  2. Drainage.
  3. Stationery and printing (usually).
  4. Salaries and allowances.
  5. Board of Health.
  6. Dog fund (for this use one of the blank columns.)

#### Qualification of Village Treasurer for Membership in County Council.

**527** J. M. Is the treasurer of a village eligible to election as a member of a county council? See Municipal Act, sections 81 and 80.

For a reply to this, see our answer to question number 492 in this issue. A VILLAGE treasurer is in exactly the same position in this regard as a TOWNSHIP treasurer.

#### By-Law Disqualifying Tax Defaulter From Voting.—Jurisdiction of Justices of the Peace.

**528**—SUBSCRIBER.—1. In 1901 a by-law was passed in our town to prevent any person voting at the municipal election who had not previously paid his taxes. Please say if that by-law remains in force from year to year until repealed, or does it die with the year passed in?

2. A justice of the peace has jurisdiction in the county or district appointed in, to enforce by-laws, etc. In time, towns and villages spring up and are incorporated. Has the justice power to come into such towns and villages and try cases therein, etc.? There is no police magistrate there.

1. We assume that you refer to a by-law passed pursuant to the provisions of sub-section 1 of section 535 of the Municipal Act. If this is so, and the by-law is properly framed, it will remain in force until it is repealed by the municipal council which passed it.

2. This depends entirely on the terms of the commission under which the justice of the peace has been appointed. If the justice is appointed generally for the district, we see no legal objection to his

hearing cases in any town or village in the district.

#### County Constable Can Qualify as County Councillor.

**529**—W. J. P.—Is a county constable qualified for the position of county councillor?

Yes, if he possesses all the other qualifications required by the Municipal Act. The only "constable" disqualified under the Act is a "chief constable of any city or town." (See sections 77 and 80 of the Municipal Act.)

#### Nominations.

(Concluded from page 191.)

municipal act is amended by adding at the end thereof the words "and be filed with the returning officer or the chairman within one hour from the time of opening the meeting."

A nominating or returning officer should not refuse to accept a nomination paper for the reason that he has a personal knowledge of the fact that the person nominated thereby is not a legally qualified candidate; the responsibility of deciding this question should be left to the courts. The Municipal Act does not make it the duty of such officer to read each nomination paper to the assembled electors, either when handed to him or at the close of the nomination meeting. He may do this, however, as a matter of courtesy. At the close of the nomination meeting he should announce the names of the candidates placed in nomination. The nominator and seconder of a candidate should both be present at the nomination meeting, and should be electors of the municipality. It is not necessary that a person nominated should be present at the meeting.

At the last meeting of the council of the township of West Oxford, Mr. W. G. Francis, for the past sixteen years clerk of that township, tendered his resignation, which was reluctantly accepted—to take effect on the 15th of December. Mr. Francis will remove to Brantford, where he will identify himself with the Canada Life Insurance Company. Mr. Francis had also officiated in the capacity of township treasurer for over three years. A paper read by Mr. Francis at the recent meeting of the Oxford Clerks' and Treasurers' Association will be published in our next issue. \* \* \*

The question of mitigating the evils of dusty highways, especially as motoring has become more general, is attracting considerable attention in England. The Farnham rural council has been experimenting for some time with oil treatment on a stretch of the roads at Farnborough. The surveyor now reports that the experiment was very satisfactory throughout the dry weather, but in wet weather the conditions of the road were very bad, the mass of slimy mud, water and oil producing a vile compound.

The township of Lancaster in the county of Glengarry is the latest municipality to abolish the Statute Labor system.