

The Municipal World

PUBLISHED MONTHLY IN THE INTERESTS OF

THE MUNICIPAL INSTITUTIONS OF ONTARIO



Vol. 9. No. 5.

ST. THOMAS, ONTARIO, MAY 1899.

Whole No. 101

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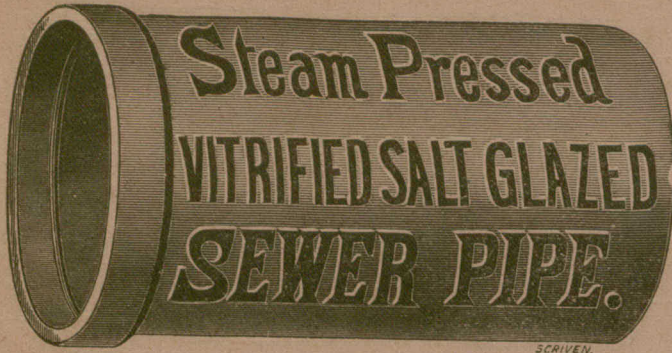
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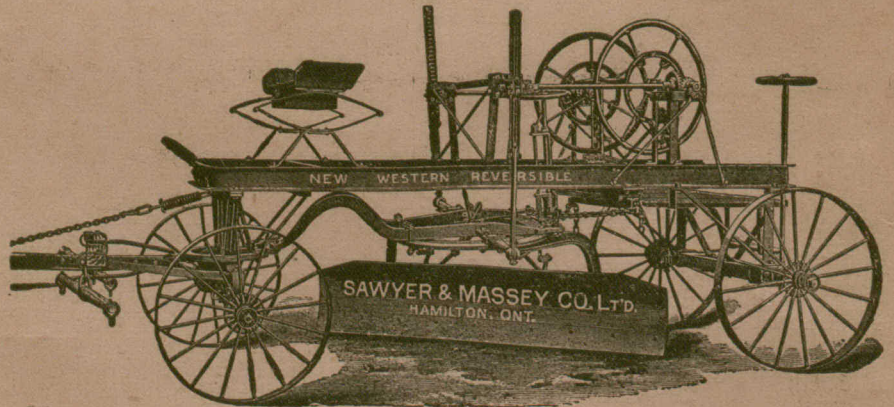
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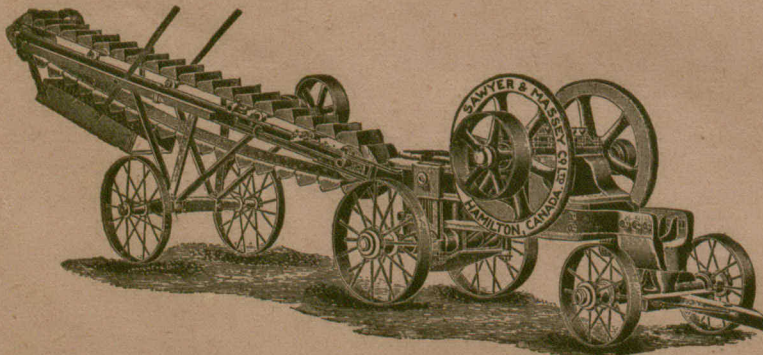
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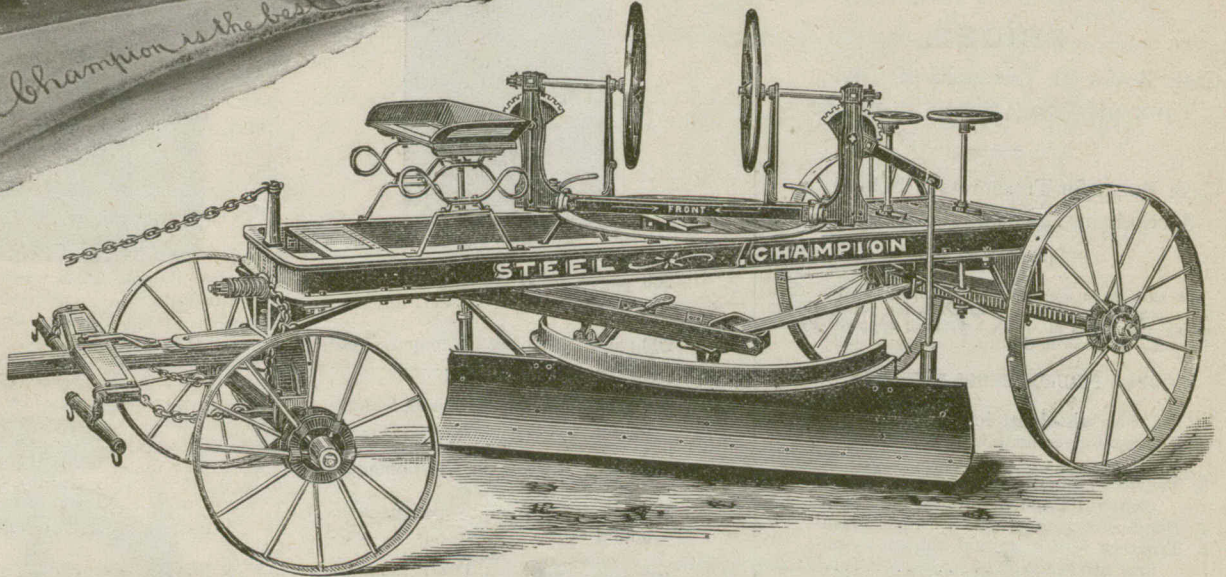
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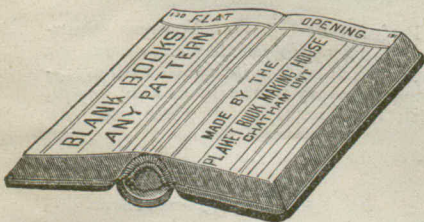
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SCHOOL ACTS.

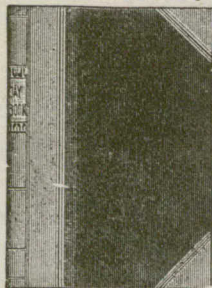
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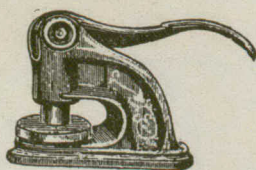
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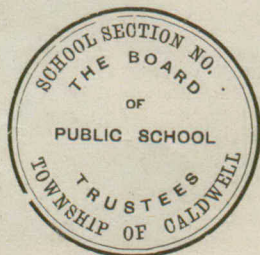


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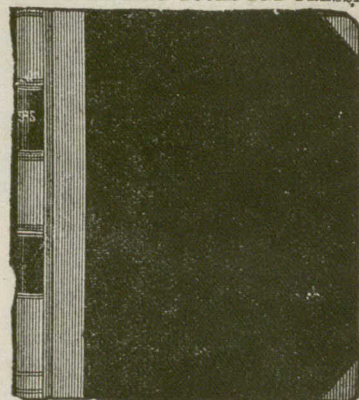
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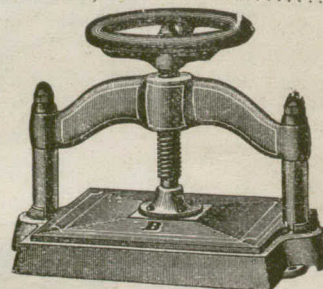


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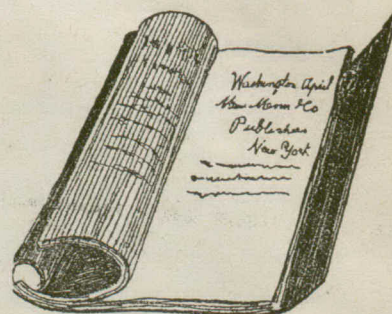
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THE MUNICIPAL WORLD

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

Vol. 9. No. 5

ST. THOMAS, ONTARIO, MAY, 1899

Whole No. 101

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Calendar for May and June, 1899.

Legal, Educational, Municipal and Other Appointments

MAY

1. Last day for treasurers to furnish Bureau of Industries, on form furnished by department, statistics regarding finances of their municipalities.—Municipal Act, section 293.
- County Treasurers to complete and balance their books, charging lands with arrears of taxes.—Assessment Act, section 164.
5. Arbor Day:
Make returns of death by contagious diseases registered during April.
15. Last day for issuing Tavern and Shop Licenses.—Liquor License Act, Sec. 8.
Contents of earth closets to be removed on or before this date.—Public Health Act, Schedule B, Rule 2 of section 14.
24. Queen's Birthday.
31. Assessors to settle basis of taxation in Union School Sections.—Public Schools Act, section 51 (1).

JUNE

1. Public and Separate School Boards to appoint representatives on the High School Entrance Examination Board of Examiners.—High Schools Act, section 38 (2).
By-law to alter school boundaries, last day for passing.—Public Schools Act, section 38 (3).
20. Earliest date upon which Statute Labor is so be performed in unincorporated Townships.—Assessment Act, section 122.

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The publisher desires to ensure the regular and prompt delivery of THE WORLD to every subscriber, and requests that any cause of complaint in this particular be reported at once to the office of publication. Subscribers who may change their address should also give prompt notice of same, and in doing so should give both the old and new address.

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244. Retain Poll-Books—County Clerk's Copy Assessment Roll.....	257. Board of Health and Disinfection
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246. Duties Board of Assessors.....	259. Survey and Road Lines.....
247. Right of Way—Pay for Snow Fence.....	260. Vote for Trustees in Union with Urban Municipalities.....
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The Municipal World

PUBLISHED MONTHLY

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

K. W. MCKAY, EDITOR,

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

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THE MUNICIPAL WORLD,

Box 1231, St. Thomas, Ont.

ST. THOMAS, MAY 1, 1899.

The council of the Township of Storrington has passed a by-law commuting all statute labor at 50 cents per day.

* * *

Some township councils are appointing commissioners to direct statute labor work. The divisions are divided into groups and the commissioner is general foreman over the pathmasters in his division.

* * *

The preparation of voters' lists will occupy the attention of many clerks during this month. Some prefer to re-write the whole list from the assessment roll. We recommend the correction of a copy of last year's list to save time and avoid errors.

* * *

It is not often that the members of the House of Commons have to consider questions of municipal interest. Mr. Casey has recently re-introduced his bill to make the Provincial drainage laws apply to railways under the jurisdiction of the Parliament of Canada. At present the railways are not subject to Provincial laws in reference to drainage and the owner of farm lands adjoining a village is placed in a different position than if his property adjoined that of a private owner. Mr. Casey's bill is opposed by the railway companies, and we hope, that if it is thrown out, the public will know how many representatives are more devoted to the interests of the railway companies than they are to the public.

Cautious.—Teacher—"Once upon a time there were two rich men, one of whom made his fortune by honest industry, while the other made his by fraud. Now, which of these two men would you prefer to be?" Tommy (after a slight hesitation)—"Which made the most?"

Court of Revision of Assessment Roll.

The principal business of the majority of councils during the present month will be the revision of the work of the assessor. In townships and villages the municipal council is the court of revision, but in towns where the council consists of more than five members, the council is required to appoint five of its members to be the court of revision, and in cities the court consists of three members—one appointed by the council, one by the mayor and the official arbitrator or sheriff. It is the duty of the court to act only as they are authorized by statute, and to try all appeals in regard to persons wrongfully placed on or omitted from the roll, or assessed too high or too low. Such complaints may be of 1st, Any person complaining of an error or omission in regard to themselves; 2nd, of a municipal elector thinking that any person has been assessed too low or too high; 3rd, of the assessor where it appears there are palpable errors. All appeals brought before the court must be decided one way or the other. The assessor in assessing must leave for every person named on the roll as a resident, or having a place of business within the municipality, and transmit by post to every non-resident who shall have requested his name to be entered thereon and furnished his address to the assessor, a notice of the sum for which his real and personal property has been assessed. If the person receiving this notice finds an error or omission, or is not satisfied with the amount of the assessment he must within fourteen days after the time fixed for the return of the roll, which in the majority of municipalities, is the 30th day of April, give notice thereof in writing to the clerk of the municipality. The roll is to be considered as returned only when in possession of the clerk, and the certificate properly signed and sworn to. This may be done on some day after the first of May, and the right to appeal extends fourteen days after the date the roll was returned to the clerk. It is the duty of the clerk to advertise in a newspaper the time on which the court will hold its first sittings—ten days before the time of such first sittings—and cause to be left at the residence of the assessor a list of all complaints made against his roll, and notify all persons in respect of which a complaint has been made. In addition to this the clerk must post in some convenient public place within the municipality, a list of all the appeals against the assessor's returns, together with an announcement of the time when the court will be held. All this must be done at least six days before the sittings of the court, and no alterations shall be made in the roll unless under complaint formally made in accordance with the above provisions. In the case of palpable errors, the court may extend the time for making complaints ten days further. Subsection 18 of section 71 of the Assessment Act provides that in such cases the assessor may be the

complainant. The Court of Revision is required to complete its duties by 1st July.

The roll, as finally passed by the court, is to be valid and bind all parties, notwithstanding any defect or error committed to or with regard to the roll, except in cases appealed, notice of which must be given to the clerk within five days after 1st July.

An Act to Amend the Public Libraries Act.

1. Section 25 of The Public Libraries Act is hereby amended by striking out the words "first Monday of May" in the first line thereof, and inserting in lieu thereof "second Monday of January."

2. Any member of the board of management who has any pecuniary interest, profit, promise or expected benefit in, or from any contract, agreement or engagement, either in his own name, or in the name of another, with the corporation of which he is a member, or who receives or expects to receive any compensation for any work, engagement, employment or duty, on behalf of such corporation, shall *ipso facto* vacate his seat, and every such contract, agreement, engagement, or promise shall be null or void, and on the complaint of any ratepayer of the municipality or of any member of the board of management the County Judge, or if such County Judge is a member of the board of management, then the Master in Chambers after due investigation may declare the seat vacant and forthwith notify the appointing body to make a new appointment.

3. Notwithstanding anything contained in The Act respecting Public Libraries it shall be lawful for any municipal corporation to issue debentures for the purpose of the said Act, subject to the provisions of section 386 of The Municipal Act.

4. Section 1 of this Act shall not take effect until the 1st day of June, 1899, and the other sections upon the passing thereof.

An Act to Amend The Ontario Tree-Planting Act.

1. The Ontario Tree-Planting Act is amended by inserting therein the following as section 3a:

3a.—(1) Not less than thirty municipal electors in a police village may present a petition to the township council praying for the passing of a by-law under section 3 of this Act to have effect within the limits of the police village, and on receipt of such petition the council of the township in which such police village is situated may pass by-laws giving effect to such petition.

(2) The police trustees of such village shall appoint the inspector of trees provided for by the by-law of the township council, and the amount required for the payment of bonuses for tree-planting under such by-law, and the remuneration of the inspector shall be raised by rate levied upon the property liable to assessment in such police village in the manner provided by The Municipal Act.

The Municipal Amendment Act, 1899.

(Amending Revised Statutes, Chapter 223.)

COUNTY BY LAWS—TOWNS SEPARATED—JURISDICTION COUNTY PROPERTY ONLY.

1. Clause 4 of section 27 of *The Municipal Act* is amended by striking out all the words in the said section from the commencement thereof down to and including the word "made" in the fourth line, and inserting instead of the said words the words, "no by-law of the council of the county made after the proclamation has been issued."

ARRANGEMENT COUNTY COUNCIL DIVISIONS—WHERE SEPARATED TOWN IS RE-UNITED.

2.—Section 68 of the said Act is hereby amended by inserting after the word "city" in the fourth line thereof the words, "or where a separated town is reunited to the county."

REEVES AND DEPUTY-REEVES ABOLISHED IN TOWNS NOT WITHDRAWN FROM COUNTY.

3. Subsection 1 of section 71 of the said Act is amended by inserting at the commencement thereof the words, "subject to the provisions of section 71a," and by striking out all the words in the said subsection between the word "wards" in the fourth line and the word "provided" in the eleventh line thereof.

4. Section 74 of the said Act is repealed.

CONSTITUTION OF PROVISIONAL COUNTY COUNCILS.

5. Section 75 of the said Act is amended by striking out the word "the" at the end of the fourth line thereof and by adding at the end of the said section the words, "and shall together with the representatives of separated towns mentioned in subsection 3 of section 41 constitute the said provisional council."

6. Subsection 1 of section 76 of the said Act is amended by striking out the word "deputy-reeve" in the fourth line thereof.

COUNTY COUNCILLOR'S QUALIFICATION SAME AS FOR MAYOR OF A TOWN—FREEHOLD \$600, LEASE-HOLD \$1200.

7. Section 77 of the said Act is amended by striking out the word "reeve" in the second line and inserting in lieu thereof the word "mayor."

QUALIFICATION OF INCOME AND FARMERS' SON VOTERS

8.—(1) Subsection 1 of section 86 of the said Act is amended by inserting in the paragraph commencing "Thirdly" after the word "roll" in the sixth line of the said paragraph the words "or for twelve months prior to the last day for making complaint to the county judge under *The Voters' Lists Act*."

(2) The said subsection is further amended by striking out in the paragraph commencing "Fourthly" the words "the return by the assessors of the assessment roll upon which the voters' list used at the election is based" and inserting in lieu thereof the words, "the date of the final revision and correction of the assessment roll or for twelve months prior to the last day for making complaint to the county judge under *The Voters' Lists Act*."

(3) Subsection 2 of the said section 86 is amended by inserting after the word "sons" in the sixth line the words "stepson or stepsons," and by inserting after the word "stepfather" in the eighth line the words "and 'mother' shall include stepmother."

TOWNSHIP WARD ELECTIONS ABOLISHED.

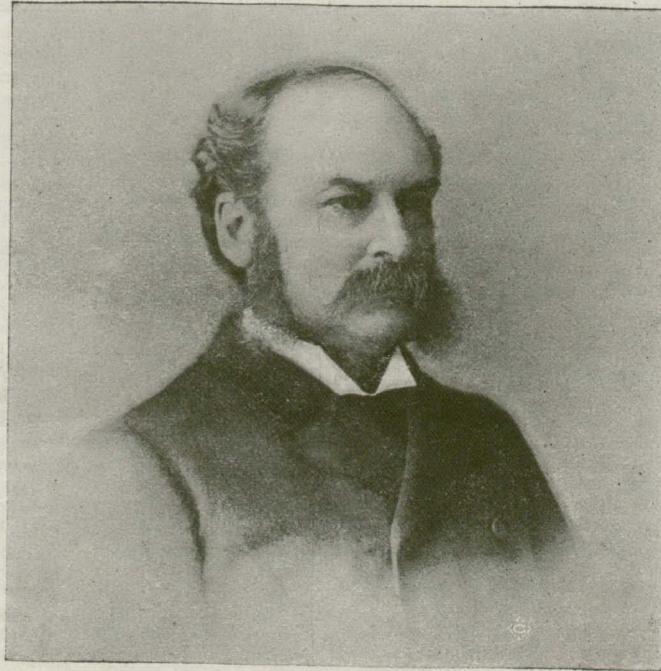
(4) Sections 100 and 101 of the said Act are repealed.

OATHS OF ELECTORS.

(5) Section 113 of the said Act is amended by striking out the third paragraph of the form of oath therein contained and by substituting the following therefor:

That you were (or your wife was) actually, truly and in good faith possessed to your (or her) own use and benefit as tenant, of the real estate in respect of which your name is entered on the said list.

(6) Section 114 of the said Act is amended by striking out the third paragraph of the form of oath therein contained and substituting the following therefor:



HON. A. S. HARDY.

Attorney-General of the Province of Ontario, Chairman of the Municipal Committee of the Legislative Assembly.

Mr. Hardy was born at Mount Pleasant, Ontario, in 1837. His early education was received in the common school of the village. Afterwards he spent several years in Nelles' Academy, the Mount Pleasant Grammar School and the Withered Academy in Rockwood. He studied law and finished in Toronto with the then firm of Paterson, Harrison, & Hodgins. Mr. Hardy commenced the practice of his profession in Brantford and had a most successful career as a Solicitor and Barrister. His entrance to public life dates back to the sixties. In 1873 he was first elected to represent South Brant in the Legislature, and now has the unusual record of twenty-six years of continuous representation of the same constituency. Three years afterwards he was called to the cabinet as Provincial Secretary and continued in this position for twelve years. After the death of Hon. T. B. Pardee, he became Commissioner of Crown Lands, and in 1896 he succeeded Sir Oliver Mowat as Attorney-General and Premier. Mr. Hardy has introduced a large number of Public Bills, among those of Municipal interest were: The Act reducing the number of Grand Jurors; the County Council Bill of 1896; the Voters List Act; the Public Health Act. He has been for years Chairman of the Municipal Committee of the Legislature to which all of the Municipal Bills introduced were referred for consideration and report. The result has been a continuous improvement in our Municipal Law, which, in the opinion of the late Chief Justice Harrison, "formed the most complete and perfect code of the kind that he knew of in any country of the world."

That on the _____ day of _____ 18 _____ (The day certified by the clerk as the date of the final revision and correction of the assessment roll upon which the voters' list used at the election is based, or, at the option of the voter, the day certified by the clerk as the last day for making complaint to the county judge with respect to such voters' list) you were, and thenceforward have been continuously and still are, a resident of this municipality.

(7) Section 115 of the said Act is amended by striking out the second and third paragraphs of the form of oath therein contained and substituting the following therefor:

That on the _____ day of _____ 18 _____ (the day certified by the clerk as the date of the final revision and correction of the assessment roll upon which the Voter's List used at the election is

based, or, at the option of the voter, the day certified by the clerk as the last day for making complaint to the county judge with respect to such voters' list) A. B. (naming him or her) was actually, truly and in good faith possessed to his (or her) own use and benefit as owner (or as tenant under a lease the term of which was not less than five years) as you verily believe of the lands in respect of which your name is so as aforesaid entered on said list of voters.

That you are a son (or stepson) of the said A. B.

NOMINATION MEETINGS IN CITIES, TOWNS AND TOWNSHIPS.

9.—(1.) Subsection 1 of section 118 of the said Act is amended by striking out the words, "and of mayor, reeve and deputy-reeves in towns" in the third and fourth lines and inserting in lieu thereof the words "and towns," and by striking out all the words in the said sub-section after the word "forenoon" in the sixth line thereof.

(2) Subsection 2 of section 118 of the said Act is amended by striking out the words "reeve and deputy-reeves" at the end of the said sub-section.

(3) Section 119 of the said Act is amended by striking out the words "deputy-reeves" in the fourth line, the word "in" and the words "not divided into wards" in the fifth line, and all the words in the said section after the figures "123" in the tenth line.

(4) Section 120 of the said Act is amended by striking out the words "reeve, deputy-reeve or deputy-reeves" in the seventh line, and inserting in lieu thereof the words "or reeve and aldermen or."

(5) Section 121 of the said Act is repealed.

(6) Sec. 122 of the said Act is repealed and the following substituted therefor:

122. Notwithstanding anything contained in section 119 of this Act the council of any township may by by-law provide that the nomination for reeve and councillors may be held at one o'clock in the afternoon.

(7) Section 123 of the said Act is amended by striking out the words "deputy-reeves" in the fifth line thereof.

(8) Section 124 of the said Act is amended by striking out the word "deputy-reeve" in the third line thereof.

(9) Subsection 1 of section 125 of the said Act is amended by striking out the word "deputy-reeves" in the third line thereof.

RESIGNATION OF NOMINATION.

10.—Sub-section 2 of section 129 of the said Act is amended by inserting after the word "or" in the first line thereof the words, "at any time before nine o'clock p.m."

BALLOT PAPERS.

11.—Section 140 of the said Act is repealed and the following section substituted therefor:

140.—(1) In the case of cities and towns in which the aldermen or councillors are elected by wards the names of the candidates for mayor shall not be included in the same ballot with the names of the candidates for aldermen and councillors respectively but one kind or set of ballot papers shall be prepared for all the wards or polling subdivisions containing the names of the candidates for mayor, and another kind or set shall be prepared for each ward or polling subdivision containing the names of the candidates for aldermen or councillors in the ward.

(2) In cases of cities and towns in which the aldermen or councillors are elected by genera

vote one kind or set of ballot papers shall be prepared for all the wards or polling subdivisions containing the names of the candidates for mayor and the names of the candidates for aldermen or councillors as the case may be.

(3) In the case of villages and townships one kind or set of ballot papers shall be prepared containing the names of the candidates for reeve and the names of the candidates for councillors.

CERTIFICATES AS TO ASSESSMENT ROLL AND VOTERS' LIST.

12.—(1) Subsection 1 of section 156 of the said Act is amended by striking out clause a, and substituting the following:

(a) The last day for making complaints to the county judge with respect to the voters' list to be used at the election, and also:

(2) Subsection 3 of the said section 156 is amended by striking out all the words after the word "voters" in the third line and inserting in lieu thereof the words "the date of the final revision and correction of the assessment roll or the last day for making complaint to the county judge with respect to the voters' list (as the case may be)."

(3) Schedule "D" to the said Act is repealed and the form set out in Schedule D to this Act is substituted therefor.

NUMBER OF VOTES IN CITIES AND TOWNS.

13.—Section 158 of the said Act is repealed and the following substituted therefor:

158. In towns and cities in which the councillors or aldermen are elected by wards every elector may vote in each ward in which he has been rated for the necessary property qualification for councillors or aldermen, but the elector shall be limited to one vote for mayor of a city or town.

14. Section 161 of the said Act is amended by striking out all the words therein after the word "mayor" in the second line down to and including the word "wards" in the fourth line and by inserting at the commencement of the said section the words "In the case of cities and towns in which the aldermen or the councillors, as the case may be, are elected by wards."

15. Sub-section 1 of section 162 of the said Act is amended by striking out the words, "or in towns, villages or townships for deputy-reeve" in the first and second lines, and the words "or deputy-reeve" in the third line, and by inserting the word "or" before the word "reeve" in the third line.

FORM OF BALLOT PAPERS.

16.—(1) The form of ballot papers as set out in schedule A to the said Act for use in cities shall not apply in the case of cities in which the aldermen or councillors are elected by general vote, but in the case of such cities and in the case of towns in which the aldermen or councillors are elected by general vote the form of ballot paper to be used shall be that set out in schedule A to this Act.

(2) The forms of ballot papers set out in schedule A of the said Act for use in case of townships divided into wards and in the case of incorporated villages and townships not divided into wards are repealed and the forms set out in schedule B to this Act are substituted therefor.

(3) Schedule B to the said Act, being directions for the guidance of voters in voting is amended by striking out all the words therein after the words "hard labor" at the end of the seventh paragraph of the said schedule and inserting in lieu thereof the form set out in schedule B to this Act.

JUDGES CERTIFICATE OF RECOUNT TO RETURNING OFFICER.

17.—Clause 5 of subsection 8 of section 189 of the said Act is amended by striking out the words "clerk of the municipality" in the fourth line and inserting in lieu thereof the words "returning officer."

CLERKS TO FORWARD PAPERS FOR RECOUNT UNDER SEAL TO JUDGE.

18. Subsection 2 of section 191 of the said

Act is amended by inserting after the word "forward" in the third line of the said subsection the words "to him" and by striking out the words "for the purpose of production before him to the clerk of the county."

OPEN VOTE FOR WARDEN AND ALL APPOINTMENTS AND BUSINESS OF A COUNCIL.

19.—(1) Section 263 of the Act is amended by striking out the words "after two ballots" in the third line of the said section, and inserting in lieu thereof the words, "after the council has voted twice."

(2) The said Act is further amended by adding thereto the following as section 274a:

Whenever a division is taken in a municipal council either upon the appointment of an officer of the corporation, the election of a warden or other presiding officer of the council or upon a by-law, resolution or for any other purpose, each member of the council present voting shall announce his vote upon the question openly and individually in the council, and the clerk shall record the same; and no vote shall be taken by ballot or by any other method of secret voting in any municipal council, and every vote so taken shall be void and of no effect.

(3) Subsection (2) of section 276 of the said Act is amended by striking out the word "balloted" in the third line thereof and substituting therefor the word "voted," and by striking out the word "ballot" in the fourth line and substituting therefor the word "time."

BOARDS OF CONTROL.

20.—The said Act is hereby amended by inserting the following section therein:

276a.—(1) The council of any city having a population of less than 100,000 but more than 45,000, may by by-law, to be passed at their first meeting in the month of January in any year, provide for a Board of Control to be constituted in the same manner and with the same powers and duties as a Board of Control in cities having a population of 100,000 or more. But the salaries to be paid to members of the Board shall not exceed for each member the sum of \$400.00 per annum.

(2) No by-law passed under the powers conferred by this section shall be repealed within 5 years from the adoption thereof and such by-law shall in no case be repealed except upon a two-thirds vote, of the members of the council, in favor of such repeal.

(3) This section shall not apply to the city of Hamilton.

DEPOSIT COSTS WHEN MOVING TO QUASH BY-LAW EXCEPT WHEN APPLICATION BY ANOTHER MUNICIPALITY.

21.—Section 378 of the said Act is amended by adding thereto the following subsections:

(6) In lieu of the recognizance mentioned in subsections 4 and 5 of this section, the applicant may pay into Court the sum of one hundred dollars as security for any costs which may be adjudged to the municipality against the applicant, and the certificate of such payment into Court having been made, shall be filed in the High Court with other papers relating to the motion.

(7) Upon the determination of the proceedings the judge may order the money so paid into Court to be applied in the payment of costs, or, to be paid out to the applicant in the discretion of the judge according to the result of the application.

(8) Subject to any rules of Court, all moneys required to be paid into or out of Court under this section shall be paid in and paid out in like manner, as moneys are paid into and out of Court in actions pending in the High Court.

22. The said Act is amended by inserting therein the following as section 378a:

378a. Where it is alleged that a by-law of any municipality injuriously affects another municipality or the ratepayers thereof or any of them and that such by-law is illegal or contrary to law the said other municipality or any ratepayer thereof shall have the same right to apply to quash or set aside the by-law as a ratepayer of the municipality which passed or adopted

the by-law may have, but in case an application to quash a by-law is made by a municipal corporation hereunder, such corporation shall not be required to give a recognizance under section 378 nor shall subsections 4 and 5 of the said section apply to any such application by a municipal corporation.

CITY BRIDGES.

23. The said Act is amended by adding thereto the following as section 388a:

388a. The council of a city by by-law passed at any meeting of the council, without submitting the same for the assent of the electors, but subject to the approval of such by-law by the Lieutenant-Governor-in-Council, may raise such sum or sums of money as may be required to pay and liquidate its share of the cost and expense incurred in building and constructing and also of rebuilding and reconstructing bridges over any stream, which constitutes a dividing line between such city and any other municipality, and may in like manner pass a by-law or by-laws to raise such sum or sums of money as may be required to rebuild any existing bridge within the municipality, and for such purposes, may issue debentures at such rates, for such times, not exceeding 20 years at the farthest, and upon such terms as such council may deem advisable, provided always that the aggregate amount to be raised for all of said purposes in any one year shall be limited according to population as follows: by a city having a population of not more than 20,000 the sum of \$10,000; by a city with a population of more than 20,000 and not more than 100,000 the sum of \$15,000; by a city with a population more than 100,000, \$20,000; such population to be determined by the last preceding Dominion census.

REGISTRATION OF COPIES OF BY-LAW.

24.—(1) Subsection 1 of section 396 of the said Act is amended by adding in the second line thereof, after the word "Act" the words "a duplicate original or a copy certified as hereinafter mentioned of."

(2) Subsection 2 of section 396 of the said Act is hereby amended by adding at the end thereof the words "such book shall be called the by-laws book and shall contain the following particulars: The registration number, the by-law number of the municipality, the title, the amount of the debt, the term of the debentures, the rate of interest, and the number of years over which the debentures are to extend, also whether the rates to be levied are upon the whole rateable property of the municipality or on part thereof."

EXEMPTION FROM TAXATION.

25. Section 411 of the said Act is repealed and the following is substituted therefor:

(a) Every municipal council may by by-law exempt any manufacturing establishment or any building for the storage of ice for commercial purposes or any waterworks or water company in whole or in part from taxation except as to school taxes for any period not longer than ten years and to renew this exemption for a further period not exceeding ten years.

(b) No such by-law shall be passed until the assent of the electors has been obtained in conformity with the provisions of this Act in respect of by-laws for creating debts.

(c) To render valid a by-law of a municipality for granting exemption from taxation under this section the assent shall be necessary of two thirds of all the electors on the voters' list as well as of a majority of the electors voting on the by-law.

(d) In addition to the certificate required by section 364 of this Act the clerk in case of a majority of the votes being in favor of the by-law shall further certify whether or not as far as shown by the voters' lists such majority appears to be two-thirds of all the electors who are entitled to vote on the by-law.

(e) The provisions of subsections 3 and 4 of section 366 of *The Municipal Act* shall apply to any such by-law.

(f) Nothing in this section contained shall affect any by-law or agreement existing at the time of the passing of this Act.

(g) Nothing in this section contained shall prevent a municipal council from completing any agreements or arrangements, negotiations in respect of which have heretofore been carried on and are now pending with a view to exemption from taxation in whole or in part of any company or companies not situated in any other municipality of this Province under the provisions of *The Municipal Act* as they existed prior to the passing hereof, but any such agreements or arrangements may be completed and carried out as though this section had not been passed, nor shall it be necessary to submit any by-law for such purpose to the vote of the electors of the municipality. Provided nevertheless that any such agreement or arrangement shall be completed on or before the 1st day of September, 1899.

DISQUALIFICATION FOR EXCEEDING LIMIT IN BORROWING.

26. Section 435 of the said Act as amended by *The Municipal Amendment Act, 1898*, is further amended by adding thereto the following sub-section :

4. The disqualification mentioned in sub-section (2) shall not apply to the case of any member or members of any municipal council elected for the year 1899, not already unseated or who may have already resigned ; and the judgment of any court imposing such disqualification on any member or members of any municipal council who may have been unseated shall not disqualify him or them from holding any municipal office other than that of municipal councillor nor from holding the office of municipal councillor after the expiration of the present year, 1899.

LIMITATION OF CLAIMS DAMAGES TO LANDS.

27. Section 438 of the said Act is hereby repealed and the following section is substituted therefor :

438. Every such claim, except in the cases of infants, lunatics and persons of unsound mind, shall be made within one year from the date when the real property was so entered upon, taken or used, or when the alleged damages were sustained or became known to the claimant, or, in cases of a continuance of damage, then within one year from the time when the cause of action arose or became known to the claimant. Any claim now existing of the nature aforesaid may be made within one year from the passing of this Act, but not afterwards, except in the cases of infants, lunatics or persons of unsound mind.

MUST HAVE POLICE COMMISSIONERS IN CITIES.

28. Section 481 of the said Act is amended by adding immediately before the words "in every city" in the first line thereof the following words, "notwithstanding anything in any special Act contained."

DISCRETION IN GRANTING LICENSES.

29. The said Act is amended by inserting therein the following section :

486a. The granting or refusing of a license to any person to carry on a particular trade, calling, business or occupation under any of the powers conferred upon the municipal council or Board of Police Commissioners of any municipality by this Act shall be deemed to be in the discretion of the council or board as the case may be and the council or board shall not be bound to state any reason for the granting or the refusing of any such license.

RE SETTLEMENT OF AMOUNT PAYABLE BY CITY OR TOWN FOR USE OF COURT HOUSE.

30.—(1) Section 516 of the said Act is hereby amended by adding thereto the following sub-section :

(a) Where in any city or town the court house and gaol have been erected at the expense of the county after the separation of such city or town from the county and before the 29th day of March, 1873, and such city or town has not erected separate buildings, in default of any agreement between the city or town and county the arbitrators shall, in making their award, take into account the use of the court house by the inhabitants of such city or town in common with the inhabitants of the county,

and apart from and in addition to any amount payable under this Act for the use of the said buildings by the city or town as a municipal corporation or for municipal purposes, and to the extent of the use of the said buildings by the inhabitants of the said city or town and of the county respectively or by the municipal corporation of the said city or town and the municipal corporation of the county respectively for any or all purposes jointly or severally as well connected with the general administration of justice of the entire county and city or town as for the separate use for municipal purposes by either the county or the city or town, and in estimating the amount to be paid by the city or town to the county the arbitrators shall award a proportion of the annual interest upon the cost incurred prior to the said date in the erection of such buildings, which interest shall be computed at the rate of five per centum per annum, and the amount so awarded to be paid by the city or town shall be in addition to the amount payable by such city or town under section 509 and the preceding subsections of this section.

(2) Section 512 of the said act is repealed and the following is substituted therefor :—

"512. Nothing in sections 510, 511 and 511(a) shall affect any agreement or award in force on the 1st day of July, 1897, or any action or proceeding at law pending on said date, but the said sections shall apply in case of any agreement or award thereafter made between any such county and city or separated town."

PROPERTY OF INMATES OF HOUSES OF INDUSTRY.

31. Section 524 of the said Act is amended by adding thereto the following subsection :—

(8) In case any person who is an inmate of such house of industry or house of refuge is possessed of any real or personal property and desires to transfer by way of security or by absolute conveyance such real or personal property to the municipal corporation having control of such house of industry or house of refuge as payment or compensation for his maintenance for such time as he remains an inmate therein or as may be agreed upon, such person may convey or transfer either by way of security or absolutely as aforesaid such real or personal property to the municipal corporation, and the municipal corporation may receive and hold such real or personal property for the purposes of the corporation and may dispose of the same in such manner as the council may deem proper or in case such property is only held by way of security the said corporation shall, upon the death of such person, sell and dispose of the same and apply the proceeds in payment of the actual cost of maintenance of such person in such house with interest thereon at six per cent. per annum, together with the cost of realizing on said property. The balance of such proceeds, if any, shall go to the person entitled thereto as if such conveyance had not been made or according to his direction ; but no such conveyance shall be valid unless executed in the presence of the judge of the county and unless there shall be endorsed thereon a certificate signed by such judge stating that he has examined the grantor and is satisfied that the transfer is not under the circumstances improvident and was made by the grantor voluntarily and that he understood the effect thereof and desired to make such conveyance.

HOUSES OF INDUSTRY—COMMITTAL OF INMATES BY JUSTICES OF THE PEACE TO BE APPROVED.

32.—(1) Subsection 1 of section 526 of the said Act is amended by striking out of the first line of paragraph 3 thereof the words "lewd, dissolute and"

(2) The said section is hereby further amended by adding the following subsection thereto :

(3) But before any such person is actually received into such House of Industry or Refuge the commitment shall be approved by the municipality in which such commitment takes place or by a member of the county council in writing.

FIRE LIMITS IN TOWNSHIPS.

33.—The said act is amended by inserting therein immediately after section 542 of the said act the following, as section 542a :—

542a The council of any township may by by-law set apart any unincorporated village or settlement and its immediate neighborhood in the township, and may pass by-laws applicable within the limits of the territory so set apart for any or all of the purposes mentioned in sub-section 1 of section 542 of this Act.

GUN POWDER AND EXPLOSIVES.

34. Section 542 of the said Act is amended by adding the following subsections :

17a. For limiting the quantity of gunpowder or of any other explosive substance to be kept in any place other than a powder magazine, and to regulate the manner in which such gunpowder or other explosive substance must be stored ;

17b. For regulating the establishment within the municipality of factories or other places for the manufacture or storage of gunpowder or any explosive substance, and for providing for the submission of plans of the premises in which it is proposed to carry on such manufacture or storage and their approval by the council before the business of manufacturing or storing is commenced, and for making regulations respecting the walls or fences by which such buildings are to be surrounded at a fixed height and distance, and for regulating the distance from any other building at which such manufacture or storage may be carried on ;

17c. For regulating the carrying on of the business of manufacturing or storing gunpowder or any explosive in the municipality, whether such business has been heretofore or shall be hereafter established, and for providing for the precautions to be taken for the prevention of accidents arising therefrom ;

17d. For granting licenses for carrying on the business of manufacturing or storing of gunpowder or other explosive substances in quantities of more than twenty-five pounds and for providing for the length of time, not exceeding five years, during which such licenses shall be in force, and that the renewal of the same shall be in the discretion of the council, but no license fee imposed under this section shall exceed the sum of \$25 per month for every month during which the business is carried on.

BY LAWS TO ESTABLISH GAS, ELECTRIC LIGHTING AND WATERWORKS—EXISTING COMPANIES TO BE BOUGHT OUT.

[Nine new sections added to section 566 are omitted, not being of sufficient general interest.]

NO MARKET FEES ON ARTICLES MENTIONED, AMENDING SECTION 579.

35. (1) Subsection 2 of said section is amended by adding after the word "poultry" in the second line thereof the words "honey, celery, small fruits or other articles in hand basket."

(2) In any municipality wherein the market fees have been let or sold, this section shall come into effect only after the expiration of the time for which such fees have been so sold.

LICENSING AND REGULATING JUNK AND SECOND HAND SHOPS.

36. Subsection 22 of section 583 of the said Act is repealed and the following substituted therefor :

Junk and Second-hand Shops.—By the councils of counties and separated towns and by the Board of Police Commissioners in cities.

22. For licensing and regulating junk stores or shops, and second-hand shops and dealers in second hand goods, and for revoking and cancelling the license of any person convicted of a second offence against such by-law or convicted of an offence against part 25 of *The Criminal Code, 1892.*

By the Councils of counties, cities and separated towns.

22a. For fixing the fee (not to exceed \$20.00 for one year) to be paid for every license required under by-laws passed under the preceding clause 22.

LICENSES OF MILK DEALERS AND VICTUALLING HOUSES.

37. (1) Clauses 23 and 35 of section 583 of the said Act are amended by adding at the end of such paragraphs respectively the words :

"And for revoking any license so granted whenever the council or board deems such revocation desirable without stating any reason therefor, but in the case of the revocation of a license under any such by-law, the treasurer of the municipality shall refund to the licensee such proportionate part of the license fee as will represent the unexpired portion of the term for which the license was granted."

MUNICIPAL GRANTS TO LIVE STOCK SHOWS.

38 Subsection 1 of section 591 of the said Act is amended by adding at the end thereof the following words : "or in aid of any association formed for the holding of a fat stock or live stock show or exhibition or any exhibition for the promotion or improvement of farming in any of its branches or departments."

NOTICE OF ACCIDENT ON ROAD MAINTAINED BY TWO OR MORE MUNICIPALITIES.

39. Section 606 of the said Act is amended by adding the following as subsection 4 :

(4) Where the claim for damages is against two or more municipalities jointly responsible for the repair of the road, street, bridge or highway, no action shall be brought to enforce such claim under this section unless the notice to each of the municipalities jointly liable has been served or mailed as provided in subsection 3 within the period or periods therein mentioned.

SALE OF ROAD LEADING TO RIVER OR LAKE.

40. Clause (a) of subsection 11 of section 640 of the said Act is amended by inserting immediately after the word "along" in the second line of said clause (a) the words "or leading to."

MAINTENANCE OF LOCAL IMPROVEMENT WORKS.

41. The following clause is hereby added to section 666 of the said Act :

And any ratepayer whose property adjoins, and who has been assessed for the said works or improvements, may, on giving one month's notice to the said municipality that the said works or improvements are not in such good and sufficient state of repair, apply by a summary proceeding to a Judge of the High Court of Justice, or to a County Judge having jurisdiction in such municipality, for an order respecting the keeping of the said works or improvements in such a state of repair as may be reasonable and proper and as is hereinbefore required.

NAMES ON PETITION FOR LOCAL IMPROVEMENTS.

42.—(1) Subsection 1 of section 668 of the said Act is amended by adding at the end thereof the following words : "and after such final determination no name shall be removed from such petition without the consent of the Judge of the County Court."

(2) Subsection 3 of section 669 of the said Act is amended by adding at the end thereof the following words : "and after such final determination no name shall be removed from the petition unless by the consent of the Judge of the County Court."

CORPORATIONS SHARE PERMANENT SIDEWALKS.

43. Section 678 of the said Act is amended by inserting therein the following as subsection 2a thereof :

(2a) The council of the corporation may provide from the general funds of the municipality or raise by way of loan upon debentures of the municipality such larger or smaller proportion than 40 per cent. as they may deem expedient of the cost of construction of granolithic, stone, asphalt, cement or brick sidewalks upon any streets of the city or town on an affirmative vote of three fourths of the members of the council and the provisions in this section contained shall apply to the proportions or percentages of the contributions to be paid by the city corporations and the owners of the property benefited respectively, such percentages being substituted for the terms forty per cent. and

sixty per cent. respectively in any by-laws to be passed or debentures to be issued or proceedings taken relating to such sidewalks or to the payment therefor.

AID TO STREET RAILWAYS.

44.—(1) Sub-section 1 of section 699 of the said Act is repealed, and the following is substituted therefor :

"One-fourth in number of the persons shown by the last revised assessment roll to be the owners of real property comprised in a township, city, town or village, or any portion of any such municipality to be defined in the petition hereinafter referred to, and who according to such assessment roll represent at least one-third of the value of such property, may petition the council to aid any street railway company by granting money or debentures by way of bonus or gift or by way of loan to such company to assist in the construction of the railway to, through or partly through or near to such municipality or portion thereof, and may in such petition define the manner and amount of the aid desired."

(2) Subsection 2 of the said section 699 is amended by striking out the words "portion of the municipality" wherever they occur in the section and substituting therefor in each case the words "municipality or portion thereof."

BORROWING LIMIT—SECTION 435.

45. Subsection 2 of section 16 of *The Municipal Amendment Act, 1898*, is repealed and the following substituted therefor :—

2. In the case of a town, township or village, any portion of which is situate within two miles of a city containing more than 100,000 inhabitants, the amount so borrowed and outstanding shall not exceed eighty per cent. of the taxes levied in the preceding municipal year.

NEW SECTIONS.

AID TO FERRIES.

46. The council of any township, town or village may pass by-laws for making an annual grant not exceeding \$100 towards the maintenance of a ferry over any navigable water separating a part of such municipality from the remainder thereof, or separating such municipality from any other municipality in the Province of Ontario.

LICENSE FUND FOR POLICE VILLAGES.

47. The council of any township in which a police village or part of the territory comprising a street village is situated, may by by-law provide that the whole or any part of the sums collected and received by the township for licenses issued for premises situated in the police villages or penalties imposed for offences committed in the police village under *The Liquor License Act*, shall be placed to the credit of the police village in the books of the township treasurer and be available for the purposes of the said village.

CONSTABLE FOR POLICE VILLAGE.

48.—(1) The police trustees of any police village may appoint a constable, who shall have the same powers and shall perform the same duties within the police village as a constable appointed by the council of an incorporated village.

(2) Every constable so appointed shall be paid by the township treasurer out of the funds at the credit of the police village such salary or other remuneration as the police trustees shall order in writing.

TOWNSHIP BY-LAWS FOR POLICE VILLAGES.

49.—(1) The municipal council of any township in which a police village or any part thereof is situate shall at the request of the police trustees pass by-laws applicable only within the police village or such part thereof as may be situate in the township for any of the purposes mentioned in section 546 or in paragraphs 4, 5, 8, 9, 28, and 29 of section 583 of *The Municipal Act*, and thereafter no general by-law of the township for any of the said purposes shall apply or be in force in the police village.

(2) All sums collected for license fees or for

penalties under any by-laws passed under the preceding subsection shall be paid over to the township treasurer and be by him placed to the credit of the police village and supplied to the purposes thereof.

WITHDRAWAL OF TOWNSHIP FROM UNION.

50. Subsection 2 of section 1 of chapter 225, of the Revised Statutes of Ontario, 1897, is amended by adding after the word "persons" in the seventh line thereof the following words :—

"And any township heretofore incorporated in any such union municipality having a population of less than fifty persons may, upon the petition to the Lieutenant-Governor in Council of any ratepayers or persons owning lands in said township, be withdrawn from said union municipality upon such terms as the Lieutenant-Governor in Council may direct, and the said union or organization of municipalities may be dissolved or the limits thereof specified if the Lieutenant-Governor in Council deems it expedient."

51.—Changing the name of a township and a lake.

52. Subsection (3) of section 4 of *The Act respecting the Slaughtering of Cattle and the Inspection of Milk and Meat Supplies of Cities and Towns* is repealed and the following substituted therefor :—

(3) This section shall not come into operation and no proceedings thereunder shall be taken until the close of the next session of the Legislature.

The Assessment Amendment Act, 1899.

EXEMPT FROM TAXATION.

1. Subsection 16 of section 7 of the said *The Assessment Act* is hereby amended by adding thereto the following words ; "and also all farming implements and vehicles, and all hay, grain and other farm products being the property of said owner or tenant and on the premises owned or occupied by him"

ASSESSMENT ROLL IN LARGE CITIES.

2. Section 13 of the said Act is amended by adding at the end thereof the following subsection :

(8) In case of a city having a population of 100,000 or more, the form of the assessment roll may be varied so as to shew in column two the name of the occupant, if any, and if no occupant, then by inserting the words "vacant lot"; and in column six, the name and address of the owner or lessee, if such lessee holds a ground lease extending over twenty-one or more years, and by shewing by the letters O and L the fact of whether the person named in such column is the owner or lessee as aforesaid, instead of the form in this section set out.

15TH DECEMBER DATE FOR JUDGE'S DECISION ON APPEAL FROM COURT OF REVISION WHEN ASSESSMENT MADE BETWEEN 1ST JULY AND 30TH SEPTEMBER.

3. Subsection 1 of section 58 of the said Act is amended by striking out the figures "31st" in the twelfth line thereof and substituting in lieu thereof the figures "15th."

PAYMENT OF TAXES.

4. Section 60 of the said Act is hereby repealed and the following section substituted therefor :

60. (1) In cities, towns, townships or villages, the Council may by by law require the payment of taxes, including local improvement assessments, sewer rents and rates, and of other rents or rates payable as taxes, to be made into the office of the treasurer or collector by any day or days to be named therein, in bulk or by instalments, and may provide that on the punctual payment of any instalment the time for payment of the remaining instalment or instalments shall be extended to a day or days to be named, or may provide that in default of payment of any instalment by the day named for payment thereof, the subsequent instalment or instalments shall forthwith become payable.

(2) The Council may also by by-law allow a discount for the payment of such taxes or any class, or of any instalment thereof on or before a day or days therein named, and may impose an additional percentage charge for non-payment of such taxes or any class of taxes or of any instalment thereof by a day or days named in such by-law, provided that no greater percentage charge than five per cent. shall be imposed on any instalment of taxes or on the aggregate amount of taxes; and such additional percentage charge shall be added to such unpaid tax or assessment rent or rate of instalment thereof and shall be collected by the collector or otherwise, as if the same had been originally imposed and formed part of such unpaid tax or assessment, rent or rate, or instalment thereof.

(3) Such discount or additional charge may by the by-law be provided for on the basis of a sliding scale corresponding with the length of time default is made but so as not in the aggregate percentage to exceed five per cent. as aforesaid.

(4) In case a by-law shall be passed providing for payment by instalments or allowing any such discount, or imposing any such additional percentage charge, a notice shall be given in accordance with section 134 of this Act on which shall be written or printed a concise statement of the time and manner of payment and of the discount allowed or percentage charge imposed, if any, and at any time within fourteen days after such notice shall first have been given, in accordance with section 134 of this Act, any person may take advantage of the provisions of such By-law as to payment by instalments or with the discount allowed thereby, or without the additional percentage charge imposed thereby, as the case may be.

RE PROCEDURE ASSESSMENT APPEALS.

5. Subsection 20 of section 71 of the said Act is amended by inserting after the word "Court" in the third line thereof the words "or the county judges hearing an appeal under section 84 of this Act or the court of appeal."

APPEALS FROM COURT OF REVISION.

6. Subsection 1 of section 75 of the said Act is repealed and the following substituted therefor:

(1) An appeal to the county judge shall lie at the instance of the municipal corporation or at the instance of the assessor, or assessment commissioner, or at the instance of any ratepayer of the municipality, not only against a decision of the court of revision on an appeal to the said court but also against the omission, neglect or refusal of the said court to hear or decide an appeal.

COUNTY CLERK'S COPY OF ASSESSMENT ROLL.

7. The said Act is further amended by inserting therein the following section:—

(33a) Notwithstanding anything in the preceding section contained it shall be lawful for the council of any county to pass a by-law permitting the clerks of the local municipalities instead of transmitting a copy of the roll to transmit a summarized statement of the contents of the roll, showing the total population of the municipality and the total assessment of each of the various classes of property liable to assessment, but the clerk of every local municipality shall, nevertheless, transmit a copy of the roll to the clerk of the county in every third year and whenever in other years he may be required so to do by the county judge or by resolution of the county council.

The penalty for default in performance of the duties under this section or under such by-law upon the clerk of a local municipality shall be the same as in the preceding section.

TENANT FARMER'S SON NOT EXEMPT FROM STATUTE LABOR.

8. Subsection 2 of section 106 of the said Act is hereby repealed.

DATE FOR RETURN OF STATUTE LABOR DEFAULTERS.

9. Subsection 1 of section 110 of the said Act is amended by striking out the words

"15th day of November" in the sixth and seventh lines of the said subsection and inserting in lieu thereof the words "15 day of August."

DISTRESS FOR TAXES.

10.—(1) Section 135 of the said Act is amended by inserting the following proviso after subsection 1 thereof: "Provided, however, that in cities and towns and any other local municipalities having power to sell lands for the non-payment of taxes no distress for taxes upon each parcel of vacant property shall be made upon the goods or chattels of the owner in any part of the county other than upon such property, and this provision shall be retroactive so as to apply to the returns for arrears of taxes for the years 1896 and 1897."

(2) Section 148 of the said Act is amended by adding the following proviso thereto: "Provided that in cities and towns and any other local municipalities having power to sell lands for non-payment of taxes the collector of taxes may qualify the oath to be made by him by shewing that, in respect of vacant land, he has not attempted to distrain upon the goods and chattels of the owner in any other part of the county, than upon such vacant land."

11. The said Act is amended by inserting the following section after section 135:

135a.—(1) Subject to the provisions of section 60 of this Act in case a person assessed in respect of personal estate or personal property neglects to pay the taxes for fourteen days, after demand or after notice served pursuant to a by-law aforesaid, or in the case of cities or towns after demand and notice as aforesaid, the collector may by himself or his agent (subject to the exemptions provided for in subsection 2 of this section) levy the same with costs by distress,

1. Upon the goods and chattels of the person assessed wherever found within the county in which the local municipality lies for judicial purposes;

2. Upon the interest of the person assessed in any goods to the possession of which he is entitled under a contract for purchase, or a contract by which he may or is to become the owner thereof upon performance of any condition;

3. Upon any goods and chattels in the possession of the person assessed where title to the same is claimed in any of the ways defined by sub clauses a, b, c, and d, of section 135 and in applying said sub-clauses they shall be read with the words "owner of" and the words "on the premises" omitted therefrom.

(2) Subsections 2 to 8 of the said section 135 shall apply to good and chattels liable to distress under this section and to proceedings taken under this section.

(3) Subsection 2 of said section 155 is amended by inserting the words "or lands built upon" after the word "lands" in the seventh line thereof.

(4) Subsection 3 of the said section 155 is amended by inserting the words "or lands built upon" after the word "lands" in the third line thereof.

(5) Section 156 of the said Act is amended by inserting the words "or lands built upon" after the word "lands" in the second line thereof.

(6) Section 158 of the said Act is amended by inserting the words "or upon lands built upon" after the word "non-resident" in the third and fourth line thereof.

OCCUPIED RETURNS TO SHOW LANDS BUILT UPON.

12.—(1) Section 153 of the said Act is amended by inserting the words "or built upon" after the word "occupied" in the eighth line thereof; by inserting the words "or otherwise" after the word "notices" in the eleventh line thereof, and also by inserting the words "or built upon after the word "occupied" in the thirteenth and fourteenth line thereof.

(2) Subsection 1 of section 155 of the said Act is amended by inserting the words "or is built upon" after the word "year" in the fifth line thereof, and by inserting the words "or built upon" after the word "occupied" in the eighth line thereof.

RECEIPT FOR ARREARS OF TAXES—SALE FOR ALL ARREARS.

13. (1) Section 162 of the said Act is amended by adding the following subsection thereto: (1) The treasurer of any city, town or other local municipality having power to sell lands for non-payment of taxes may receive payment from time to time on account of the taxes returned to him as in arrear upon any parcel of land, or upon taxes due on personal property, but no such payments shall be received after he has advertised such lands for sale for arrears of taxes.

(2) Section 173 of the said Act is amended by adding the following subsection thereto:

(3) In cities and towns and any other local municipalities having power to sell lands for non-payment of taxes the treasurer may add to the taxes shewn in the lists of lands liable to be sold for taxes any taxes which have fallen due since those shewn in the lists furnished by the treasurer to the clerk under section 152 hereof, and which last mentioned taxes have been returned by the collector to him, as provided in section 147 hereof, and thereafter he shall be at liberty to proceed to sell the said lands, as if such last mentioned taxes had been included in the statement furnished by him to the clerk, under section 152 hereof.

RECEIPTS FOR ARREARS OF TAXES.

14. Section 225 of the said Act is amended by striking out the words "city and town" in the first line thereof and the words "city or town" where they occur in the fifth and eighth lines respectively and by adding at the end thereof the following words "and in cities, towns and other local municipalities having power to sell lands for non-payment of taxes, the treasurer thereof shall keep a duplicate blank receipt book, and on receipt of any sum of money for taxes on land, shall deliver to the person making the payment one of such receipts, retaining the second of the set in the book, and the auditors shall examine and audit said books and accounts at least once in every year."

DEBENTURE ISSUE ON CREDIT OF ARREARS.

15. The said Act is amended by adding the following section thereto:

226a(1) The council of any city, town or other local municipality having power to sell lands for non-payment of taxes, may from time to time, without the assent of the ratepayers by by-law, authorize the mayor or other head of the municipality to issue, under the corporate seal, upon the credit of the taxes in arrear in such city, town, or other such municipality debentures payable not later than eight years after the date thereof, and for sums not less than \$100 each, so that the whole of the debentures at any time issued and unpaid do not exceed one-half of all arrears then due and owing upon the lands in the city, town or other such municipality, together with the moneys standing to the credit of the Special Fund as hereinafter provided.

(2) Such debentures shall be negotiated by the mayor or other head of the municipality and treasurer and all moneys received in payment of the taxes upon the security of which such debentures are issued shall be set apart as a Special Fund out of which to pay the debentures and interest thereon.

(3) If at any time there is not to the credit of such Special Fund sufficient money to redeem the debentures due and accrued interest, such debentures and interest shall be payable out of the general funds of the city, town or other such municipality as aforesaid and the payment thereof may be enforced in the same manner as is by law provided in the case of other debentures.

16. The provisions of subsection 2 of section 42 of *The Act respecting the Establishment of Municipal Institutions in the Territorial Districts* shall apply to every municipality composed of one or more townships in the districts named in the said Act, and incorporated under any special Act, as well as to municipalities formed under the said general Act.

17. This Act shall be read with and as part of *The Assessment Act* and shall come into force on the first day of May, 1899.

The Drainage Amendment Act, 1899.

OWNER.

1. Section 3 of *The Ditches and Watercourses Act* is amended by striking out all the words in the paragraph commencing with the word "owner," and substituting therefor the following:—

"An owner shall mean and include the owner or possessor of any real or substantial interest in lands whether held in fee simple, fee tail for one or more life or lives or for a term of years not less than ten, a lessee for a term of not less than five years with an option to purchase, the executor or executors of an owner, the guardian of an infant owner, any person entitled to sell and convey the land, an agent under a general power of attorney authorizing the appointee to manage and lease the lands, and a municipal corporation as regards any highways or other lands under its jurisdiction."

2. The said act shall apply to the drainage amongst other lands of lands for mining or manufacturing purposes so as to enable the owner thereof to take proceedings thereunder, but in such case the engineer in default of agreement shall determine whether the lands of other owners through which the ditch or drain may pass shall be called upon to contribute to the construction of the drain and whether and to what extent the same may require drainage or will be benefited thereby. In the event of his finding that the lands of such other owners do not require drainage and that the said ditch or drain will not substantially benefit the same he shall determine what compensation the owner of the lands used for mining or manufacturing purposes shall make for any injury caused to such other owners by reason of the ditch or drain passing through their lands, but if such lands will be substantially benefited by such drainage then he shall determine the extent of such benefit and shall deduct the same from the amount of compensation so to be made, or shall take the proceedings provided for by subsection (2) of section 16 of said Act as the case may require.

(2) Nothing in this section contained shall affect any litigation pending at the time of passing thereof.

LIMITING TIME FOR ENGINEER TO LET WORK.

3. Subsection 1 of section 28 of *The Ditches and Watercourses Act* is amended by inserting therein after the word "ditch" in the second line, the words "or at any time not later than six months after the time fixed for the completion of the ditch."

APPORTIONMENT DRAINAGE RATE—LOTS SUB-DIVIDED.

4. *The Municipal Drainage Act* is amended by inserting therein the following section as section 6a.

6a. Where part of a whole lot or of a sub-division or portion of a lot assessed by the engineer has been sold since the final revision of the assessment, the owner of the part so sold and the owner of the

remaining portion of the lot or sub-division or portion of a lot so assessed or either of them may give notice to the clerk of the municipality that he requires the said assessment to be apportioned between the owners of the property so assessed and sub-divided, and the township engineer shall thereupon make such apportionment in writing and the same shall be filed with the clerk and shall be by him attached to the original assessment, and shall be binding on the lands assessed in the manner apportioned by the said engineer, and the rate shall thereafter be levied and collected accordingly. The costs of the engineer shall be borne and paid by the parties in the manner which may be fixed or apportioned by such engineer.

CLERK'S NOTICE TO PARTIES.

5. Sub-section 7 of section 9 of *The Municipal Drainage Act* is repealed, and the following substituted therefor:

7. Forthwith upon the filing of the engineer's report with the clerk of the municipality, the clerk shall, by letter or postal card, notify the parties assessed of such assessment and the amount thereof. In case more than one municipality is interested in the proposed work, the clerk of such other municipality or municipalities shall forthwith, upon the filing of a copy of the engineer's report in their office, notify the parties assessed of such assessment and the amount thereof.

ENGINEER'S REPORT.

6. Section 9 of *The Municipal Drainage Act* is amended by adding thereto the following subsection:

8. The report of the engineer shall be filed within six months after the filing of the petition; provided that upon the application of the engineer the time for filing the report may be extended from time to time for additional periods of six months, when the council is satisfied that owing to the nature of the work it was impracticable for the report of the engineer to be completed within the time limited by law.

9. In case the engineer neglects to make his report within the time limited by the preceding subsection, or within the time fixed by the council under the said subsection, he shall forfeit all claim for compensation for the work done by him upon the drain, and the council may employ some other engineer to make the examination, report and assessment required by the preceding section.

DECLARATION OF OWNERSHIP CONCLUSIVE.

7. Where a declaration of ownership has been filed under the provisions of *The Ditches and Watercourses Act*, such declaration shall be conclusive as conferring jurisdiction to proceed unless appealed against to the county judge under the provisions of the said Act, but this amendment shall not effect any pending litigation nor shall it be regarded as implying that the proper construction of the said statute was or is otherwise than as herein in this section declared.

Miscellaneous Amendments.

The Act to amend the Statute law contains a miscellaneous collection of amendments. The following sections are of municipal interest.

NEWSPAPER PROPRIETORS AS COUNCILORS.

22. No person shall be disqualified from being elected a member of the council of any municipal corporation or from being elected a member of any public school, separate school or high school board, or from sitting and voting in such council or board by reason only of his being proprietor of or otherwise interested in a newspaper or other periodical publication in which from time to time official advertisements are inserted by the council or board which appear in other newspapers or publications in the municipality or school district, or which is subscribed for by the council or board or by any of the departments or offices of the municipality or school district, although such advertisements or subscriptions are paid for at the usual rate out of the moneys of the municipal corporation or school board, but this shall not apply to any person who has entered into an agreement or contract with a municipal corporation or school board, to do at a specified rate all or the greater part of the printing required by such corporation or board during the term of such agreement or contract, but such member of council or school board shall not be entitled to vote where his own account is in question.

APPORTIONMENT OF SCHOOL MONEYS TO TOWNSHIP COUNCILS.

29. The municipal corporation of every township shall have power to apportion by by-law, among the public school sections in the township, the principal or interest of any investments held by the corporation for public school purposes according to the salaries paid the teachers engaged by the respective school sections during the past year, or according to the average attendance of pupils at each school section during the same period, as may be deemed expedient.

Heretofore the basis of apportionment appears to have been optional with the council. The Legislature has done well to provide for the distribution of these funds on the same basis as other school grants are distributed.

The Registry Act has been amended in reference to the registration of plans where land is subdivided, and the registration of lots in unincorporated villages situated in more than one township.

COUNTY COUNCILLORS TO RECEIVE VOTERS' LISTS.

An amendment to section 8 of the Voter's List Act provides that members of the county councils are to receive two copies of the voters' list for each municipality situated in the division they represent. Clerks should make a note of this in their voters' list book.

ENGINEERING DEPARTMENT.

A. W. CAMPBELL,

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

Lagging Behind.

Street and road improvement have been receiving much attention throughout Ontario for the past three years. Municipalities which continue to neglect this important branch of public work are fated, in a very short time, to make the unwelcome discovery that they are lagging far behind other towns and townships in the one public work which, more than any other, is indicative of the progress, intelligence, and refinement of the people.

Where no roads exist there is barbarity. Where the best roads and pavements are to be found, as in England, there is the highest stage of civilization and commercial prosperity of the people. Roads are not merely the results of progress, but they are its most valuable ally.

When, in Ontario, roads break up in the fall and spring, the county trade practically ceases. At these seasons of the year the market for farm produce has an upward tendency, but because of the condition of the road the farmer is unable to profit by the better prices. He is isolated from his neighbors, reaches the town with difficulty after a cold and disagreeable drive, is cut off from the church, the school, the public meeting and the post-office.

The result of this isolation and the lessened profits of farming, is that farm lands are in comparatively little demand. Farming is proving unattractive to the rising generation and the boys and girls are leaving the farm to crowd the professions and trades. On the other hand, those who have driven through a prosperous agricultural section over roads which are well built and good at all seasons, know in a way which words cannot express, the different aspect which the country wears.

But plowing along the highway, the buggy axle deep in mud, now jolted into a rut, now sinking into a slough of soft clay, constantly twisting and turning from one side of the road to the other to find a solid bearing—the richest and most fertile country looks mean and unattractive in consequence. Ontario is largely dependent upon agriculture for its wealth, and when agriculture is so handicapped by bad roads, the towns must inevitably suffer.

The improvement of town streets, while not so needful commercially, is certainly essential to the comfort and self respect of the people. The citizens of most towns have done much to beautify their private property, but so long as the road in front is rough, shapeless, or a canal of mud, a handsome house and well kept lawn shares largely the disgrace. The streets are the public lawns, and so long as they are neglected, so long must they continue to speak poverty and shiftlessness for the town.

Rural Sanitation.

Much is written concerning the construction of elaborate systems of water-works and the purification of the water thus obtained. Nevertheless the great majority of the people of Ontario will continue for some years to come, to obtain water for drinking purposes from the time-honored pump; for other domestic purposes the cistern furnishes the soft water.

From whatever source obtained, and by whatever means, the purity of the water supply cannot be too carefully guarded. Because so little is said regarding the purification of water derived from "the old oaken bucket," it is not to be inferred that it is a safe source of supply.

Statistics show that about four times as much typhoid fever prevails in the rural districts as in the average Canadian city. Now typhoid is pre-eminently a disease communicated in the water we drink, and that it is proportionately so common in the farming districts, smaller villages, and towns, is decidedly detrimental to the reputation of the pump as a source of the water used for drinking. The "old oaken bucket," by those who have made a careful study of the matter, is regarded as one of the most frequent causes of typhoid fever.

Natural waters are never free from foreign matters, whether gaseous, liquid or solid, varying according to the source from which the waters have been derived. Water containing an excess of calcium or magnesium salts is said to be "hard." A very hard water, while not for this reason productive of typhoid, is impure for drinking purposes, inasmuch as its power as a food solvent is impaired, and because it is absorbed by the stomach with greater difficulty than soft water, thus causing indigestion and dyspepsia. A good drinking water should not contain, per gallon, more than 15 grains of calcium carbonate or its equivalent of other salts.

The excessive hardness of water is an impurity which cannot often be sufficiently reduced. There are, however, certain other sources of contamination which should in every case be avoided. The well should not be so located with respect to a barnyard, cesspool, or other deposit of filth, that the water can in any way be tainted.

It need not be merely surface water which reaches the sides of the well and passes down through the covering. But the underground current supplying the well may be rendered impure one hundred yards or more away, and the filtration which the water receives before reaching the well may be insufficient to remove the impurity.

Wells should be carefully cleaned, nor should the water from them pass through decayed and rotted pumps, buckets or troughs before use. Iron pumps are the greatest safeguard in this respect. The top, too, should be completely closed to prevent the entrance of frogs, toads or

other vermin, or the washings which accumulate on the cover. An artesian well is, beyond doubt, the most secure from surface contamination of this latter sort.

An immense improvement could be made in many cases by placing in the bottom of some wells now in use, a good-sized concrete tile, this to be reached by the foot of the iron pump, the tile securely covered, and the well then filled in. This is the most effective means of preventing the entrance of vermin, the dead and putrid bodies of which are to-day contentedly floating in many a well, the unsuspecting owners as contentedly drinking the water.

In other ways than the impurity of drinking water, the farm-house is far from being as healthful a place of residence as it should be. The disposal of refuse, perfect cleanliness with regard to the house surroundings, is neglected to too great an extent. In the cities the sanitary inspector and the police exercise a most beneficial influence upon the slothful in respect to spring cleaning, or cleaning at other seasons of the year if need be. The farmer's back yard, and his stable yard, and the back yards of the villages and towns are in the greatest need of some such oversight. What with sewers, carefully watched water supplies, and attention to other matters of cleanliness, the city is able to compete on a good footing with the country in the production of health and good physique.

And Still They are Bad.

A road is so common, and our fathers, and our fathers' fathers, have been so long and so freely dealing with them in conclave and in council, with scoop, and with shovel that the opinion has become general that any school boy can build a road or knows how to do so. Familiarity has perhaps bred contempt. The question of road reform is, therefore, one to be settled in an evening.

In spite of the "settled" belief there are few so valorous as to deny the deplorable condition of our country roads, and the more than deplorable state of our town streets, for in defiance of the wisdom which town and township councils have metted out to them, the roads persist in remaining bad.

Apparently ingratitude is a fault not confined to the heart alone. With the exception of a period in summer (when even a dirt wagon track, innocent of statute labor, is smooth and hard,) the country roads and the majority of town streets are as much mud and ruts as though labor and wisdom had not been thus lavished upon them. This is, the real benefit of the gravel and broken stone, and much of the grading, returns to us for only short periods in spring and fall. During the intermediate periods of bad roads, the "macadamized" roads such as are built in this country, are little better than the dirt roads which have received little attention or outlay.

A County System.

If taxation in Ontario is already as high as the people can well afford, the only way to improve our roads is to improve the methods and systems of building and preserving them. If no greater outlay can be made, the only means is to exercise greater care and skill in making that outlay.

Among the steps which suggest themselves is the adoption of a county roads system, under which the leading roads of a county are taken over, constructed, and maintained out of the county funds. That such a course will, in every case, materially improve the condition of the roads throughout the province there can be little doubt. Of this we have the best example in the county of Hastings--an example which, at present, it would appear is to be followed by others.

It is forty years since a "good roads" agitation was first commenced in the county of Hastings. The first result was the building of company or toll roads. Toll roads have, in every instance, proved distasteful to the people; and within a few years a scheme was involved in Hastings to buy out the toll roads and have the county assume control of the leading highways. It first met with overwhelming defeat, but later on was again advanced and carried. The result was that the toll roads were wiped out, and for the last quarter of a century the good roads of that county have been as free as air. The first difficulty met with was the forming of a proper system to keep the roads in repair; various plans were tried and found unsatisfactory, because each required an army of officials and pathmasters to oversee the work. Finally a plan was advanced, whereby the county council appointed a Roads Committee. This committee selected a capable superintendent, foreman, and a staff of men, and wherever a section of roadway required repairs it was inspected by the superintendent, when the foreman and men received proper instructions and were sent to the spot with a camping outfit.

The plan was at first strenuously opposed, but after a year's trial, it proved so satisfactory and economical that it was continued, with the result that the work is now done at half the former cost, and the roads are becoming better every year, owing to the careful supervision exercised.

In all, including toll roads and other leading roads, there were at first taken over 200 miles of county road, but there have been since taken over 200 miles additional, making in all, 400 miles of county road, and this mileage is being constantly increased.

The statute labor of the township is directed to the improvement of the side roads, under capable pathmasters. As a result the entire road system of the County of Hastings has reached a state of unusual excellence. While the county expenditure for roads has increased the

township expenditure has decreased, with the result that vastly better roads are produced with no greater expenditure than under a system of township control alone.

Commence Work Now.

The season of the year has come when township councils should be considering the details in connection with the improvement of the roads within their respective municipalities. Road graders should be in operation in order that this work may be completed while the ground is moist and easily handled, for if left until later in the season, when the earth is baked with the heat of the sun, the results will be very much less satisfactory in every way, the work being both less perfect and more difficult to perform. Grading should all be done before the time of statute labor in order that the statute labor can be utilized as far as possible in drawing gravel or broken stone, with which to harden the graded roadway. Experience has everywhere shown that statute labor will yield its best returns when utilized solely for teaming.

Drainage too, is a matter which should be attended to before the time of statute labor, as also the building and repairing of culverts, in order that the placing of the road metal may not be impeded. Prior to the time of statute labor gravel pits should be opened and stripped of any earthy covering. Not only does the removal of this earth by statute labor generally imply a waste of this labor, but through it also arises the use of poor material. Road labor is a work which few will conscientiously perform to the best of their ability, and to get through it with the least possible exertion is the sole aim of many. Earthy gravel is more easily handled than good clean metal, and the unscrupulous will invariably choose the dirt and earth which covers, or is scattered throughout the pit, rather than the metal which is of greatest benefit to the road. In many cases the screening of gravel is advisable before placing on the road, and this also councils should perform in anticipation of statute labor.

By taking all such steps as will secure the hauling of the best available road material, the best of economy will invariably be practiced.

The most capable citizens should be appointed pathmasters, and they should be furnished with suitable instructions as to the best method of performing their work. Wherever in past years men have shown their fitness for the office of pathmaster they should invariably be re-appointed and the old theory disregarded that the office must be handed around from one to another year after year.

The construction of roads in the best and most durable manner is one of the most important public works which this country has to perform, and that in carrying it out, it is sub-divided among the various municipal councils is no indica-

tion that its importance is in any degree less than the construction of railways and canals. The total outlay is as great, and the effects upon the social, intellectual, and commercial affairs of a country are far from being surpassed by the benefits which are undoubtedly derived from railways and canals.

Special Knowledge is Needed.

The belief has become general that the building of a road consists of stirring up the surface along its length by a process called grading, and then covering a streak of it with broken stones or gravel, and no special knowledge or skill are required to do this. It would be as reasonable to expect to get a good time-piece by buying a watch-case and putting some wheels in it as to obtain any reasonable return for money thus expended in road building.

If the moneys now wasted could be expended under honest, competent supervision, a very few years would show such betterments in the condition of our country highways that any additional funds necessary for further improvement would be forthcoming without a murmur.

The first essential towards betterment must be to convince people that knowledge and skill are necessary in road-making. Neither lawyers, merchants, farmers, nor engineers can successfully direct such work until after they have acquired a knowledge of the principles which should govern it, and by experience have learned how to apply them.

The statutes pertaining to roadmaking assume that no training or skill is required to qualify a person to direct the work. That fallacy must be corrected before any essential saving can be effected from the funds now being wasted.

If a person skilled in the construction and maintenance of roads and streets, and in the organization and direction of forces in executing public works, were to equip and efficiently employ in each county such a force as, with the necessary materials to be used, would equal in cost each year the amounts levied and collected in labor and money in that county for the improvement and maintenance of roads, ten years would not elapse until every highway in each county would have received all the improvement necessary to make it at all times passable and suited to the traffic which it would be required to carry. There might be exceptions, but as a rule this statement would be true.

The very muddiness of the subject is a disgrace to the country, the loss and waste is sufficient to pension all the politicians in the land, but betterment can only come when the folly of submitting to existing conditions is apprehended by a majority of the people.

During the late Spanish scare on the New England coast, a bold sportsman who was putting out from shore was asked what he would do if he met a Spanish battleship while fishing. "Do?" he replied; "pull up my line and sink'er!"

Municipal Ownership.

Around the question of private versus public ownership of municipal franchises there has hung for some years, a great deal of heated and frequently bitter discussion.

In opposition to the public ownership of municipal services, such as waterworks, electric lighting, etc., there is frequently raised the objection that they create an undue interference with private enterprise and investment. It will appear reasonable to the majority, we believe, that all this is simply a matter of degree, and that there is a certain place where private ownership may properly end and public ownership commence.

As to just where this line should be drawn there is room for argument. There are certain industries essential to the convenience of the public which are essentially monopolies in order to their most economical operation. Two electric light companies cannot operate in one town with the same degree of economy as one. The same is true of waterworks, gas and electric railway companies. The expenses of operation are almost doubled in the case of two companies whereas the income of each can only be derived from one-half the territory, and the profits are either greatly reduced or else the cost of these services to the individual citizen must be much increased.

Wherever there is a monopoly of this description, which cannot, with profit to the consumer, be regulated by competition, there appears to be every reason why the municipal corporation should retain complete control.

It is further objected to municipal ownership that the business cannot be, or is not, so economically conducted as when under private ownership. It is charged that there is less incentive to careful oversight and strict economy when under the charge of a municipal council or commission.

On the other hand these monopolies, if they are not retained by the municipal corporation, to be solely operated by that body, are disposed of as franchises to private companies or individuals. These franchises have great value, and to obtain the most extensive powers and privileges is the aim of every company asking for them. So great is the value of these franchises that private companies and individuals can afford to offer large bribes to municipal councils and officials, and can undertake the most widespread means of corruption in order to obtain the desired end. While there are such valuable privileges to dispose of, and while there is so much possibility of personal gain, it is evident that the office of councillor and alderman is a position which will be sought after by men whose sole object is the personal gain attached.

Under public control on the other hand the expenses of operation are an annual matter, and of comparatively small amount, and subject to the closest scru-

tiny and inspection on the part of the citizens. While there is some possibility of favoritism, under a system of public control, in the disposition of tenders, in the matter of appointments and other minor details, there is nevertheless far from being the same incentive to dishonest management as is found in the disposal of extensive and valuable franchises to private companies.

Municipal ownership where it has been most freely applied, as in Glasgow, Scotland, and Birmingham, England, is found to elevate the character of municipal politics. The disposal of these privileges to private companies takes away from the council the major portion of its power, and largely reduces the incentive otherwise attached to seeking of municipal honors. Wherever there is the greatest opportunity for personal gain there will gather together those whose aims are solely of a selfish end. Wherever these possibilities are reduced to the greatest degree and in their place comes an opportunity to render good public service without the stigma of selfishness attached, municipal politics will become greatly purified. When personal ends can be no longer served, the professional politician will turn his energies towards some other source of income than municipal politics, and public spirited citizens will then find room at the municipal board, from which they are debarred to-day by the influence of the ward heeler.

The importance of municipal ownership, of the need of purifying municipal politics is not yet by any means felt so strongly in Ontario as it is likely to become in the near future, when population increases and the opportunities for extensive "deals" arise. Nevertheless, it is even already but too frequently charged that the best citizens of certain of our cities will not seek election to the municipal councils, not merely because of the unpleasant associations, but because of almost certain defeat.

While it is impossible to obviate entirely all opportunities for the improper disposal of public moneys, nevertheless it is found that opportunities are reduced to their minimum under municipal ownership, rather than by the sale of public franchises, and the feeling to-day throughout the continent, particularly in the larger Canadian and American cities, is rapidly becoming more favorable towards systems of public rather than private ownership.

Pat (who has been acting as guide, and has been pointing out the Devil's This and the Devil's That for the last two hours)—"An' that's the Devil's punch-bowl, yer Anner."

Tourist—"The Devil seems to own a good deal of property about here, Pat!"

Pat—"Ye're roight, yer Anner. But, loike most av the other landlords, he spins most av his toime in London."—Punch.

A Cheaper Telephone System.

There are more ways of providing for communication throughout the rural districts of a country than by means of the horse, and over the common road. The bicycle, which ten years ago was simply the fad of a sportsman, has become one of our greatest necessities. What the bicycle was ten years ago the motor carriage is to-day, and it promises to become, at an early day, of even greater importance to us than is the bicycle.

Another of our means of communication, which, though largely used, has been rendered of much less consequence than it would otherwise have become, having at an early day fallen into the hands of the monopolists, is the telephone. What it might be to the people of this country is instanced by the city of Stockholm, with 280,000 inhabitants, where there are 36,000 telephones, or one instrument to each eight of population. This almost universal use of them is explained by the cost, which is only \$9.75 per instrument annually, whereas in Ontario the least charge is more than two and one-half times as great, \$25 annually.

There is a fact in connection with the telephone which must not be lost sight of, that the more instruments there are in use the greater is the value of the service to the subscribers. With only one instrument in a town and without outside communication, it is of no value whatever to the owner, as he will have no one with whom to talk. As the number of instruments increases in the town, however, the greater is the service each instrument will be enabled to perform. If, by any means, the number of subscribers is doubled, the value of the telephone to each subscriber is really doubled. The only means of increasing the number of instruments is to decrease the annual cost, so that in proportion as the cost decreases, the real value of the service will increase.

Any proposal in Canada to take over the telephone monopoly and place it under the Post Office Department, as has been done with the telegraph service of England, would certainly be received with much favor, as great favor indeed, as welcomed the introduction of penny postage.

That the cost of the telephone service can be enormously reduced is proven by the experience of Sweden, a reduction such as would enable the service to be extended almost universally from city to town, from town to township. The occasional telephone found in the home of the farmer should become the rule, not the exception as now. Even with the best of highways over which to travel, there is no one in the community to whom the telephone would be of greater utility than the farmer.

"What I want," remarked the autumn bride, who was arranging for a \$500 trousseau on a \$50 father, "is a going-away gown that isn't a giving-away gown."

The Municipal Creches of Paris.

By Edward Conner.

The Paris Municipal Council thinks so highly of these Day Nurseries that it has increased its subvention to the 32 creches owned by that body from 99,000 to 115,000 francs, in addition, it erected eight new buildings of a similar kind. For a daily fee of two or four *sous*, a mother can leave her child at a creche, Sundays and holidays excepted, at half past five in the morning in summer, and again call and take it away at seven or eight o'clock in the evening. In winter the hours at both extremes are one hour less. The infant is fed, amused and cared for, while being subject to a medical visit every day, and in an establishment conducted upon every hygienic principle. The arrangement permits mothers to follow their out-door work free from all anxiety respecting their infant. The municipal creches are all laical. There are other creches, about 53, worked by private benevolence; though at best they are all based on charitable help; unfortunately their rules do not suit in all cases. The *Religienses*, for instance, will not accept the child of any girl, mother, nor any woman who has not been religiously married. There are "*Garderies*" also, where infants, for a few *sous* per day, will be taken charge of from morning till evening; but as the Maternal Public Schools organized by the municipality accept little "pupils" gratuitously, that specialty is on the decline. In 1869 there were 400 of these "garderies"; some of which received 2000 children yearly, at the rate of 15 or 20 francs per month. An inquiry, however, revealed the fact that 224 of these guardians, all of whom were women, were actually out-door paupers. In the sixteenth century the creche was called a *grabat*, though it really means a manager in a stable. A *grabat*, or miserable little bed, was placed at the entrance to the cathedrals, and contained foundling children to whom the worshippers were expected to bestow some charity for their support.

The modern creche owes its existence to M. Marbeau, the assistant mayor of an *arrondissement* or ward of Paris, who in 1884, aided by some philanthropic persons, opened the first creche in the city, for children aged two years and under. The opposition was very general to his idea. At present every municipal creche receives endowment following the population of the ward. Thus, in the Rue de l'Arbre-Sec, the creche there is accorded but 1,000 francs, as an annual subvention, while that in the Rue de Telegraphe obtains as much as 6,000 francs. There is one creche which is gratuitous, and is situated in the Rue Montmartre; there is another in Batignolles, where payment is facultative. In the Rue des Gobelins, the creche may have twenty cots and thirty-six beds; others have only eight and ten respectively; some have cots but no beds, while a few have neither cots nor

beds. Liberal as the municipal council is with its stipends, it is resolved that these shall not be paid, unless henceforth, the rules and regulations be rigorously followed for the conduct of the Creche on the principles officially laid. The most important of these is the milk question. The milk must be sterilized, and the children scrupulously cared, in accordance with the lessons of hygiene, so as to even keep off the possibility of an epidemic. The municipal creches of Paris derive their revenue from the municipal council, the departmental treasury, the government, payments for the infants, donations, fancy fairs, collections, concerts, balls, etc. The expenditure of a creche varies from 5,000 to 28,000 francs yearly; but the average figure is between 7,000 and 8,000 francs. The rent in some cases for the premises, amounts to 2,500 francs, the salaries (the heaviest of the items) to 3,494 francs, while the milk or alimentary bill amounts to 1,553 francs; there still remains the heating, lighting, and laundry outlay. The creche must be situated either on the ground floor, or the first story; it comprises two dormitories for babies in the cradle, and weaned infants; a *pouponniere*, or playroom, a lavatory, a room specially fitted up in which to sterilize the nursery milk, and finally a vestuary. Children are admitted from 17 days old and upwards; some can receive the mother's breast, in addition to the bottle. Only healthy children are admitted; a certificate of birth is exacted, as well as one of vaccination.

In the construction of a creche, the aim should always be to avoid humidity; the building ought to face the south, and to be ventilated from the north. The rooms should communicate one with the other, and be heated by either warm air, warm water, or steam. In Switzerland, and at Frankfort, stables for cows and asses connect with the creches. Every infant in the "Hall of Cradles" ought to have eleven cubic yards of space, and be secured thirteen cubic yards of fresh air per hour. In Paris, the mattresses are all in oaten chaff, maize straw, or string seaweed, called *varech*. No child is allowed to spend the night at any creche, and as already remarked none are admitted, but those in the full enjoyment of health. The creches are closed on Sundays and holidays. The *directrice* ought to be a woman of great experience and resolution, capable of not only being able to undertake the management of infants, but harder still, their mothers. In many factories in France, the owners have constructed creches on their own premises so as to enable their female employes, who are mothers, to give the breast to their babies. The law duly allows extra time for this also. The medical inspector visits the creches daily, and the entire rooms are disinfected every six months regularly. The actual milk-expense for a child is estimated to be 17 centimes, or less than four cents daily. The municipal council will not continue its subvention to

a creche, unless it strictly undertakes to give to the children absolutely pure sterilized milk; to supply mothers whose babies are so artificially fed, with an adequate supply of that milk for the night, for Sundays, and holidays; to submit the milk employed whenever required to analysis; to allow the accounts to be controlled by the Prefecture of the Seine, or the Home Minister, and to follow the regulations indicated by the administration and the creche committee. As milk is a complete food forming both tissues and bones; its purity is of course of the highest importance to secure. A new-born babe for instance has less chances to live one week, than has a man 90 years of age, and fewer to live a year, than a man of 80. All vessels employed in the preparation of the milk cannot be too scrupulously cleansed; attention in this respect can well prevent the outbreak of a malady; milk, as is well known, has its microbe or bacillus, derived from the air and water; but the milk that passes directly from the mother's breast into the mouth of the child, cannot contain such germs of infectious disease. Hence, watch the vessels wherein the milk is kept, and likewise the milk itself. Such are the recommendations of the creche commission. Dr. Fauvel has discovered in thirty-one feeding bottles, called *biberons*, with the long glass tube, whole "colonies" of microbes still clinging to the bottles, even after they had been most carefully washed out. An assistant of the Charite Hospital, M. Gentile has invented a feeding bottle that meets with all hygienic needs. It is the ordinary bottle, with india-rubber stopper, containing two tubes, one slender, to let in the air, the other, larger in size, to let out the milk.

The best raw milk is either pasteurized or sterilized; the first heats the milk to 158 or 167 degrees Fah., which is rapidly cooled down to 50 or 53 degrees. This is the practice adopted by the dairy companies of Paris. Sterilized heats the milk up to 212 degrees and above; by closing the bottle carefully so as to carefully exclude the air, and if well tightened down, the milk will keep fresh during several weeks, even if the bottles be knocked about. The creche is an important institution for lessening the death-rate of a nation, which rate can amount to 34 per cent of the total population of a country, between one day, and one year old. The creche undertakes the task of rearing infants twelve to fourteen hours daily between the ages of seventeen days and three years, feeds, cares for them on the most hygienic principles, and allows the mother to pursue her ordinary calling in either mill or workshop, in the tranquil assurance that her infant meanwhile is perfectly safe.

Not a Municipal Officer.

John D. Rockefeller's income is said to be \$25 a minute. It means something when he is asked to wait a minute.

QUESTION DRAWER.

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

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

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

Clerk and Water Commissioner—Income Assessment.

205.—H. N.—1. Can our municipal clerk, while holding office also of electric light and waterworks commissioner and book-keeper be legally a collector of electric light rates payable monthly? How does clause 12 of the Consolidated Assessment Act bear upon the matter?

2. A ratepayer earns in wages (payable weekly) about one thousand dollars a year, as a foreman. Is not hired by the year. Can income tax be legally assessed for and collected on the same, and if so, to what amount? In other words, can he be taxed at all, his salary or wages being hired by the day and paid every week?

1. Clause 12 of the Consolidated Assessment Act, 1892, is now to be found in section 295 (1) of the Municipal Act, chapter 223, R. S. O., 1897, and provides that the council shall not appoint as assessor or collector a member of the council or the clerk or treasurer of the municipality. This section refers to the collector of ordinary taxes. It does not apply to a person appointed to collect electric light rates, and therefore does not render the municipal clerk ineligible to be appointed to collect such rates.

2. He should be assessed for \$300. Under subsection 26 of section 7 of the Assessment Act \$700 of his earnings is exempt.

Motion not as Binding as By-law—Electors Disqualified for Arrears of Taxes.

206.—T. C. J.—Is a motion as binding as a by-law?

2. If a motion or a by-law is passed in council ordering the treasurer not to pay money out of the municipal funds to parties whose names are on the defaulters' list, and the treasurer does so, has a married man with a family the right to the \$25 exempted by law from garnishment, or can the treasurer hold all his wages?

1. No.

2. Section 535 of the Municipal Act authorizes the passing of by-laws for disqualifying electors in arrears for taxes, but there does not appear to be any authority for withholding monies due by a corporation to any one because he is on the defaulters' list.

Highway or Portage.

207.—J. B. S.—Can an owner of deeded wild land have the power of shutting up an old Indian portage used as a road by lumbermen and settlers for the past twenty years? This portage or road being the only outlet for a few

settlers to the main waterway, which is the only road they have summer and winter.

It is impossible to express an opinion upon this matter without some better information than you have furnished. We may say, however, that if the deed which the owner has covers the road in question he can shut it up unless it can be shown that the road is a public highway. We assume that the road is not an original allowance laid out by one of the Crown surveyors or by quarter sessions or other lawful authority. Guessing at it as well as we can, we think it is nothing more than a trespass road. If you can point out to us any acts which you think make it a public highway let us know what they are and we shall consider them and let you have our opinion on a future occasion.

Nomination—Resignation—Appointment by Council.

208.—W. A. H.—At our nomination meeting, December 26th, 1898, there was just enough candidates nominated to fill the offices of reeve and councillors. One of those mentioned for councillor was the assessor for 1898, who had not sent in his resignation nor had been discharged. As returning officer I declared the council elected for 1899. At the first meeting of the council, 1899, this assessor, 1898, sent in a disclaimer as councillor which was accepted by the rest of the council. Then the council appointed another member according to section 186, Municipal Act, 1892. This person appointed was a member of council last year and refuses to act as he thinks the appointment not legal.

1. Was this appointment legal or not?

2. How are we to proceed to have a legal council?

1. No. This case does not come with in section 218 of the Municipal Act, which is the same section as you refer to. The electors neither declined nor neglected to elect the members of the council.

2. You should proceed under section 212 of the Municipal Act, chapter 223, R. S. O., 1897.

Seizure for Taxes—Working Tools—Assessment of Parsonage—Extension of Time Collector's Roll.

209.—J. B.—1. Two jewellers, one shoemaker and one boot and shoe merchant were assessed as tenants, but only rated on their personal property at \$100 each.

(a) Can the stock in trade or working tools of the parties be seized by the collector and sufficient sold to pay the taxes?

(b) May the taxes be collected in the division court?

(c) Who should bring in the action? Can the collector?

(d) Would the neglect of the assessors to give one of the parties an assessment notice affect this case?

2. Have township councils authority to continue the collection of taxes of the previous year by means of a collector, after the first day of February, or must the roll be returned to the local treasurer then?

3. Is a manse, parsonage or rectory which is owned by a congregation and occupied by their minister, exempt from general taxation the same as the church in connection with which it is? (Your reply to a similar question was hardly definite enough to convince some of our council.)

1. (a) Yes. Section 135 (1) of the Assessment Act authorizes a levy upon the goods and chattels, wherever found, within the county in which the local municipality lies, belonging to or in the possession of the person who is actually

assessed for the premises, and whose name appears upon the collector's roll for the year as liable therefor. The person actually assessed for the premises and whose name also appears upon the collector's roll for the year as liable therefor is not entitled to any exemption. See subsection 4 (2) of section 135. These sections seem to us to be confined to the taxes in respect of the land.

(b) Yes, provided the collector cannot make them in any other way. See section 142.

(c) The municipality—not the collector, because section 142 provides that the taxes may be recovered as a debt due to the local municipality.

(d) No. See the latter part of section 73 of the Assessment Act.

2. The collector is required to return the roll not later than the first day of February under section 144, but if he does not do so the council may authorize him or some other person in his stead to continue the collection of the unpaid taxes, but this power can only be exercised while the roll remains unreturned. See sec. 145.

3. No.

Statute Labor—Joint Assessment.

210.—Z. R.—Are farmers' sons or others entered jointly as owners on the assessment roll entitled to perform one or two days of statute labor besides what the owner is charged for the amount of his assessment? If so please refer me to section of the Assessment Act for the same.

Yes. Section 106 (1) of chapter 224, R. S. O., 1897, which provides "every farmer's son rated and assessed as such on the assessment roll of any municipality shall, if not otherwise exempted by law, be liable to perform statute labor or commute therefor, as if he were not so rated and assessed." If a farmer's son is not on the assessment roll he is liable to one day's statute labor, and the above section declares that he shall be liable as if he were not assessed. Subsection 2 of section 106 has been repealed by the Municipal Amendment Act, 1899.

Assessment of Implements in Agency.

211.—SUBSCRIBER.—Can an assessor of a village legally assess an agent for implements and vehicles consigned to him? The manufacturers are within the province. If so please state where to find the authority, and can it be done in township?

The latter part of section 18 of the Assessment Act provides "and where any business is carried on by a person in a municipality in which he does not reside, or in two or more municipalities, the personal property belonging to such person shall be assessed in the municipality in which such personal property is situated, and against the person in possession or charge thereof, as well as against the owner."

Assessor's Roll—Letters M. F.—Voter's List.

212.—INQUIRER.—1. Is it necessary for the assessors of townships, villages and towns to place the following letters in column 4 on the assessment roll opposite the name of each resi-

dent, owner or tenant, viz., O. & M. F. and T. & M. F., as the case may be. Also the same upon the assessment notices the assessor leaves with the said owner or tenant? It has been contended by the assessor in a certain town that it is only necessary for him to add M. F. after O. and T. of the names of the resident owners or tenants who is assessed for less than \$200 to show that he is qualified to vote only as M. F. He says that an owner or tenant being assessed for \$200 or more qualified him for a vote for the Ontario Legislature as well as municipal elections. Is he not wrong?

2. Has the clerk power to supply M. F. to name on voters list if those letters do not appear on assessment roll?

1. Yes. Sub-section 4 of section 13 of the Assessment Act sets forth the duties of the assessor in regard to the particulars which he is to set down in the different columns of the assessment roll. According to what is stated under column 4 of sub-section (4) there are two cases provided for, (a) Where the Manhood Suffrage Registration Act is not in force and (b) where that act is in force. Taking the two cases in order, what is the duty of the assessor in those municipalities in which the Registration Act is not in force? The act is plain—it says: "And where in any municipality in which the Manhood Suffrage Registration Act is not in force, the person is entitled to be entered upon the roll as qualified to vote under the Ontario Election Act, there shall be entered opposite his name in said column, in capitals, the letters "M. F." and his duty does not in every case stop here. If a person happens to be a farmer's son within the meaning of the Municipal Act, the letters "F. S." must also be added. Whether a man is assessed for \$200 or not has nothing whatever to do with the matter. Section 8 of the Election Act c. 136, R.S.O., 1897, shows who may vote at provincial elections, and it says nothing about any amount of assessment. Section 15 of the Assessment Act also shows who are entitled to vote at such elections. Now let us take the case of those municipalities in which the Manhood Suffrage Act is in force. Section 1 of chapter 8, R. S. O., 1897, gives the municipalities in which it is in force. In these municipalities he is only to add the letters "M. F." when the person is qualified to vote at municipal elections as well as at elections to the Legislative Assembly. The notices should contain the same information.

2. No. The clerk should confine himself to the material which he finds in the assessment roll. He should make up his voters' list from it alone.

Special Report by One Auditor.

213.—J. M. R.—Some time ago I sent you a copy of a special report by our auditors, each one making a separate one, each one signing his own and refusing to sign the others, and neither one of them relative to expenditures made contrary to law. Your answer advising the publication of them was not very clear. Do you advise that I should publish either of them? Or is a report signed by one auditor only a legal report? Of course I have had the report of receipts and expenditures assets and liabilities, debenture debt account, sinking fund account, and all other save this special, published, and of course they are signed

by both auditors, but the majority of council object to the publication of this special report signed by one auditor on the grounds that it is no report. Kindly let me know what you think best to do?

Having in view the nature of the report in question, the fact that it is signed by only one of the auditors, and that the council object to its publication, we do not think you are bound to publish it.

Medical Health Officer Not on Board of Health.

214.—J. B. B.—Is the medical health officer appointed by the council a member of the board of health or not, and has he a right to attend every meeting of the board and demand a day's pay for it?

He is simply an officer, whose salary the council may fix, and ought to fix, if that has not been done. If no salary has been fixed, he is entitled to reasonable compensation for his services. He cannot recover a day's pay for every meeting of the Board of Health which he attended without any regard to whether his attendances were necessary or not.

Farm Drainage to Railway.

215.—A COUNCILLOR.—The Grand Trunk runs across my farm. There is some water lying on my land. I want to know if I can make some small drain from where the water lays to railroad ditch. The section foreman closed them up; I think he exceeds his right in doing so, but what I want to know is, can I compel the railroad to give me an outlet or will I bring on an engineer and ascertain where the watercourse is, or what proceedings will I have to take to get an outlet? There is a ditch dug on and along the railroad track, dug by the railroad men. If I cannot get an outlet there I would have to dig across my farm, and the ditch would have to cross my neighbor's farm in order to reach where there is a water passage in the railroad, then I would have to dig the width of one side of the road in order to get to the water passage. What course will I have to take in order to take the water off my land? I can't find anything in the Drainage and Watercourses Act bearing on this.

2. I have another farm of 200 acres, the railroad crosses it. The section foreman asked me to help him dig a ditch across the farm saying it would help drain my farm and also drain the road. I put on my team and plowed the ditch out across the 200 acres. This is two years ago. Now when I open a little drain from my field to let some surface water off, the section foreman comes along and closes it up. Can he or the railroad stop me from running the water into that ditch after helping to dig it? I think it is the watercourse. It looks to me to be the lowest of the land where the ditch is.

1. The section foreman acting for the railroad company is quite within his right. You cannot take advantage of the railway company's work to drain your land. Your only remedy is under the Ditches and Watercourses Act.

2. We do not think you acquired right of drainage through or over the railway lands by reason of what you state was done.

County Councils and Wide Tires.

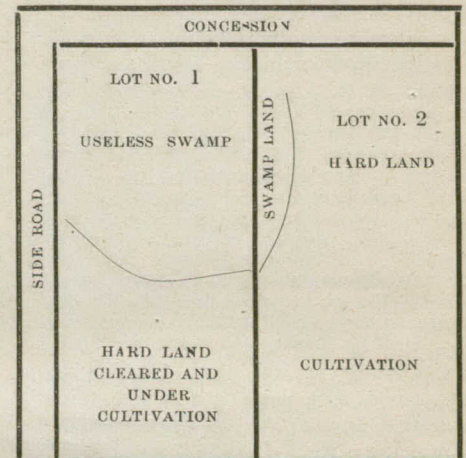
216.—W. F. C.—Are there any counties which have passed by-laws regulating the width of tires to be used on county roads, and if so, the name of any of them?

No counties have passed by-laws of this description. The powers of county councils with respect to the width of tires, are very limited. These powers are stated in

section 584 of The Municipal Act, R. S. O., 1897, and pertain merely to vehicles used or kept for hire, and travelling on county roads.

Line Fence Unoccupied Land.

217.—C. B.—One of the lots is part swamp covered with small timber and useless. What we wish to know is, if the party owning the swamp is liable for the portion of the line fence or compelled to put up his part of the fence? Or would it make any difference or alter the case any if instead of the swamp it was hard land and the parties taking their firewood out of it and allowing their cattle to run in it? If we understand the Statutes right we hold that the party owning the unoccupied land is not compelled to put up any fence. But as we often have disputes here about the matter I thought I would refer it to you.



Section 3 of the Line Fences Act, cap. 284, R. S. O., 1897, makes it the duty of the owners of occupied adjoining lands to maintain fences, and section 2 (1) of the same act provides that the expression "occupied land" shall not include so much of a lot, parcel or farm as is unenclosed although a part of such lot, parcel or farm is in actual use and occupation. The swamp being in this case unenclosed we do not think there is any liability to fence. Nor would there be in the other case which you put.

School Section Debentures—Alteration of Section.

218.—L. L.—In the township of Brooke and Mosa a union S. S. was formed by arbitration, taking one hundred acres out of S. S. No. 21 and about half of No. 4, and then a petition was presented to council asking three equal divisions of concession of township, which was granted by council, thus taking portion of S. S. 21 which was a new school-house and which when sold did not bring much more than would pay the award to union school. There is one year debenture to pay on S. S. 21. The trustees of the two S.S. agreed on a certain amount and half the debenture of the coming year. The trustees of S. S. No. 4 applied to council for a loan by debentures which was granted.

1. Is that portion still liable for the debenture of No. 21 that was united to No. 4?
2. Can the debentures of No. 4 be levied while they are paying debenture on No. 21?
3. If so, could trustees of both sections agree so as not to charge those taken from No. 21 with debenture?
4. Would it be legal for the trustees of S. S. No. 4 to pay to the individuals the amount in order that they might start on equal footing with those of old No. 4?
5. If not, would it be legal for arbitrators do so?

6. Can those ratepayers be compelled to pay debentures in two different S. S. in the same year?

7. The trustees of S. S. No. 4 refuse to pay back any money and say that it is not legal to do so. Are they right or is it the meaning of the School Act that all lands are held for loans by debentures until paid. Please explain and oblige. Or can they be made to pay in two sections in the same year by council?

1. Yes. See section 70 (3) of the Public School Act.

2. Yes.

3. No.

4. No.

5. The arbitrators should adjust all matters between the parties interested under the authority of sub-sections 7 and 8 of section 43 of the School Act.

6. Yes.

7. Sub-section 3 of section 70 of the School Act provides: "Notwithstanding any alteration which may be made in the boundaries of any school section, the taxable property situated in the school section at the time when such loan was affected, shall continue to be liable for the rate which may be levied by the township council for the repayment of the loan." From this it is clear that any alteration in the boundaries of a school section does not relieve the lands in the school section at the time when the loan was made from liability and the result follows that some persons may have to pay a rate in the new as well as the old section. As we have already in effect stated the arbitration ought to have adjusted all matters under the provisions of the act referred to.

When Municipalities May Borrow Money.

219.—F. J. C.—How do you reconcile Sec. 409, Municipal Act, R. S. O., 1897 with your reply to question 169 in your April WORLD? Taxes are legally imposed from the first January of the then current year ending with the 31st of December thereof.

The words "considered to have been imposed" do not imply that they are actually imposed or levied, and "to be due" the 1st January not that they are actually due. How can they be due before the exact amount has been ascertained and actually levied? Therefore in law they are imposed as an abstract proceeding and are due from the 1st January and long before the actual levy is or can be made. Therefore it is perfectly right to borrow money under this implied or "considered" levy before the actual levy is made and we act upon this interpretation, and think we are legally justified in doing so.

We referred to section 409 in our answer to question 169 in the April number of THE WORLD. Section 409 was not passed or intended for the purpose of shedding light upon the meaning of section 435. In our view section 435 contemplates an actual levy by the striking of a rate before the power to borrow arises. As we do not see anything irreconcilable between our opinion and section 409 it is not necessary to say more. Our subscribers will have the benefit of your opinion.

Court of Revision—Errors—Adjournment.

220.—J. C. M.—1. At a Court of Revision in assessment roll held in May, and appeals are n against too high assessment and where it

shows that other lots are too low assessed would it be legal for assessor to appeal against those at said meeting and the council adjourn the Court for the purpose of those being notified whose assessment was considered too low?

2. Would it be legal for council to adjourn court of appeal from May until June to allow parties whose names were not on roll for to apply to have their names put on?

1. Subsection 3 of section 71 of the Assessment Act provides that an elector may appeal within the time limited by subsection 2 of the same section if he thinks any person has been assessed too high or too low. It would not be legal for the assessor to appeal at the court of revision against such persons or for the court of revision to adjourn to enable him to notify such persons. The latter part of subsection 4 of the said section provides: "And no alteration shall be made in the roll unless under a complaint formally made according to the above provisions."

2. No.

Collector's Acceptance Partial Payment—Collection of Balance.

221.—X. Y. Z.—Ratepayer pays all taxes except a small balance. Collector returns roll as paid to square books and treats this small balance as a private debt. Next year same collector notifies said ratepayer that last year's taxes were not paid in full and asks for amount. Ratepayer now claims that the balance was sent in, and claims that collector should have collected at the time and does not want to pay again especially as the matter is a year old and cannot look up evidence. Was collector right in so returning roll, etc? And who should lose? No receipts.

If the collector returned these taxes as paid and accounts for them to the municipality what further interest has the municipality in the matter? You ask the question, "Who should lose?" but you don't say who lost. If the collector has not paid the municipality he must do so, and take chances upon recouping himself from the ratepayer. The collector has no right to endeavor to collect the balance as collector of taxes for the municipality. So far as the municipality is concerned it received a return of the roll with those taxes accounted for as having been paid, and how can the collector in the following year go behind his return. The collector ought to have insisted upon the taxes being paid in full, if they were not paid in full.

Timber on Road Allowance.

222.—G. A. S.—1. Can a township council sell timber standing on concession and side line where there is road allowance?

2. Can parties owning land cut timber on original road allowance opposite their own lot for their own use?

1. Yes. Sub-section 7 of section 640 of the Municipal Act empowers the councils of townships to pass by-laws for preserving or selling timber, trees, stone, etc., in any allowance or appropriation for a public road.

2. No.

Assessor's Certificate and Salary.

223.—T. H., Grand Valley.—1. Must an assessor take the oath before or after he assesses

the township or town that he has done the assessment to the best of his ability?

2. Can an assessor collect his salary if he refuses to take the oath at Court of Revision, that he has assessed the township to the best of his ability?

1. It is difficult to understand how the assessor can make oath that he has done the assessment to the best of his ability before he assesses the township or town. After he has completed his assessment it is his duty to make the affidavit required by section 55 of the Assessment Act, in accordance with the form in schedule E of the act.

2. The fact that the assessor has refused to take the oath referred to at the Court of Revision would not be a sufficient answer by the municipality in an action for his salary.

Assessment Chattel Mortgagee.

224.—VILLAGE CLERK.—Are chattel mortgages assessable?

No. Sub-section 10 of section 2 of the Assessment Act defines "personal estate" and "personal property" as follows: "Personal property shall include all goods, chattels, interest on mortgages, etc." The fact that the legislature has expressly mentioned "interest on mortgages" in this sub-section implies that the principal money secured by the mortgage was not intended to be assessed, and it is right that this should be so, because there would be double taxation. The chattels covered by the mortgage, unless exempt, would be liable to taxation, and if the amount of the mortgage was also assessed there would be a double assessment. Money is frequently raised by means of chattel mortgages and if these mortgages were assessable the money lender would probably take the tax into account and make the owner of the chattels pay it.

Farmer's Son and Statute Labor

225.—J. Q.—A young man over the age of 21, living on farm with father or mother and working continually on said farm, is jointly assessed with father or mother for said farm. Can said young man be compelled to pay poll-tax or commute therefor?

Yes. Section 106 (1) of The Assessment Act provides: "Every farmer's son rated and entered as such on the assessment roll of any municipality, shall, if not otherwise exempted by law, be liable to perform statute labor or commute therefor, as if he were not so rated and assessed."

Voters' List—Non-Resident—Grass Widow.

226.—F. D. N.—1. On assessment roll I find an owner marked N. R. Can I properly put him on part 2 of voters' list?

2. Would you place a "grass widow" on voters' list at all?

1. Yes, if letters M. F. are not entered opposite his name.

2. No.

Collector's Bond and Extension of Time

227.—COLLECTOR.—Our collector was appointed for 1st year and had his time extended to the first meeting of the council in this year, and again until the next meeting which was

the 30th of March, and it was further extended. Can the council hold the bondsmen if he is a defaulter after that?

We cannot answer this without having the bond before us. It may be that you have not placed the facts before us correctly. It is quite likely that all the council has done has been done under the authority of section 145 of the Assessment Act, under which the council may, by resolution, authorize the collector to continue the levy and collection of the unpaid taxes, and if that is all the council has done the bondsmen continue liable under sub-section 2 of the above section, which provides, "No such resolution or authority shall alter or affect the duty of the collector to return his roll, nor shall, in any manner whatsoever, invalidate or otherwise affect the liability of the collector or his sureties."

Passing By-Laws.

228.—J. R.—1. Is there anything in the Statutes requiring a municipal by-law to be read three times as is usually done?

2. Could not the council pass a by-law requiring only one, or at most two readings?

1. No.

2. Yes, unless there is another by-law in existence which requires that a by-law shall be read a certain number of times. The reading of a by-law three times is following the parliamentary practice which is not, however, binding upon municipal corporations.

Owner, Tenant and Voters' List—Children's Hospital Grants.

229.—SUBSCRIBER.—1. A is assessed in column 2 of assessment roll as tenant for land value \$200 and B's name appears in column 6 as owner. Can both parties qualify and be put on part 1 of voters' list on said Assessment?

2. Can a council legally grant a sum of money to aid the hospital for sick children, Toronto, there being no inmates in hospital from our township?

1. Yes if the municipality is a township, village, or a town, when the population does not exceed 3,000. See section 87 and 92 of the Municipal Act.

2. Yes, if a charitable institution. See section 588, Sub-sec. 2 of Municipal Act.

Cost Cement Walks.

230.—G. A. S.—There is a prospect of laying some sidewalks (cement) here this summer. The hauling of gravel, sand and cement will be done by statute labor and the only money directly expended will be for cement (Portland or other) and for skilled labor in laying it. Under these conditions what would be the direct money outlay per square yard? I suppose the walk would be laid as outlined in THE MUNICIPAL WORLD for April, 1899. Perhaps one man skilled in such work would be sufficient. The rest of the work can be done by statute labor. If you will give me an approximate figure it will oblige me.

Laid as above described the approximate cost would be, with Portland cement, 75 cents per square yard; with hydraulic cement, 50 cents per square yard, with statute labor. The cost of work can scarcely be estimated on the same basis as with skilled workmen throughout.

Magistrate's Clerk—Administration of Oath.

231.—TOWN CLERK.—I act as clerk for the justices of the peace in this town, by writing out the informations, summons, etc., and recording the evidence at the trials and the convictions, etc. There is a by-law establishing a police office in the town, passed in 1897 prior to my appointment as clerk, but there is no by-law appointing me clerk of the police office, although I presume that I as town clerk hold that office ex-officio. See R. S. O., 1897, chap. 223, sec. 480.

Can I legally administer the oath to witnesses and others in proceedings before the justices in court? I refer you to Regina v. Coleman, 30, Ont. reports, p. 93.

We do not think you have any authority to administer an oath. We cannot find any such authority. We have examined the case to which you refer but it affords no authority for the contention that you have the right to administer an oath. It was a case where a prisoner was committed for trial before the general sessions of the peace for the County of Dufferin. Mr. McLaren, the clerk of the county court of the County of Dufferin, at the request of the Clerk of the Peace, acted in his place at and during the general sessions, and administered the oath to the prisoner. It was not contended that Mr. McLaren had authority to administer the oath, but it was held that the oath was properly taken by the prisoner because it was taken in open court in the presence of the presiding judge who must be deemed to have assented to what was done by Mr. McLaren in administering the oath.

Complaints to Court of Revision.

232.—B. F.—In times past it has been customary for persons to come to Court of Revision for revising the assessment roll, and ask that the names of certain parties, a list of which they at that time hand in, be put on the assessment roll, generally for voting purposes.

1. Is it legal for the Court of Revision to enter such names on roll, no previous notice being served on the clerk?

2. Can members of council insert names on the roll without a regular application being made through the proper council?

1. No, the Court of Revision can consider only such cases as has been brought before it by a proper and sufficient notice of appeal. Section 71 (1), (2), and (3) of the Assessment Act contains the procedure necessary to bring complaints respecting the assessment before the Court of Revision, and the latter part of sub-section 4 of the same section declares that no alteration shall be made in the roll unless under a complaint formally made according to the above provisions.

2. No.

Publication of Proceedings of Council

233.—JUSTICE, Township of King.—1. Can the ratepayers demand the publication of the minutes of each council meeting in the local paper?

2. If so, is it one of the duties of the clerk to furnish same? If they cannot demand this what recourse have they to find out what the council is doing?

1. No.

2. It is the duty of the clerk to record the proceedings of the council in a book to be kept for that purpose. Under sec-

tion 282 of the Municipal Act and under section 284, any person may at all reasonable times inspect any of the particulars aforesaid, that is, the resolutions, decisions and other proceedings of the council. Section 267 provides that every council shall hold its ordinary meetings openly, and no person shall be excluded except for improper conduct.

Pedlar's Licenses.

234.—X. Y. Z.—1. (a) Can county council issue pedlar's licenses? (b) Can municipal council pass by-laws to tax transient traders?

2. Can they take pedlar's licenses into their own hands?

1. (a) Yes, see section 583 (14) of the Municipal Act.

(b) They may pass by-laws for licensing, regulating and governing transient traders under sub-section 30 of section 583, and under sub-section 32 may fix the sums to be paid for such licenses.

2. The power to license pedlars is conferred upon county councils subject to the right of a town not separated from the county for municipal purposes to pass by-laws of its own for that purpose and to declare that the county by-laws shall not be in force in the town while the by-law of the town is in force. Cities having less than 100,000 inhabitants may pass such by-laws and the board of commissioners of police in cities having 100,000 inhabitants or more. Your question is not appropriate except as to towns not separated from the county, because towns alone can be said to be in a position to take the power into their own hands.

Vote on Public Library By-Law.

235.—A. D. M.—Our village has a public library managed by directors and now these directors want the village council to take it over with a debt of about \$100 and send \$300 to the government?

1. Can the council do so without the vote of the people?

2. Have householders or tenants of the village a vote on the same?

1. Section 16 of the Public Library's Act, chapter 232, R. S. O., 1897, provides that the council may, upon receiving a petition signed by a majority of the board of management of any public library appoint a board of management, but section 18 provides that no special rate shall be levied by any municipal council for the purposes of a public library organized according to part 2 of the act, until a by-law has been first approved of the electors of the municipality as required by part 1 of the act.

2. Section 4 of the Public Library's Act empowers the council to pass a by-law with the assent of the electors qualified to vote at municipal elections. If you will look at section 86 of the Municipal Act you will find the qualification of electors at municipal elections. Sub-section 2 of this section provides: "All residents of the municipality who have resided therein for one month next before the election and who are, or whose wives are, at the date of the election tenants of the municipality."

Life of a Local Improvement.

- 236.—T. J. C.—1. Can you inform me "what is the life of a local improvement?"
 2. How is it determined legally?
 3. When does the life of a local improvement expire?

1. The life of a local improvement depends upon the material of which it is made and the manner in which the work is done. Improvements made of some material last longer than those made of other material, and work well done lasts longer than work badly done. If we understand the clipping referred to, the opinion of the author of it is, that the life of an improvement depends upon the time during which the debentures for the cost of it run; with this view we entirely disagree. If this opinion were sound it would follow that if the council made the cost of the improvement payable within five years, the liability of the municipality as a whole to keep it in ordinary repair would terminate at the end of that time though the improvement might last for ten years. Section 666 of the Municipal Act provides: "And all works or improvements constructed under the said sections shall thereafter be kept in a good and sufficient state of repair at the expense of the township, city, town or village generally." This means that the municipality as a whole must bear the expense of ordinary repair. A common sense rule must be applied to determine what are ordinary repairs as distinguished from new work.

Assessor's Notices and Returns.

237.—J. B. P.—Our assessor returned his roll April 5th of the present year. Section 71, sub-section 2 of the Assessment Act states time for appeals to be 14 days after the day upon which the roll is required by law to be returned, etc. And section 56 states on or before the 30th of April to be legal date for return of roll.

1. In our case would April 5th be day required by law for its return, i.e., is to start to count the 14 days from or would April 30th be date for appeals?
 2. As the majority of ratepayers do not know what day the roll is returned, should the law not require an advertisement in paper stating date roll is returned, and then make date of appeal 14 days from day of advertisement?
 3. What would be earliest date for our Court of Revision? I enclose part of assessment slip for 1899.
 4. Is not the "take notice, etc." a useless appendage, as it is there put on as if it refers to date of assessor returning the roll. It is impossible for assessors to say when he gives the slip or what day he will return roll?

1 and 2. The 30th day of April is the day upon which the roll is required by law to be returned within the meaning of sub-section (2) of section 71 of the Assessment Act, so that a notice of appeal given at any time within fourteen days from that date will be in time.

3. The clerk should wait until after the time for giving appeals has expired, and as soon as the time has expired he should advertise the sittings of the court of revision pursuant to sub-section 7 of section 71. The advertisement must be published at least ten days before the sittings of the court. There must be ten clear days between the day on which the

advertisement is published and the day of the sittings of the court, and the clerk should also take care that a day is fixed late enough to enable him to comply with sub-section (12) of the same section. In cases where the roll is not returned until a later date than the 30th of April a notice of appeal may be served within fourteen days after the day on which the roll is actually returned.

4. Sections 51 and 53 require the assessor, before the completion of the roll, to deliver a notice in the form given in schedule D to the act. Upon looking at the form we find that the date to be inserted is the date on which the assessment roll was returned. As the assessor is required to give the notice before he completes his roll we do not see how he can insert the date on which it was returned. We would advise that the assessor insert the date provided by law, that is the 30th April. The Legislature ought to amend the law in this matter.

No Statute Labor in 1898.

238.—ENQUIRER.—A is a road master appointed by last year's council. After his appointment he went to Manitoba and the council appointed B. Neither one ordered out the ratepayers and there was none done. Some of the ratepayers have since removed and some of the rest refuse to do last year's work, saying they were willing to do it but were never warned out. The council knew nothing about it until it was too late to put in last year's taxes. How will the present council proceed under the circumstances?

We are of the opinion that you are without remedy.

Collector's Appointment—Dismissal—Salary—Statute Labor—Collector's Roll.

239.—C. E. B.—1. Can the council reduce the salary of collector after making an appointment, if done before he receives the roll?

2. If so, can they dismiss and make a new appointment?
 2. There being no statute labor performed in a road division for the past year, and the list not having been returned to the clerk in time to place on the collector's roll, can the clerk legally place said work on the list for this year?
 4. If not, can he legally place the amount of last year's work on the collector's roll for this year?

1. Sec. 295 of the Municipal Act requires the council, as soon after the annual election as may be convenient to appoint collectors and after that is done, and there is a completed contract we do not think the council of its own motion vary the contract by reducing the salary.

2. We do not think so. It is an appointment which has to be made annually, and when the contract is complete the collector undertakes to collect the taxes of the municipality for a certain fixed sum. Section 321 of the Municipal Act provides that all officers appointed by the council shall hold office until removed by the council, but this provision does not appear to give a council the right to dismiss an officer at any time without incurring any liability for wrongful dismissal. It has been held by the courts that a new council is not bound by what has been done by its predecessor.

In the case of Willson vs York, 46 U. C. Q. B. 289, Armour J., in dealing with the above provision said: "The effect of this is, that all such officers hold their offices during the pleasure of the council, and may be removed by the council at any time without any notice of such intended removal and without any cause being shown for such removal, and without the council thereby incurring any liability to such officer for such removal." But it does not appear that in that case the council had entered into any binding contract. The officer in that case had entered upon his employment as clerk and treasurer for the year 1880, and having acted until the second meeting of the council it was unsuccessfully contended that the council could not then dismiss him without paying him the whole year's salary. In the case of Hickey vs. Renfrew 20, U.C.C.P., p. 429, it was held that the new county council might before recognition on their part dismiss the officer appointed by the preceding council and that such officers had no right of a claim against the municipality for their year's salary.

In Broughton vs. Brantford, 19 U. C. C., p. 434, a municipal officer was held entitled to damages for wrongful dismissal. He was dismissed in the month of September. Hagarty J. at p. 437 said "Assuming then that plaintiff, in 1867, continued an officer of the corporation appointed under their seal, and that his office was such as was usually the subject of a yearly living. Could he be dismissed during the year at the defendants' pleasure?"

My impression is, that unless he held the appointment at the yearly salary under the corporation seal that he could be so dismissed, and that his claims would be limited to compensation for services actually rendered. As I consider that plaintiff remained up to the date of his dismissal the defendant officer, under their corporate seal I think he is entitled to compensation for a wrongful dismissal, in like manner if employed by an individual.

Again in the case of Davis vs. Montreal, 27 S. C., p. 539, it was held under a statute substantially the same as the above provision that when the engagement has been made indefinitely as to duration, the council has power to dismiss summarily and without previous notice upon payment only of the amount of salary accrued to such officer up to the date of such dismissal. The language used indicates that such power does not exist in the case of a definite engagement, and we think that a contract with a collector is a definite engagement.

3. No.
 4. No. In your by-laws appointing pathmasters you should provide a penalty for breach of duty on the part of these officers, and prosecute them under the by-law for neglect of duty.

Electric Railway Accidents—Threshing Engine—Icy Hill.

240.—J. A. McD.—A municipality grants an electric railway a right to run on the side

of a public highway. Snow fills in and drifts the road so that the public had to drive close to the track and some places would slide over on the track. A car comes along and runs into a man's wagon, damaging his wagon and injuring the occupants. Who is responsible for the damage?

2. Is a municipality responsible for accidents on the public highway, on account of the impassible condition of the roads, which are on account of snow drifts?

3. A thrasher driving his engine along the highway comes to a hill covered with ice. The wheels slip to the side striking, the tank upsets and damages the engine. The road at this point is 15 feet wide from outside to outside of ditches, and the ditches 22 inches lower than centre of road. Is the municipality responsible for damages?

1. Assuming that the street railway was lawfully constructed upon the public highway the owners would not be liable for the accumulation of snow on the highway by reason of drifts. In the absence of any contract on the part of the owners to keep the highway clear of snow they would be under no obligation to do so. It would be the duty of the municipality to keep the highway in a reasonable state of repair for public travel. Whether the municipality is liable in a case of this kind depends upon the length of time the snowdrifts have been allowed to remain in such condition as to render the highway dangerous to the public travelling over it. It is only where ice and snow has been allowed to remain upon a street in such an uneven and rounded condition that persons travelling over it using due care, cannot walk or drive over it without danger, that a municipality becomes liable for injuries caused thereby. Snow drifts may be so extensive that it would be unpracticable to remove them so as to prevent damages, and in such a case there would be no liability. The amount of travel and the ability of the municipality to remove the snow drifts would be elements which would have to be considered.

2. This question is covered by our answer to the first question.

3. Whether the municipality is liable or not depends upon whether the road was in a reasonably safe condition for public travel in the first place, and secondly whether the municipality was by reason of knowledge of the dangerous condition of the road and having a reasonable time to have removed the danger, neglects in not removing it.

High School—Permanent Improvement Account.

241.—A SUBSCRIBER.—Should the following items of expenditure by high school board be classed and charged to permanent improvement account or to maintenance account according to definition of School Act of Sec. 2 of High School Act of 1891?

1. A new furnace replacing the old one and slight change in ventilation?

2. Building a new fence around the property, the old being done?

3. Digging an old plank drain and replacing the plank in it with tile throughout?

4. According to section 32, same Act, should the request for maintenance of county pupils be according to the actual cost for one year under consideration or should it be based on average cost of the three years preceding cost and attendance proportionally?

1. Maintenance account.
2. Permanent improvement account.
3. Maintenance account.
4. The amount to be paid must be based upon the average attendance for three years.

Assessment—Sale—Collection of Taxes.

242.—J. C. H.—1. A of the first part owned some five or six lots and had himself assessed for same and then sold them to B of the second part and B of the second part puts a gang of men into the bush to cut timber and cut on one lot only. Now can the collector of taxes for the municipality collect the taxes for the whole assessed property or of the one lot only?

2. Now A of the first part had himself assessed for a certain number of lots, the property of another man, call him B, and B sold to C, and C made some ties on this property and the collector came around and notified the party assessed and he said that the property did not belong to him, but those ties were made on these premises and go and seize them, he having other property in the municipality. Would the collector be justified in seizing? Or which party should pay the taxes?

3. There is a small village in our municipality, a town plot which land is not sold by the government. This village has been assessed. Are they entitled to pay taxes, they not owning the land? What course will collector take in this case?

1. Section 135 (3) of The Assessment Act impowers the collector to levy the taxes upon the goods and chattels of the owner of the premises, found thereon, whether such owner is assessed in respect of the premises or not. Under this provision we think the collector can only levy for the taxes against the premises upon which the chattels are and that he cannot levy for taxes against another lot assessed separately.

1. The fact that the ties were made in the premises does not place the collector in any better position than if they had been made elsewhere. He can levy upon the chattels of the party assessed or upon chattels in his possession under subsection 12 section 135 of the Assessment Act or upon the chattels of the premises found therein, whether such owner is assessed or not under subsection 3.

3. We should have more information in regard to this question.

Assessment—Fire—Taxes.

243.—X. L. Algoma.—Assessed person living in the district, but not in this municipality owned and was assessed for property here. Building was destroyed by fire before taxes were collected. Assessed person refuses to pay taxes and wants amount returned as against the land—land not worth the amount. Can he be sued in Division Court and his personal property within the district seized for the debt, or what course should council pursue to collect taxes?

Unless the person assessed was a resident of the municipality at the time when he was assessed or unless he gave a notice requiring his name to be entered upon the assessment roll we do not see how he could be assessed, but even assuming that he was rightly assessed we do not think that a distress can be made outside of the municipality. In the case of a municipality forming part of a county a distress can be made in some cases under section 135 of The Assessment Act in any part of the

county but there is no authority for distressing in any part of a district. The authority of the collector is confined to the municipality of which he is collector in the absence of express power to go outside of it, and moreover, section 53 of chapter 225 provides for the collection of arrears of taxes in a municipality in a district in the same manner as arrears of taxes in municipalities in counties, the treasurer and reeve of the municipalities performing the like duties in that respect as treasurer and wardens of counties. There are no officers representing a district to discharge the duties performed by the treasurers and wardens of counties. It seems to us that no matter how these lands may be viewed, whether as resident or non-resident the taxes cannot be sued in the division court.

Retain Poll-Books—County Clerk's Copy Assessment Roll.

244.—M. H. S.—1. The statutes do not provide for the disposition of the poll-book. Is this destroyed with the ballots after 30 days?

2. Mr. Taylor, member of the Provincial House, had an act in the committee stages to dispense with making a full return of assessment roll to county clerk but simply a summary. Did this ever pass the House and will it affect the present roll now being made?

1. Section 188 of the Municipal Act requires the clerk to destroy the ballots only. There is no authority anywhere in the Municipal Act for the destruction of the poll book. It is under the control of the council.

2. See section 7 of the Assessment Amendment Act in this issue.

Qualification of Municipal Councillor.

245.—SUBSCRIBER.—Please state clearly the property qualification of Reeves, councillors, county councillors, etc. If all debts, dues and incumbrances must be deducted from the assessment value and \$800 remain how can a renter qualify at all? If so, how, and show the difference of one who is under mortgage?

Section 76 of the Municipal Act sets forth the qualifications for the various offices referred to. It is the assessed value and not the actual value of the property which governs, and in determining whether there is sufficient margin for qualification over and above incumbrances only such debts as are incumbrances or charges on the lands can be taken into account. A man may own more than his land is worth and still be qualified because his floating obligations cannot be deducted from the assessed value. Sub-section 5 of the same section defines the word "leasehold." A tenant appears to be placed in a more favorable position than the owner of the land because an incumbrance placed upon the land does not affect the tenant. Suppose, for example, that a parcel of land is assessed in a town for \$800 and there is a mortgage against it for \$500, the owner of the land cannot qualify on it, but if he leases it for a term not less than a year, the tenant being also assessed may qualify on his leasehold interest, provided he has not incumbered it so as to disqualify him.

Duties Board of Assessors.

246.—J. S. H.—1. Is it lawful for a board of assessors to make the assessment of the town without going from house to house to obtain the best information possible?

2. Is it lawful to do as assessors' board have done, make up the whole assessment in the office of one of the board, visiting only a few of the general stores to ascertain the amount of their stock and putting down farm property, enumerating same at random?

3. Must not assessment schedules sent or given parties assessable be correctly filled in and have signature of either the chairman of board of assessors or signatures of each individual composing board of assessors?

1 and 2. We do not think such an assessment is unlawful, but we do not see how a fair assessment can be made without making diligent enquiry as provided by section 13 of the Assessment Act. If the assessment is unfair or unjust in any respect, the only remedy is to appeal against it or to put better men in office. Section 13 sets forth the duties of assessors and sub-section 7 of that act provides: "It shall be the duty of the mayor and of the assessment commissioner, if there is an assessment commissioner, to see that the assessors duly perform the duties mentioned in this section."

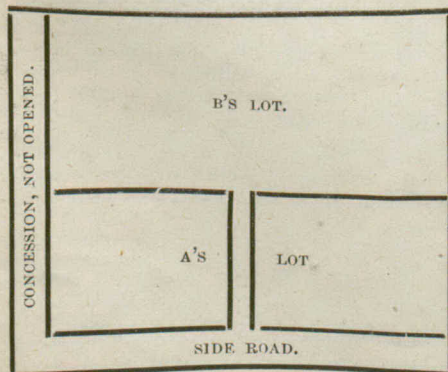
3. The act is not clear upon this point, but we may say that in the absence of any by-law assigning to an assessor a particular district, so that one of two or more assessors has equal authority with the others, a notice signed by one would be sufficient. The important thing is that the notice required is given, because the person assessed may then appeal if he is dissatisfied. There is no merit in the objection that all of the assessors have not signed the notice.

Right of Way—Pay for Snow Fence.

247.—T. J.—1. B owns the lot back of A and has been going through A's farm to get to his own farm. The concession line is not opened yet for travel. Can A prevent B from going through his farm or make him pay a reasonable amount each year for the privilege of going through?

2. A brush fence was made between A's and B's farm through woods over ten years ago. They did not know exactly where the line was when they put it there and when they run the line again the brush fence was on A's lot. Can A have the new rail fence put in the right place, it being only a brush fence.

3. A part of our road was blockaded with snow this winter so that the travelling public was forced to let down the fence and go through a man's field until such time as the road became passable. Can the man compel the council to pay him for putting up the fence again or be allowed the time he took in putting up the fence off his statute labor?



1. Unless B has acquired a prescriptive right to cross A's land by a twenty years user, A can prevent him from crossing his farm.

2. We are of the opinion that A can put the fence on the true line.

3. If the council had exercised its powers under the act respecting snow fences the owner would have been entitled to compensation, but the owner, under the circumstances stated, cannot compel the council to pay him for putting up the fence or to allow him anything on account of statute labor.

Date for Appeals Against Assessment Roll.
(See No. 237)

248.—J. B. P.—Your answer to my queries re Assessor's Duties, received. You state date for assessment roll's return according to section 71, sub-section 2, to be April 20th. It almost seems to me that this date is variable and as this sub section refers to time, notice of appeal is to be given to clerk and does not mention any particular date, it seems to strengthen my view. You will see by section 55 of Assessment Act that the assessor shall complete roll on or before 30th April, and then section 56 states that he shall, on or before 30th April, deliver to the clerk, etc. This word "before" surely must mean that he shall return it, say the 1st, 5th, etc., of April if completed and then notice of appeal date from said date of return. I think this is an important point to clerks as if the court of revision could be held the first week or so in May, it would distribute the work more evenly over the summer months.

We have no doubt at all as to the meaning of the section referred to. The words in sub-section (2) of section 71, "the day upon which the roll is required by law to be returned," can mean only the 30th April and a ratepayer cannot be deprived of his right to appeal within fourteen days after that date, by the return of the roll at an earlier date.

Date of Appointment to Office.

249.—R. B. C.—Our township council appoints their overseers of highways at the meeting held in April. The by-law reads that they are appointed for the present year or until their successor is appointed. There seems to be a difference of opinion. Some pathmasters appointed last year claim that they can hold office until the 1st May; others claim that if the pathmasters just appointed take the declaration of office the next day after the council meeting in April, that their duties commence at once. Which is correct?

The pathmasters hold office from date of passing of by-law appointing them until their successors are appointed.

Watercourse—Obstructing by Farm Entrance.

250.—J. G.—Last summer we appointed a pathmaster on a certain beat in the Township of Albion. On this beat were two culverts, one on each side of an entrance to a farm. The pathmaster caused one of those culverts to be taken up and built a larger one at one side of the entrance to the farm. Then opened up the watercourse to the entrance which is about ten inches or one foot deep. The owner of the farm filled up the entrance with stones and clay causing the water to flow across the road. Last fall I ordered the pathmaster to fill up the track made by the water across the road as it was in a dangerous condition. This caused the owner to fill in more clay to the entrance. It was allowed to stand in this way till this spring. When the freshet came this spring it washed out the entrance and he filled it up again causing the water to flow across the road. This

entrance has caused trouble for a number of years. As there is an incline from this farm through the entrance causing the water to flow out on the road forming ice in a freezing time and making it dangerous at times to cross,

1. (a) Had the pathmaster a right to open up the watercourse across the entrance to the farm?

(b) If so can the council be compelled to build a culvert for him?

2. Does the usage for a certain length of time bar the council or the pathmaster of interfering with the entrance to the farm?

3. In this case what is the proper course for the council to take as the council is threatened with an action for damages? Can the council cause the obstruction to be removed and allow the owner to build a culvert as the council has not built a culvert at the entrance to any farm in this township?

1. (a) Yes.

(b) No.

2. No.

3. It is the duty of the council to keep the roads in proper condition to ensure the safety of the public and it can prevent any interference with what it does for that purpose. If land owners require bridges across necessary drains they must provide them at their own expense.

Orders—Resolution—Voters' List.

251.—A. B.—1. Is it legally required that all orders from the head of Municipal Councils upon the Treasurer of the same, should be signed by the clerks of the respective municipalities?

2. Has the head of a municipal council a right to move or second a resolution that may be laid before the council for consideration?

3. In case a person owns real property in polling division one, but resides in polling division four on rented property, should such person be entered on voters' list for division four as a freeholder of property in division number one? If not how can we enter the name of such person on voters' list for polling division four without disqualifying him as a freeholder voter, or requiring him to go to polling division one to vote?

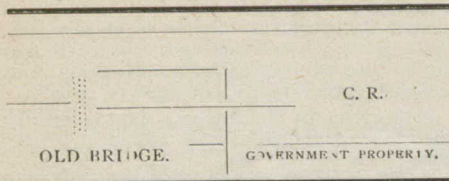
1. No, unless there is a by-law of the municipality which requires it.

2. The head of the council is the presiding officer and his duty as such presiding officer is to submit such resolutions as are moved and seconded by other members of the council, but unless there is a by-law regulating the mode of procedure there is nothing illegal in his moving or seconding a resolution, and such resolution, if a majority of the council voted for it, would be perfectly legal.

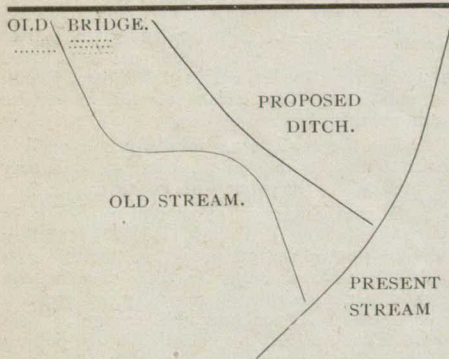
3. Section 6 of the Voters' Lists Act, chap. 7, R. S. O., 1897, provides the manner in which voters' lists are to be made. Sub-section 11 of this section makes it clear that the name in this case should be entered in polling division No. 4, inserting opposite his name the additional words, "and other premises."

Highway—Drainage and Repair of

252.—W. E. W.—On a certain creek which crosses second concession road, two bridges were formerly erected to carry water through turnpike. Later one bridge was filled up and the water required to turn abruptly and run along roadside between turnpike and road fence for about six rods, then turn abruptly across again, thus



and enter government property. The old water course is still there but requires straightening. The turnpike acts as a dam in the creek, which checks floating ice and on account of the abrupt turns, during the spring floods and property on the north side of the road is inundated with excessive water which is checked in its flow by said road. A petition is now before the council asking to have the second bridge rebuilt on account of the above mentioned facts and also on account of the yearly outlay in repairing road damaged by water flowing over it which is dangerous during freshet to public travel as ice frequently lodges on centre of road. Can the property owners come on the municipality for damages should they fail to rebuild said bridge, on account of their property which is now being improved and put under cultivation, formerly being used almost exclusively for pasture, be damaged by water which at times is one to two feet higher on north side of road than it is on south side and can the municipality should they rebuild said bridge, go into the government property to get an outlet across to main stream, thus



without bringing in an engineer. Would it be legal to do so without an engineer, provided the government officials in charge of said lands gave their consent. The grounds some of the council take are that the expense of rebuilding is too great for the benefits derived. I contend that the municipality is liable for all damages to adjoining lands inundated by said water under the present circumstances; that the municipality is liable for all damages incurred to any person or thing while travelling on said road even though it were known to the person damaged that crossing was dangerous at the time of the accident. Is it not illegal to cause an abrupt turn in the course of a stream? Should it not be carried across road where it strikes road as that is evident of the low point?

1. The facts of this case are not stated so as to enable us to answer the questions asked, specifically. All we can do is to state the principles of law applicable to cases of this kind. A municipal corporation has no right to convey water by means of ditches or drains, to a point and leave it where it will flow over a man's lands and cause damages; neither has it any right to divert a natural watercourse (that is a channel having defined banks through which the water runs) so as to cause water to flow upon private lands and damage them. If it does any of these things it is liable in damages. 2. So long as a road is open for public travel it is the duty of the council to maintain all bridges

necessary to make it reasonably safe for public travel. If the expense be too great the council may close the road under certain circumstances, but if it does so it must provide another convenient road, if there is no other in existence, for residents. 3. The council cannot drain across government lands without the consent of the government. 4. So long as a road is open for travel the public is entitled to use it, but a person who knows that it is dangerous must exercise a greater degree of care, and if an accident happens the corporation will be liable provided the person injured has under all the circumstances used reasonable care.

Councils and Railway Cattle-Guards.

253.—J. W.—Our township gave a large bonus to the C. P. R., (which is now a part of the Canadian Pacific Railway,) upwards of twenty years ago. When it was built, proper cattle guards were put in at public crossings. This last year or before they have filled up these guards and replaced them with three-cornered scantling which are not at all a protection guard, cattle frequently getting on the track and getting killed. Has the municipality power to compel them to put in proper guards?

No. The Railway Act, section 13, provides that railway companies are to erect and maintain cattle guards at all highway crossings suitable and sufficient to prevent cattle and other animals from getting on the railway. If the cattle guards are not duly maintained the company is liable for all damages done by its trains or engines to cattle.

Short Form Local Improvements By-law.

254.—E. S. R.—I have been trying to utilize the short form of Loc. Imp. By-Law-Schedule "O," section 670 of the Municipal Act; but find that no provision is made, when and where interest is payable. Is not also, clause "5" of column "one" defective, in making debentures payable years after issue? Can the short form enacting provisions be altered? Is the By-Law workable at all?

Section 1 of the form of by-law shows that the interest is to be paid annually, and section 6 gives the council authority to provide the debentures themselves, where they shall be payable both as to principal and interest. The Legislature itself has given the council power to make the debentures payable from their issue. The short form provisions may be altered, but if that is done it will destroy the value of the provisions contained in column 2. It is therefore a dangerous experiment to alter the short forms in column 1. If you desire to make any alterations you should use the long forms and make the desired changes in them, but we do not think that is at all necessary by reason of what you consider defects.

Duties of Board of Health.

255.—HEALTH.—By-law, section 122, Chap. 248, R. S. O., is in force in our township and a resident in an incorporated village in our township keeps two pigs, clean and disinfected, over seventy feet from any dwelling, but a neighbor, who is on bad terms with him complains to Board of Health that the pigs are a nuisance and that the water in his well is unfit for use through soakage from pig-pen. The board is annoyed with the complaints and has ordered

the removal of the pigs, but the owner states that we are discriminating against him as other residents are allowed to keep pigs under similar circumstances.

1. Can the pigs be considered a nuisance under the circumstances stated?
2. Must the board attend to every complaint even though they know spite is the motive?
3. If the board decides there is no nuisance can they make the complainant pay the expense of the investigation?

1. Yes, if the board so decide.
2. The sanitary inspector is required by section 6 of the by-law mentioned to make an examination of the premises referred to in any complaint signed by an inhabitant householder.
3. No.

Assess According to Sub-Divisions—Collector's Duties and Returns.

256.—H. W. M.—Is it necessary that an assessor should assess Village lots according to the maps registered in Registry Office (like this, lot 17 in block 1) village of name) where said village is not incorporated. Please give me an opinion on the following letter I received from the county treasurer:

I am afraid your collectors have returned properties, taxes on which might have been collected, and may cause your council as well as yourself considerable trouble. If the council have accepted their statements and released them and their sureties the council are liable for neglect. I will give you an instance of J. J. Walker who has property in the town of Simcoe and should have property to distraint although a non-resident as far as Charlotteville is concerned. He has no exemption and the collector's duty is to distraint no matter where he may reside in the county. Where persons are on the assessment roll and collectors they have no exemptions, even their cook stoves and beds can be sold. Though a tenant may have paid his rent and moved off the property to some other in the county he is still liable for the taxes and the collector's duty is to collect.

You can understand that should any difficulty occur in future the township council will censure their officials and the treasurer may explain as much as he chooses he cannot convince the council that share of the blame does not rest with him. Has the statutes of 1897 the complete law?

1. Yes. See sections 18, 29 and 34 of the Assessment Act.
2. We agree with what the county treasurer says. The courts have held that the duties of collector to make the taxes out of the chattles liable therefor are imperative, and if they are not strictly observed the taxes cannot be returned against the lands and the municipality must lose them.
3. Yes, in reference to this question.

Board of Health and Disinfection Expenses.

257.—W. G. E.—In 1898 diphtheria broke out in a union school section composed of part of township A (in which the school-house is situated) and part of township B. One of the children belonging to township B died of the disease, and the school was closed by the trustees. The secretary of the Board of Health for the township B notified me, as secretary for township A, to have the school-house disinfected. Our Board of Health sent their Medical Health Officer and had the work done. Afterwards the secretary of the school gave notice to the council of township A that the disease existed in several families in the section, that the school was closed, and asking the Medical Health Officer to be sent to ascertain to what extent it existed in the section, and to

have the parties affected quarantined. The M. H. O. was again sent and found three families affected, and them isolated.

Now what I want to know is,

1. Had the authorities of township A right to send the M. H. O. as stated?

2. Are the trustees of the section responsible for the amount paid by the municipality?

(My opinion is that the trustees have a right to refund the amount paid by the council.)

1. Yes.

2. No.

Collectors' Roll and Collection of Arrears.

258.—X. Y. Z.—On collector's roll appears arrears of taxes for 1896 and 1897. Can collector collecting 1898 taxes, collect the arrears or seize for the whole amount if not paid.

Our correspondent will please inform us under what authority the arrears of taxes referred to were placed on the roll. If not under sections 152 to 155 of the Assessment Act, we are of opinion that they are not properly on the roll and that the collector cannot distrain.

Survey and Road Lines.

259.—T. D. R.—Our township council employed a surveyor to survey and stake out a road allowance and ordered all parties whose fences occupied a part of said road to have them removed. Several of these persons claim that their fences are already on the proper lines and have them placed on a surveyor's line. The two surveyors do not agree to which line is according to the Government survey, both lines have been made by Ontario Land Surveyors and both lines are intended to mark out a Government road allowance.

1. What action would you advise the council to take to determine which line is correct?

2. (a) Is it necessary for a council to designate road allowance before compelling persons to remove their fences from road? (b) or can council compel them to have lines run and fences placed in proper places?

1. Indict all persons refusing to remove fences after notice.

2. (a) No. (b) No.

Vote for Trustees in Union with Urban Municipality.

260.—W.—The village of Tweed was incorporated on 1st January, 1890 (it formed part of the Township of Hungerford) and the school section was S. S. No. 8, Hungerford. The village of Tweed contains in or about 400 acres. Outside of Tweed there is a large number of farmers belonging to our school (old No. 8). They pay taxes to our school through the Hungerford council and its treasurer and not directly to our school board. They want to have votes for the Tweed P. S. board.

1. How can they have votes as they are not on our voter's list?

2. Can they be put on the list? If so, to what part of the lists?

3. How will they and their property be designated on the lists?

The list of voters may be obtained from the clerk of the township municipality, and the vote taken as directed in section 49 of the Public Schools Act.

No Certificates to Vote in County Council Elections.

261.—R. B. C.—Can a ratepayer who has been appointed as a scrutineer for the election of county councillors, have the privilege of voting in the division in which he is appointed although his name on the voters' list is not in that division.

No. See section 160 of the Municipal Act.

Collection of Water Rates in Districts.

262.—T. M. C.—This municipality is an incorporated village in the District of Muskoka.

1. Should the treasurer of this municipality return the arrears of water rates to the sheriff when returned to him by the collector?

2. Are charges in water services collectable in the same manner as water rates?

3. Should installation charges be returned to the treasurer or sheriff same as water rates?

1. Yes. See section 20, sub-section 2 and section 22, sub-section 2 of the Municipal Waterworks Act, and section 56 of chap. 225, R. S. O.

2 and 3. Yes. See section 17 of the Municipal Waterworks Act.

Post-Offices—Taxation of.

We are so often asked whether post-offices or the lands occupied or used therewith are taxable or not that we have considered it of sufficient importance to refer to the statute law and decisions of the courts on the subject.

Section 7 of the Assessment Act declares that all property in the province shall be liable to taxation, subject to certain exemptions mentioned, and among those exemptions are the following:

1. "All property vested in or held by Her Majesty, or vested in any public body or body corporate, officer or person in trust for Her Majesty, or for the public uses of the province; and also all property vested in or held by Her Majesty, or any other person or body corporate, in trust for, or for the use of any tribe or body of Indians, and either unoccupied or occupied by some person in an official capacity.

2. Where any property mentioned in the preceding clause is occupied by any person otherwise than in an official capacity, the occupant shall be assessed in respect thereof, but the property itself shall not be liable."

The first decision we find on the meaning or effect of the above exemption clauses is *Shaw vs. Shaw*, 12 U. C. C. P., p. 456. In that case certain goods were distrained for taxes and an action of replevin was brought to recover them and the owner of the goods pleaded that the land, house and premises during the years 1855, 1856, 1857 and 1858 were vested in and held by Her Majesty, and for the public uses of this province for a term of years ending on the 1st day of April, 1859, and were occupied by James Hopkins, in his official capacity as collector of the customs for the post of Kingston, and as the custom house of the post of Kingston and for the public uses of the province, and not occupied by the said James Hopkins or by any person otherwise than in an official capacity, or occupied or owned by any private occupant and that the said land, house and premises were exempt from taxation during those four years. Mr.

Justice Morrison in delivering the judgment of the court after referring to subsections 1 and 2 of section 9 of the Assessment Act and which are the same as they are now said, "and by the 5th section the word 'property' is to be taken to include both real and personal property. It is therefore clear that the premises in question being held and vested in Her Majesty and for the public uses of the province during the years 1856, 1857, 1858 and 1859 as set out in the plea they were not during those years liable to taxation; but it is contended that leasehold property so held is not exempt, or rather that the reversioner and the land is liable for the taxes assessed during the period it was so vested in Her Majesty; the statute enacts that all property (which includes leasehold) so held or used shall be exempt. If it was intended that the landlord or reversioner should be liable for the taxes, or that the taxes should be a lien as here contended on the land and collectable at the termination of the lease to the Crown the Legislature would have expressed such its intention as it has done in the second subsection where it declares that if such property is occupied by any person other than in an official capacity, the occupant shall be assessed in respect thereof, but the property itself shall not be liable.

The next case on the subject is the *Principal Secretary for War vs. the corporation of the city of Toronto*, 22 U. C. Q. B., p. 551. The facts of this case were as follows: During the year 1862 certain premises situate on King street in St. George's ward, Toronto, were occupied by Her Majesty's troops, as barracks under and by virtue of a certain indenture of lease. The premises were assessed upon the assessment roll for the year 1862. In January, 1863, the collector called upon the commissariat officer in charge at Toronto, for the payment of \$150 taxes on said premises for the year 1862, said officer refusing to pay said taxes on the ground that the premises were not liable to taxation. In the lease there was a covenant by the commissariat officer to pay the taxes. Hon. Justice Adam Wilson in delivering the judgment of the court says at page 554: "The first case relating to the land on King street, is concluded by the judgment of our own court of Common Pleas, in *Shaw vs. Shaw*, (12 C. P. 456) unless the covenant by the lessee to pay "all taxes or assessments to which the said premises shall be liable" during the lease, can make any difference; but I think this engagement cannot be binding on the crown. The statute expressly exempts this property from liability to taxation; probably this would have been the law if no such provision had been made. The crown cannot be prejudiced in its rights by the acts of any of its officers." The next case on the subject is *Attorney-General of Canada vs. the city of Montreal*, 13 S. C. R., p. 352. The facts of this case were that Her Majesty, by the

government of the Dominion of Canada, occupied the property for which the taxes were claimed, in virtue of certain leases of such property for the militia department, upon which the department had the right to erect all rifle ranges necessary for rifle practice, and temporary sheds and tents which might be required. This was a lower Canadian case but the section under which the owners, through the crown, claimed exemption was substantially the same as the exempting clauses in force in this Province. It is section 2, cap. 4, C. S. L. C., and reads as follows:

"2. All property belonging to Her Majesty, or held in trust by any officer or party for the use of Her Majesty in whatever part of this Province the same is situate, shall be exempt from all local rates or taxes, statute or other labor on any highway, or commutation for the same, &c." The Court of Queen's Bench affirming the judgment of the Superior Court held that the property was not exempt from taxation but the Supreme Court of Canada the present Chief Justice Strong dissenting, reversed the judgment, holding that the property was exempt. The present Chief Justice Strong wrote a very strong and vigorous dissenting judgment, but as the judgment of the majority of the court settled the law on the subject it is needless to give his reasons against the exemption at large. The essence of his argument is contained in the following words which he used: "These taxes are not imposed in respect of the leasehold, but in respect of the proprietorship of the land which is, of course, absolutely in the defendants, the crown having a right to enjoy it only, under a mere personal contract in no way operating as a dismemberment of the property or conferring any real right whatever. It cannot, therefore, be said that these taxes are imposed upon property 'belonging to, or held in trust' for the crown so as to bring it within the terms of the enactment quoted." It will be observed that in all of the above cases there were leases under or by virtue of which the crown was entitled to occupancy of the lands, and we think that in order to exempt property owned by a private individual it must appear that the Crown is entitled to such occupancy. Where that is shown in the case of a post-office, such post-office will be exempt from taxation. But there are, no doubt, many cases in small country places where there are post-offices but where there is no such right of occupancy and where that is so the assessor ought to assess the property, and where there is the right of occupancy in the Crown the assessor should assess all of the property, except what is actually used for the purposes of the Crown. We understand that some owners of buildings, only a small part of which is used for a post-office, claim exemption for the whole building. When the assessor has any doubt as to whether a particular property should be exempt he should assess it, leaving the owner to appeal.

Standing Rules and Regulations

ADOPTED TO GOVERN THE PROCEEDINGS AND CONDUCT OF THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF PELHAM AND ITS COMMITTEES AND OFFICERS FOR THE YEAR 1899.

RULE 1—TIME AND PLACE OF MEETINGS.

(1) All ordinary meetings of the council shall be held openly at the council chamber (unless the council shall by by-law or resolution on adjourning determine otherwise), at such time as is fixed by Statute, or as is named in the resolution of adjournment, or as may be fixed by the reeve.

(2) Special meetings of the council shall be held at such time and place as the council by by-law or resolution may appoint from time to time, or as may be appointed by the reeve, but for such special purposes only as are named in such by-law or resolution, or in the reeve's written notice summoning them.

RULE 2—ORDER AND DECORUM.

The reeve or other councillor appointed to preside in his absence, shall preserve order and decorum and decide all questions of order, subject to an appeal to the council.

RULE 3—ORDER OF BUSINESS.

The order of business at each ordinary meeting of the council shall be:

(1) The reading and correction of the minutes of the last preceding ordinary meeting, and of all special meetings held in the interval, and confirmation of same over the chairman's signature at the end thereof.

(2) The reading of communications and petitions, and the presentation of reports.

(3) The hearing of personal applications, requests and inquiries.

(4) The consideration of communications, petitions, reports and personal applications, and of any motion dealing with the same.

(5) Any other business.

But the council may unanimously agree without motion to vary this order.

RULE 4—BY-LAWS.

Every by-law shall receive three several readings, the dates of which respectively shall be endorsed thereon by the clerk. Upon the final passing of any by-law it shall be signed by the chairman and clerk as required by law and the corporate seal attached in open council, and numbered in the consecutive order by the clerk.

RULE 5—RESOLUTIONS AND ACCOUNTS TO BE IN WRITING.

(1) Every resolution and amendment thereto moved in council shall be written or printed, and after being finally put from the chair and decided, shall be endorsed 'carried' or 'lost' as the case may be, by the chairman over his initials or signature written at the end thereof, and shall be numbered in consecutive order by the clerk and spread upon the minutes.

(2) Every claim made or account presented for any work done, material furnished, or service rendered the municipality must be in writing, properly itemized and giving day and date and character of service, and the accuracy of each such claim and account must be duly vouched for in writing if required by the proper committee or official.

RULE 6—COMMITTEES.

(1) Whenever the council upon motion duly carried may decide to go into committee of the whole council to consider any by-law, report, resolution or matter before it, the reeve shall appoint a chairman of the committee who shall maintain order and report the result of the deliberations of the committee to the council upon rising. No motion made while in committee of the whole need be in writing nor entered upon the minutes, nor shall the number of times of speaking on any question be limited.

(2) There shall be six standing committees for the year, viz:

(a) On communications, composed of the reeve.

(b) On printing and supplies, composed of the reeve and clerk.

(c) On roads and bridges composed of the whole council.

(d) On claims and accounts, composed of the whole council, with councillor Brown as permanent chairman thereof.

(e) On relief and charities composed of the whole council.

(f) On the Invested School Fund, consisting of the reeve, the treasurer and councillor Ward.

Select committees may be appointed from time to time to deal with special matters as is found necessary.

DUTIES AND JURISDICTION OF STANDING AND SELECT COMMITTEES.

(1) The committee of Communications.—All communications shall be referred to the reeve or other member of council presiding in his absence, who shall in his discretion submit to the council such as in his judgment shall properly come before it, and all communications so submitted by him shall be placed on file by the clerk and the date of filing endorsed thereon, without formal motion so to do, unless some member of the council objects thereto.

(2) The Printing and Supplies Committee.—This committee shall order and contract from time to time for such printing, stationery and supplies as may be required by the corporation and its officers.

(3) The Road and Bridge Committee.—The jurisdiction, powers and duty of each member of the Road and Bridge Committee as to highways and bridges wholly within the municipality shall be as follows:

(a) The councillor living nearest to any highway or bridge needing repairs shall cause same to be made provided the probable cost will not be more than \$10.

(b) If probable cost be over \$10.00, but under \$50.00, then the two nearest councillors shall attend the same.

(c) If probable cost over \$50.00, but under \$100.00, then such repairs shall be made by the reeve and two other councillors living nearest thereto.

(d) But when the cost of any road and bridge service or contract is likely to exceed \$100, then the whole council shall be the committee to oversee the same; and in every case the member of the committee living nearest to the work to be done shall be chairman of the committee in charge.

(e) All sales of sand, stone, gravel, timber or any other material by any member of the road and bridge committee upon any such highway shall be verbally reported by him at the next ordinary meeting of the council and the particulars thereof entered by the clerk in the minutes of the proceedings.

(f) Town line roads.—When any repairs are needed to a town line road or bridge, the councillor or councillors living nearest thereto shall act with such representatives as the other township interested may appoint, in causing such repairs to be made; and the account for Pelham's portion of said repairs must be written and certified as required by rule 5 above.

(4) The Committee on Claims and Accounts.—All claims and accounts presented to the council shall be submitted without motion or debate, unless some member objects, to the committee on claims and accounts, the permanent chairman of which, or in his absence a temporary chairman to be named by the reeve, shall consecutively number each account, and after consideration of same shall indicate by an endorsement thereon over his own signature or initials whether the account was allowed by the committee in whole or in part or rejected. Before adjournment at each ordinary meeting of council the committee through its chairman shall make a written report to the council in such form as the council may require, upon all claims and accounts that have been submitted to it. The reeve may issue his cheque in payment of any road and bridge service upon presentation to him of an account drawn up in compliance with rule 5 above, and vouched for by the committee having charge of the job, but he shall present at each ordinary meeting of the council a written statement or report of all payments so authorized by him since last meeting, accompanied by the original duly certified accounts. Every by-law, resolution or report authorizing or recommending any payment or appropriation of money for any purpose, and every order issued by the reeve upon the treasurer, shall designate the particular service to which same shall be charged.

(6) The Relief Committee.—The duties of each member of this committee shall be to relieve such urgent and pressing cases of distress or want in the township as may be brought to his knowledge.

(6) The Invested School Fund Committee.—This committee shall have the oversight of the loaning and re-loaning of the

investment school fund monies of the township during the year, and of the collection of the interest thereon falling due from time to time; they may make such rules for the better regulation and management of said funds as are not inconsistent with the by-laws and resolutions of council in force relating to the same.

(7) Select Committees.—Select Committees shall deal only with such matters as are specially referred to them, and shall be discharged by the reception of their report by the council. Standing and Select Committees may meet at such time and place as may be agreed upon by the committee or a majority thereof, and their reports to council shall be made in writing.

RULE 8—DOG TAX NOT TO BE REFUNDED.

No application for a refund of the tax on any dog, upon any pretence whatever, will be entertained after the final revision and adoption of the assessment roll for the year by the council.

RULE 9—VARYING OR SUSPENDING THE RULES

The foregoing shall be the Rules of Order for the year 1899, and no rule shall be varied from or suspended except by the unanimous consent of all the members of council present.

RULE 10—UNPROVIDED CASES.

In all cases unprovided for by the foregoing rules and regulations, the proceedings in council and in committee shall be governed by the rules and forms of procedure governing the Legislative Assembly of the Province of Ontario.

Hawkers and Pedlars.

IMPORTANT JUDGMENT DELIVERED BY POLICE MAGISTRATE MITCHELL OF PEMBROKE —MILLER VS. SMITH.

This case excited considerable notice, as if there should be a conviction, it was considered likely a change would have to be made in the practice of carrying sewing machines for sale from house to house without a pedlar's license, which, it is alleged, is the method mostly adopted throughout the province. As will be seen by the judgment, which is here published in full, a pedlar's license is necessary where that practice is pursued and it is not shown that the goods are the growth, produce or manufacture of the province.

JUDGMENT.

The defendant, Hudson Smith, is charged by James Miller, high constable for the county of Renfrew, for that he, the said Hudson Smith, between the first and twenty-eighth days of February, 1899, in the county of Renfrew, unlawfully did exercise the calling of a hawker and pedlar without the necessary license, contrary to a certain by-law of the said county in that behalf, numbered 573.

This by-law is enacted under the authority of the Municipal Act, being chap. 223, R.S.O., 1897, s. 583, s.s. 13. The councils of counties, etc., may pass by-laws, s.s. 14, for licensing, regulating and governing hawkers, pedlars or petty chapmen, and other persons carrying on petty trades or who go from place to place or to other men's houses, on foot, or with any animal bearing or drawing any goods, wares or merchandise for sale, or in or with any boat, vessel or other craft, or otherwise carrying goods, wares or merchandise for sale, and for determining the time during which the licenses shall be in force;

Provided always that no such license shall be required for hawking, peddling or selling from

any vehicle or other conveyance, any goods, wares or merchandise to any retail dealer, or for hawking or peddling any goods, wares or merchandise, the growth, produce or manufacture of this province, not being liquors within the meaning of the law relating to taverns or tavern licenses, if the same are being peddled by the manufacturer or producer of the goods, wares or merchandise, or by bona fide servants or employees having written authority in that behalf; and such servant or employee shall produce and exhibit his written authority when required so to do by any municipal or peace officer;

And the by-law enacts that "no person shall exercise the calling of a hawker or peddler in this county without a license obtained as in this by-law provided." And the proviso above quoted is imported into the said by-law verbatim. The information was objected to before the hearing by Mr. O'Meara, counsel for the defence, on the ground that it did not set forth the charge with sufficient detail. I overruled that objection as previously recorded in these proceedings, on the authority of section 846 of the criminal code, 1892, and affirmed the sufficiency of the information.

Mr. O'Meara cites a large number of cases, all of which I have conscientiously examined, and find that some have, in view of the evidence, but little bearing upon the case, some I do not consider relevant, and others again have now no value owing to changes in the law since they were decided. Among these are Reg. v. Coutts, O. R., Vol. 5, 644; Reg. v. Bassett, 12, O. R. 51; Reg. v. Marshall, 12, O. R., 55; Reg. v. Chayter, 11 O. R., 217; Reg. v. McNicols, 11 O. R., 659; Reg. v. Rawson, 22 O. R., 467 and 472; Reg. v. Somers, 24 O. R., 244; Reg. v. Spain, 18 O. R. 385; re Donnelly, 20 C. P. 165; Reg. v. Coulson, 24 O. R., 246; Reg. v. Pipe, 1 O. R., 43.

The cases which Mr. O'Meara quotes in favor of his contention "that the evidence adduced does not negative the exceptions contained in the proviso," being Reg. v. Mcfarlane, 17 Canadian Law Times, vol. 17, page 29; Reg. v. White, 21 C. P., 354; Reg. v. Breen, 36 Q. B., 472; and Reg. v. Jukes, Revised Reports, vol. 5, (1799—1801) 455—are they which appear to me the most important, as the law which determines whether or not the prosecutor should, in the information and by evidence, have negated the exception in the proviso contained, or whether the onus does not rest on the defendant of affirming the exception in his own behalf, if he desires to avail himself of the benefit of it.

Reg. v. White, 21 C. P. R., 354, was a conviction for selling liquor on a Sunday in contravention of 32 Vic., chap. 32, sec. 23, (Ont.) and it omitted to state that the liquor was not supplied upon a requisition for medicinal purposes. The judgment clearly shows that the exception was in the enacting clause, and quotes Paley on Convictions, 3rd edition, page 232, "That when the enacting clause of a statute constitutes an act to be an offence under certain circumstances and not under others, then as the act is an offence only sub modo, the particular exceptions must be expressly specified and negated; but when a statute constitutes an act an offence generally, and in a subsequent clause makes a proviso or an exception in favor of particular cases or in the same clause, but not in the enacting part of it, by words of reference or otherwise, then the proviso is matter of defence or excuse which need not be noticed in the information or conviction was quashed

Reg. v. Breen, 36 Q. B., 84, was a conviction under sec. 25 of the same statute as Reg. v. White, for keeping intoxicating liquors for sale without license. In the judgment I find the following, "The contention on the part of the defendant is that these exceptions should have been negated in the conviction, and he relied on the judgment in Reg. v. White, 31 C. P., 354 to establish this. In that case, however, the exception was contained in the same section as that constituting the offence, whereas, in the one now before me, the exceptions are

in different subsequent sections." The conviction was supported.

Reg. v. Jukes, 8 T. R., 542, (also Revised Reports, 1799—1801), vol. 5, 445, was also a conviction for an offence where the enacting clause contained an exception which was not negated in the information." Lord Kenyon, Chief Justice, in delivering judgment observed, "That this conviction should not be supported because the information did not negative the exception introduced into the clause enacting the offence, viz., that the buttons had been exposed to sale in this instance upon the pattern cards. In like manner as in convictions on the game laws, it had always been deemed necessary to negative in the information the defendant's qualification to kill game; that the only cases where this was not necessary to be done were where the exception was introduced in a subsequent clause, and there it must come by way of defence on the part of the defendant."

Nares on convictions, London, 1814, pp. 46 and 46 commenting on Lord Kenyon's judgment in this case says, "But a distinction has been taken between what is the enacting part and when the exception is returned under a proviso or subsequent clause in an act of parliament, it being considered a matter of defence, and therefore not necessary to state it in the information. *Witwick v. Ostaston*, 1 Lev., 26, and 1 Keble, 20, this was an action and the distinction was clearly held in *Rex v. Ford*, 1 Stra. 555, on a conviction for keeping an alehouse; it was objected there that there was a proviso to exempt persons who had been punished by a former law of 5 and 6, Edw. 6 c. 2, but the court held that being a proviso he should have insisted upon it in his defence. . . the defendant ought to show it when called upon for his defence, that is he ought to prove he is in that condition which exempts him from the penalties of the act."

In the *Queen v. Straus* (Supreme Court of British Columbia) reported in *Canadian Cases Annotated*, Vol. 1, 103 (June, 1897) it was held that "If a statute creates an offence in general terms with an exception by way of proviso in favor of certain persons or circumstances the onus is on the accused to plead and prove himself within the proviso."

The law then, to my mind, clearly shows that when the exception is contained in the enacting part of the clause it must be negated in the information, but where it is a proviso following the enacting clause or in a subsequent section it is matter of defence only and it is therefore upon the defendant to show that he is not within the enactment.

The *Canadian Law Times*, Vol. 17, page 29, reports a case which is not reported elsewhere, *Reg. v. Macfarlane*, in which the conviction was for an alleged breach of a by-law of the County regulating hawkers and peddlers, by selling fresh meat without license, passed in pursuance of sec. 495 of the Municipal Act. The Court held that the conviction was bad upon its face because it did not negative the exception in sec. 405, s.s. 3, with regard to peddling goods, wares or merchandise the growth, produce or manufacture of the Province. The report of this case is exceedingly meagre. As reported it is in conflict with every case reported for a century at least. No special reason is given in the judgment as reported for such a reversal. It appears to me therefore that other circumstances than those reported must have prevailed with the Court hence, though a late case (Jan'y, 1897.) I do not rely on or follow it.

Paley on Convictions, 7th edition, page 132 says: "And the description of any offence in the works of the Act, or any order, by-law, regulation or other document creating the offence or in similar words shall be sufficient in law."

I now proceed to consider the evidence.

In the American and English encyclopedia of law, vol. 9, article "Hawkers and Peddlers," I find the following definitions relating to this matter:

1. Who is a hawker and peddler? "a person who practices carrying merchandise about from place to place for sale. It is not perhaps essential to the idea, but it is generally understood from the word that a hawker is one who not only carries goods for sale, but seeks for purchasers, either by outcry, which some lexicographers conceive as intimated by the derivation of the word or by attracting notice and attention to them, as goods for sale, by an actual exhibition or exposure of them."

2. What constitutes hawking and peddling? "A single act does not constitute hawking and peddling. The act consists rather in the going about, the proof of the mere travelling accompanied with an effort to sell is prima facie enough to establish it."

I find from the evidence of the defendant himself that he does practice going about from place to place and from house to house, with goods, wares or merchandise (to wit, sewing machine) for sale, as one of his ordinary methods of doing business.

I find also from the evidence of all the witnesses, alike those for the prosecution as for the defence, that the defendant did so go from his place of business at the town of Pembroke to the township of Alice, with horses drawing a vehicle in which he had a sewing machine for sale, and that he also offered that sewing machine for sale in at least two out of four or more houses at which he called.

I find, therefore that the conduct of the defendant fits perfectly into these definitions, which said definitions are in entire harmony with all the reported cases having any relation to hawking and peddling, save *Reg. vs. McFarlane*.

The only matter then upon which any difference arises is the question, on what date did these visits take place? Witness Wilson for the prosecution was not certain. It might have been after the last of January or it might be before, he said, but by a process of recalling, firstly, the exact date after the New Year opened (as to which he was very positive) on which he commenced a series of trips with his horses to deliver his farm produce at the lumber camps on the river Damoine, and secondly, the time occupied between the several journeys, during the recital of which, carefully examined, checked and cross-examined, the conclusion was reached, so far as his evidence could establish it, that the period of defendant's visit, which, he said, took place several days after he returned home from the last trip, was about the 4th or 5th of February. Witness Gravelle was quite certain the date of defendant's visit to her place was Monday, the 6th of February, particularly recalling that it was her washing day, and that it was on her recommendation that he went to Wilson's, her next neighbor, which latter statement is corroborated by defendant's son who was with his father when they made the calls upon both Wilson and Gravelle.

Against these witnesses on this point is the testimony of defendant's son who fixes the date of the visit as prior to the 25th of January, because he had seen the latter date mentioned in the report sent in to the Singer Manufacturing Co., as the date of a sale of a sewing machine to one Maville, and that this sale took place after the time when they had offered a machine for sale to Gravelle and Wilson as they testified. He added, however, that if the sale to Maville was in February, then the visit to Wilson was in February, too. The defendant, himself, fixes the date of the visit to Gravelle's and Wilson's as between the 20th and 25th of January averring that it was on the 25th that he sold the machine to Maville, in the Province of Quebec. In corroboration of this the defendant produced neither book, document or witness. The exact date of offence is not, however, the essence of the charge. If the date was indisputably proven to be in January, it would have been open to the prosecution to apply for an amendment of the information, which it would have been the duty of the court to grant. The

prosecution has chosen to rest its case as in evidence, and after having carefully weighed the matter, I am of the opinion that the evidence for the prosecution is stronger than that for the defence and must prevail.

I therefore adjudge the defendant to be guilty of the offence as charged and for his said offence do also adjudge the said defendant to forfeit and pay the sum of twenty dollars to be paid and applied according to law; and also to pay to the prosecutor the sum of six dollars and sixty-five cents for his costs in his behalf; and if the said several sums are not paid forthwith I adjudge the said defendant to be imprisoned in the common gaol of the said county at the town of Pembroke and there to be kept for the term of twenty-one days unless the said several sums and all costs of the commitment and conveying of the said defendant to the said common gaol be sooner paid.—*Pembroke Observer*.

The Criminal Code and Municipal Affairs.

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

(a) makes an offer, proposal, gift, loan, promise or agreement to pay or give any money, or other material compensation or consideration to any member of a municipal council, whether the same is to insure to his advantage or to the advantage of any other person, for the purpose of inducing such member either to vote or abstain from voting at any meeting of the council of which he is a member or at any meeting of a committee of such council, in favor of or against any measure, motion, resolution or question submitted to such council or committee; or

(b) makes an offer, proposal, gift, loan, promise or agreement to pay or give any money or other material, compensation or consideration to any member or to any officer of a municipal council for the purpose of inducing him to aid in procuring or preventing the passing of any vote, or the granting of any contract or advantage in favor of any person; or

(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. (r)

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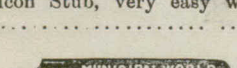
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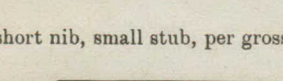
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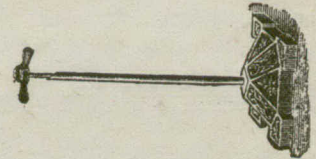


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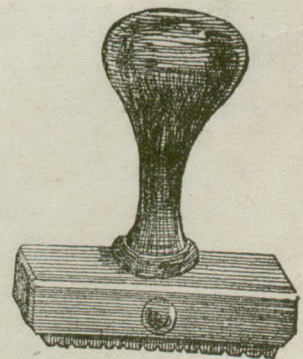
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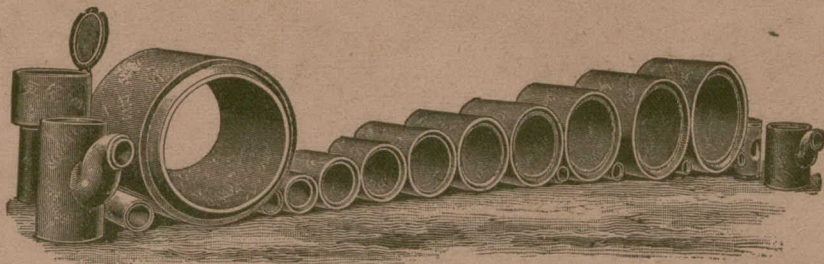
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