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MISSING

THE MUNICIPAL WORLD

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

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Calendar for August and September, 1900.

Legal, Educational, Municipal and Other Appointments.

AUGUST.

1. Last day for decisions by court in complaints of municipalities respecting equalization.—Assessment Act, section 88, subsection 7.
- Notice by Trustees to Municipal Council respecting indigent children due.—Public School Act, section 62, (8); Separate School Act, section 28, (13.)
- Estimates from School Boards to Municipal Councils for assessment for school purposes due.—High School Act, section 15, (5); Public School Act, section 62, (9); Separate School Act, section 28, (9); section 33, (5.)
- High School Trustees to certify to County Treasurer the amount collected from county pupils.—High School Act, section 15, (9.)
- High School Trustees to petition council for assessment for permanent improvement.—High School Act, section 34.
5. Make returns of deaths by contagious diseases registered during July. R. S. O., chapter 44, section 11 (4.)
- 14 Last day for county clerk to certify to clerks of local municipalities amount of county rate.—Assessment Act, section 94.
20. Rural, Public and Separate Schools open.—Public Schools Act, section 91 (1); Separate Schools Act, section 81 (1.)

SEPTEMBER.

3. High Schools open first term.—High Schools Act, section 42. Public and Separate Schools in cities, towns and incorporated villages.—Public Schools Act, section 91 (2); Separate School Act, section 81 (2.)
- County Model Schools open.
- Labor Day
15. County selectors of jurors meet.—Jurors Act, section 13.
- Last day for county treasurers to return to local clerks amount of arrears due in respect of non-resident lands which have become occupied. Assessment Act, section 155 (2.)
20. Clerk of the peace to give notice to municipal clerks of number of jurymen required from the municipality.—Jurors Act, section 16.

NOTICE.

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.

The Municipal World

PUBLISHED MONTHLY

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

K. W. MCKAY, EDITOR,

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J. M. GLENN, Q. C., LL.B. } Editors

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ST. THOMAS, AUGUST 1, 1900.

Municipal Ownership.

Because Boston was seized with such a bad attack of municipal ownership craze that it carried it to an absurd length, unthinking people are indulging in a general condemnation of the practice of civic corporations doing their own work where practicable. Chatham's limited experience in the municipal management of its water and light plants has been eminently satisfactory, but probably had it gone in for some of Boston's Utopian projects the result would not have been so pleasing. Boston has been experimenting with "municipal ownership," and the results are summed up in Harper's Weekly by Guild A. Copeland, in an article headed "An Insolvent Utopia." Among the things which it was determined Boston should provide for itself, instead of permitting selfish and greedy private persons to provide it for them, were its stationery and printing, its actual carpentry, including both construction and repairs, its electrical installations, and its ice plant. Carpenters, wheelwrights, veterinaries, were "civil servants." To escape the terrors and tests of competitive examinations these were asked for and placed on the municipal pay-rolls as "ship calkers," "rubber gasket makers," "beam tenders," and even "an expert swimmer." What was the practical output of all this apparatus had not really been investigated until the accession of the present mayor, a level-headed business man. He was struck, on being called upon to sign some vouchers relating to a matter which he knew something about, by the excess over the market prices of material and labor. From this proceeded an investigation which has resulted in the turning over to private enterprise of a number of "public utilities," upon the ground that it cost too much for the city to provide them for itself. Mr.

Copeland gives the instances. A job of electrical equipment on the ferry boats which should have cost \$6,800, cost \$10,200. A job of electricity in a building for hospital nurses, should have cost \$1,528, and did cost \$4,754. Work on the armory, which could have been done for \$2,600, was done for \$6,700. And so forth. The city's ice, from its own philanthropic plant, costs about \$60 a ton. And so forth. In all there is no direct charge of dishonesty or speculation. It was simply the extravagance engendered, as a limited experience of human nature would have shown, that it was sure to be engendered, by withdrawing the incentive to diligence and frugality furnished by private interest, and putting nothing equivalent in its place. There was an element of conscious humbug in the evasion of the rules of the civil service. These were "beaten" in many ways, so as to make "patronage" out of the enormous multiplication of places caused by municipal ownership."

Civic Ownership in Winnipeg

In Winnipeg the corporation has taken over the electric light and waterworks franchises, and seems to be solving the problem of municipal ownership to its own satisfaction. The waterworks supply under private control was most disgraceful. About one-half the place was without any other service than that given by artesian wells, and until very recently many households were supplied by water carts. The council recently established a new system, having as a source of supply, not as formerly the Assiniboia river, but the subterranean sources to the west of the city, which are said to have their origin in Lake Manitoba. Of the financial results of the taking over of the waterworks system. The *Tribune* says:

"Those who talk of what it would cost the country to buy or build railways, should study the result of the purchase and construction of waterworks by this city. Instead of costing the city anything or adding anything to the taxes of the ratepayers, the earnings of the waterworks system more than pay interest on the bonds and other annual charges. Under continued private ownership the profits of business would have gone to shareholders residing, perhaps in Germany, while the people here would have to pay much higher rates in return for a poorer service."

The *Tribune* declares that in case of street lighting the results are equally instructive. A year or two ago, when the work was done by a private corporation the city had to pay 47 cents a night for each light. But here let us allow our Winnipeg contemporary tell its own story:

"When the agitation for public ownership alarmed the company, it offered reductions, if the city would make a new contract for a term of years. For a three years' contract, for instance, if the city would take from 200 to 250 lights per night, the company offered a rate of 37½

cents each. This was a substantial reduction, but the council was determined on public ownership, and as the sequel showed, wisely, for according to the official report made a day or two ago the cost to the city, including the cost of owning the plant, is less than 22 cents a night for each lamp; 250 lamps at 37½ cents would cost within a few cents of \$94 per night. At 21 cents they will cost less than \$54 per night; a difference of \$12,000. And the lights are much better.

"If farmers, in considering the railway question, want to know how public ownership works, they need not go outside their own province for an example."

In estimating the saving of the present system in Winnipeg over the former the Winnipeg council makes allowance for wear and tear and interest, everything in fact that enters into cost to private owners of plants when estimating the profits for a year. It must be remembered, in this connection, that fuel, oil and wages are higher in Winnipeg than in Ontario, and production, therefore, is more costly than in these parts.

So far as Brantford is concerned, civic ownership of the water supply has been tried with results of a most satisfactory character. As for electric lighting, it has not been found desirable, thus far, to adopt a similar policy, although the question of private v. public control has been fully investigated. The question is not one for theorizing, but for practical and businesslike treatment in the light of existing conditions. There is no particular virtue in municipal ownership unless it can be conclusively established that it will give the people the most economical and the most efficient service.

A Town Transformed by Women

Dissatisfied with the progress of the town under masculine rule, the women of Healdsburg, Cal., says an exchange, gently but firmly took possession of the reigns and are now driving the municipal coach their own way. Their organization is called the Ladies' Improvement Club of Healdsburg, and it was formed in August of last year. Since that time, in the short space of nine months, this is what the club has accomplished:

A municipal water system.

A municipal electric light plant.

Comfortable seats in the park.

Names given to the streets.

Sign-boards with street names placed at street corners.

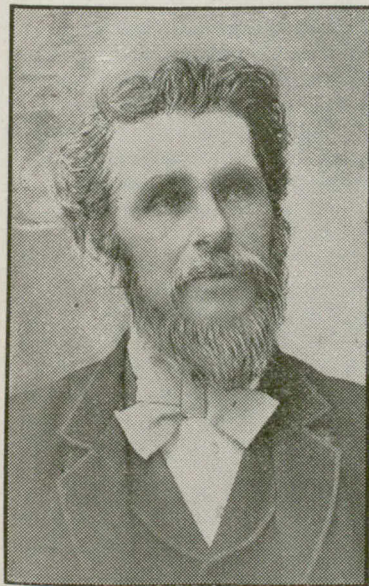
A drinking fountain for the park costing \$600.

All these improvements had been discussed for years by the men. It remained for the women to make them realities. And with the exception of the electric light and water system, the city taxes have not been increased by as much as a farthing to pay for these things.

Municipal Officers of Ontario.

Clerk, Township of Rainham.

Mr. Havill was born in Black Rock, New York, in the year 1833 and came to Canada in 1837. He was educated at



MR. R. A. HAVILL.

the public schools in Thorold township and was engaged in the carriage business for twenty-five years. He was appointed clerk in 1862 and clerk of the 4th Division Court of Haldimand in 1881. Mr. Havill is also a Justice of the Peace for his county.



MR. J. ROBERTS.

Clerk, Township of Alnwick.

Mr. Roberts was born in Scotland in 1840 and is of Irish descent. He was

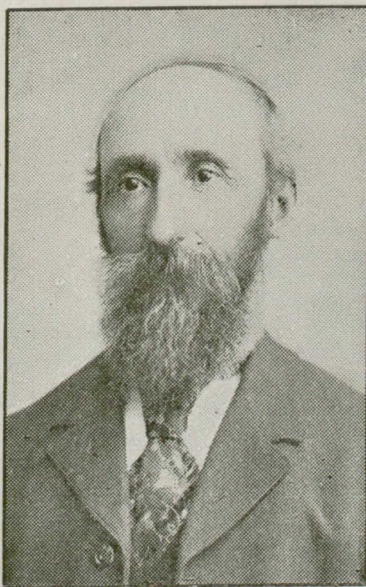
educated in the National Schools of Ireland and at the High School at Peterborough, Ontario. He came to Canada in 1856, taught school for seven years and then engaged in farming. He was appointed clerk in 1879.

Clerk, Township of West Luther.

Mr. Duncan was born in Aberdeen, Scotland, in the year 1840, and emigrated to Canada in 1870. He has been engaged in agricultural pursuits for many years. Mr. Duncan was elected to the municipal council of West Luther in 1884 and appointed clerk in 1889.

Clerk, Township of North Gower.

Mr. Craig was born in the township of North Gower in the year 1850 and was educated at the public schools in the



MR. WM. DUNCAN.

neighborhood. He clerked in a general store for about three years when he engaged in farming. He was appointed clerk in the year 1884. In politics Mr. Craig is an Independent Conservative.

Clerk, Township of Scugog.

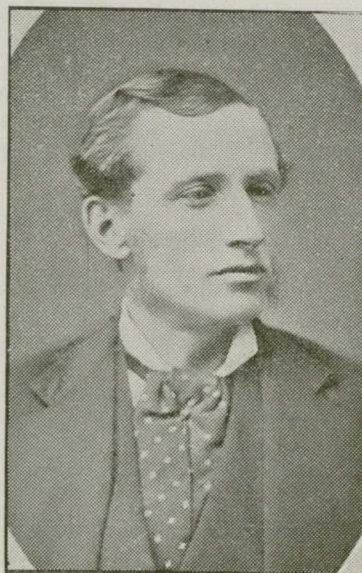
Mr. Foy was born in the province of Prince Edward Island in the year 1830 and came to the township of Scugog in 1852. He was appointed clerk and treasurer in the year 1856.

"The Municipality."

A new bi-monthly magazine devoted to the interests of local government, published by the league of Wisconsin municipalities has been received. The first number contains articles of general interest

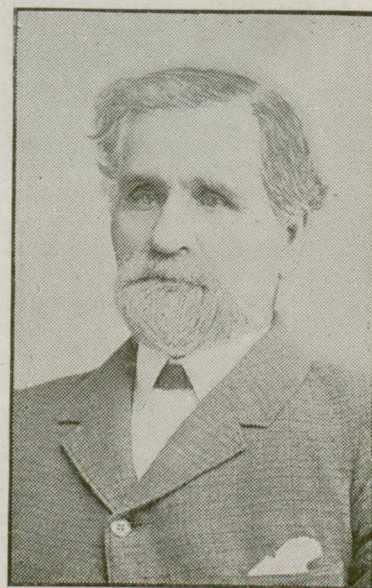
supplemented by notes on Wisconsin cities and a bureau of such information as may be requested.

Officials everywhere will appreciate this addition to the limited number of municipal publications. The subscription is \$1.00 per annum, single copies 25c. Address the League of Wisconsin Municipalities, 505 N. Henry street, Madison, Wisconsin.



MR. JAS. E. CRAIG.

The mayor of St. Anne de Bellevue, Quebec, was recently unseated by Mr. Justice Curran, and sentenced to pay a penalty of \$50 for selling goods to the corporation of which he had been mayor. The court of review sustained this judgment in so far as it related to the unseating of the mayor, but remitted the penalty, on the ground that the party was acting in



MR. JOHN FOY.

good faith and was not aware that he was acting illegally in selling goods to the corporation.

Engineering Department

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

St. Thomas Waterworks.

The annual report of the Board of Water Commissioners of the city of St. Thomas for 1899, has been issued. It is a most interesting and valuable pamphlet consisting largely of the report of the city engineer, in which the principal improvements and alterations of the year are enumerated. The statistical features of the waterworks system are briefly stated as follows:

Population in 1900, 11,908.

Date of original construction, 1874.

Fuel, coal and wood.

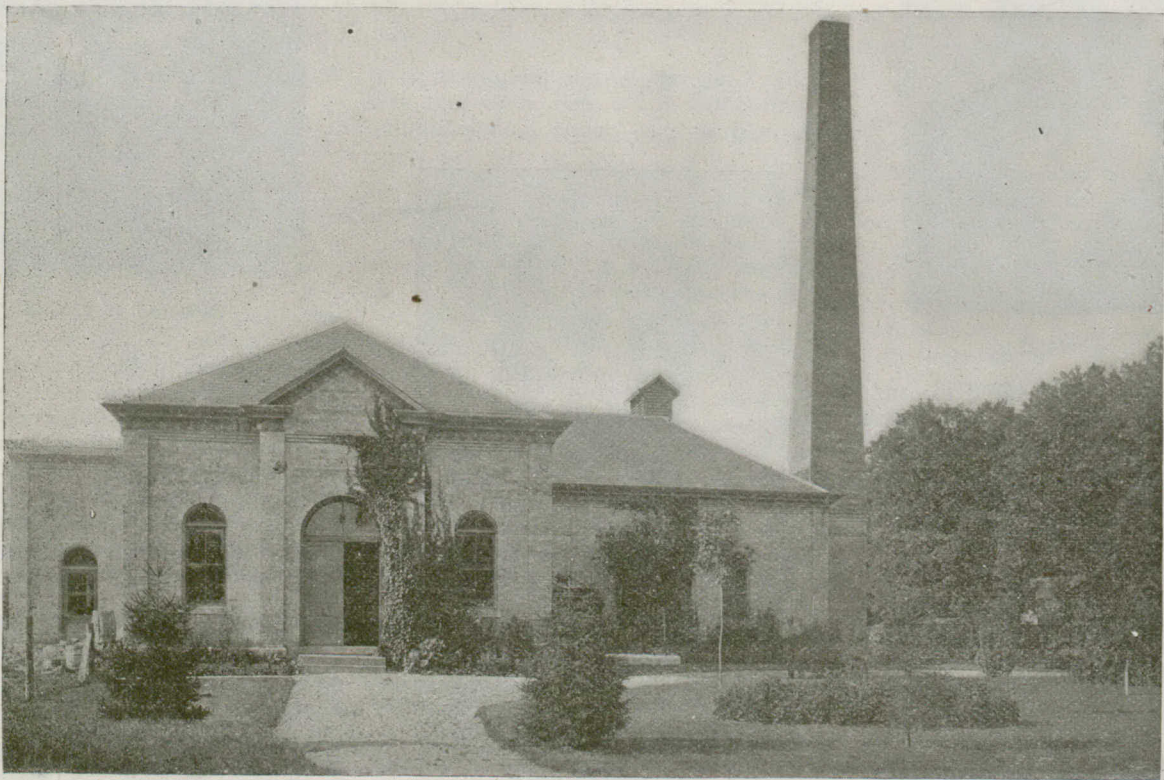
Total pumpage, 239,855,875 gallons.

Average pressure on city mains, 45 pounds, fire pressure, 80 to 100 pounds.

The effect of electrolysis is being felt, and in this respect the report says:

"All the service pipe in the city is of wrought iron. I reported to your Board during the year, that the escape of the electric current from the street railway system was injuring the service pipe, and that a number of services had to be renewed on that account, and it was decided by your Board that, in future all new services

all possible conditions. Some cities set the flush tanks to discharge as frequently as the supply pipe will fill them, without reference to the necessities of the case. This is a wanton waste of water. The waterworks associations have called attention to this subject, and their discussions will be found in the proceedings of the societies. They are somewhat one-sided, but unquestionably there is here a good opportunity to reduce the consumption of water, without injury to anyone. It is usually assumed that one discharge a day of a flush tank is sufficient, and experience indicates that this assumption is correct. In a few special cases more may be necessary. It ought to be easy to settle any controversy on the subject by an agreement on the part of the water department to pay the cost of any special cleaning



THE PUMPING STATION, ST. THOMAS WATERWORKS.

Date of reconstruction, 1890-91.

Owned by city of St. Thomas.

Mains, total length, 22 miles, 4,347 feet.

Number of hydrants, 156.

Number of services, 2,287.

Source of supply, Kettle Creek.

Reservoir supply, 14,000,000 gallons.

Mode of supply, direct pumping.

Filters 3, built by New York Filter Company.

Capacity of filters, 1,500,000 gallons per day.

Coagulant used, alum, about two-thirds of a grain per gallon.

Boilers 3, 100 horse power each.

Pumps, 2, manufactured by H. R. Worthington, New York.

Capacity of pumps, 4,000,000.

and renewals on streets where the street railway is located should be constructed of lead, it being less liable to be affected by electrolysis.

"The street railway company has not yet taken steps towards remedying the evil by properly constructing a conductor to carry the return current back to the works, and thus prevent its using the water pipe as a medium. If this is not done the injury to the mains and services will be very serious."

The Discharge of Flush Tanks.

The question of frequency of discharge of flush tanks for cleansing sewers, is one which has not been definitely answered. Observations have not been made under

necessary on account of insufficient flushing, and to increase the rate of discharge of tanks in such special cases. The fact is that discharges less frequently than once a day are sufficient for the great majority of conditions, and many systems with favorable conditions exist with no automatic flush tanks, and requiring a very small amount of special attention. A disposition on both sides of a controversy to find out the facts in the special case, and fit the service to the actual conditions will result after a short trial period in the best and most economical service.

The Winchcombe and the Stafford (England) District Councils have decided to support a resolution in favor of a tax on cycles and motor cars.

Excavating the Sewer Trench.

The line of the trench being given by centre stakes, the sides of the excavation are indicated by measuring the proper distance on each side of the stakes and stretching sash-cord or clothes line there and marking the ground along this line by means of a pick. The laborers are then placed at regular intervals along the trench, varying from six to twenty feet, in single line in most cases. It may be well to define in some way, as by a mark in the ground or stake at one side of the trench, equal lengths of trench, one man being required to work within the limits of each length. Where possible it is desirable that this length be that which can be completed in a half or whole day.

If there is any paving material on the street it should be thrown on one side of the trench, and the remaining excavated material upon the other side, the material on each side being kept back a foot or two from the edge of the trench to allow a pathway for foremen and inspector and for lowering material, but still more to prevent excavated material from falling back into the trench. Thus one side of the street is left to travel, the pile of paving material acting as a guard to the trench on that side. If so much soil is to be thrown out, or the street is so narrow that it cannot be all placed upon one side of the trench, it may be placed upon both sides, the paving material being kept separate, say along the outside edge of one bank.

The first earth cast out should be thrown to what will be the outside edge of the bank, since it cannot be thrown there where the trench is deeper without double handling. The gutters should be kept open and free from any excavated material. Down to a depth of nine to twelve feet the earth can be cast to the surface, although after five or six feet is reached it will be necessary to keep additional men on the surface to throw back on to the pile, the material so cast out. When the depth exceeds nine to twelve feet it will be necessary to handle the material twice before it reaches the surface, by placing a platform or staging about six or seven feet below the surface, on to which the earth is thrown by two to four men, and from which it is thrown to the surface by one man. These platforms are usually made by resting plank upon the braces or rangers of the sheathing. Except in rock cuts there are almost no conditions under which a trench ten feet or more in depth should be left unbraced. The platform may consist of short pieces of plank placed crosswise of the trench, their ends resting on the rangers, or of long plank lengthwise of the trench resting upon the braces. The latter cannot well be used if the trench is less than five feet wide, but it is the better form for wide trenches.

Where it is allowed, as it is in many cities, and the trench is over ten feet deep, it is often economical, except in

hard rock, dry sand, or quicksand, to make the excavation in alternate tunnels and open trenching, the sections of each being eight to twenty feet long. The tunnel is usually made about five feet high. The amount of material to be removed and of bracing to be put in is thus reduced. But tunneling should never be allowed under streets, except in rock, unless the tunnel is afterwards opened and back filled as open trench, being used only to save bracing; since it is practically impossible to so compact the back-filling in a tunnel as to prevent future settlement, which may not occur, however, until months or years later, when the contractor has been relieved of all responsibility.

There is a tendency, if a right handed laborer always faces one way while picking, for the trench to work to his left as it descends. He should be taught to avoid this by keeping his left side to the side of the trench at which he is picking, so that both sides shall make the same angle, if any, with the vertical.

It pays to keep the picks sharpened and good shovels in the men's hands. For this purpose there should be twenty-five to one-hundred per cent. more picks than laborers, to allow opportunity for sharpening them. For digging the round pointed shovel is best, but staging men and mortar mixers should use square pointed shovels. There should be a few extra shovels constantly on hand, including a few long-handled ones, but these latter should not be used for trenching except in deep trenches where the shoveling is very easy.

In soil where caving is frequent and sheathing is not used the trench should be refilled as soon as possible, since the longer it stands the greater the probability of caving. Soils, such as clay, or other heavy ground, having some cohesion will usually give warning of caving by cracking a few feet back from the edge of the trench, and should be braced as soon as such sign appears. Gravelly soils or dry sand usually give no warning, and are particularly dangerous on this account and because they may bury and suffocate the men; while clay, coming in lumps, although it may bury and even crush them, will permit them to breathe until they can be rescued. Trenches in gravelly and sandy soil should always be sheathed.

A Town Forest.

Brunswick, Maine, a town of about 7,000 inhabitants, is thought to be the first municipality in the United States to undertake forest planting on a large scale, on what is practically the old world institution of a town forest. The town owns a tract of about 1,000 acres and at a recent meeting of the council \$100 was appropriated to improve this land by planting it in white pine. Town forests are common in Europe, and often furnish a large part of the municipal revenue.

Rural Mail Delivery.

Rural mail delivery, to which reference is now being made in the public press, signifies that, as in the cities, a postman daily passes over a definite route delivering letters, newspapers, or other mail matter arriving at the post-office, instead of requiring every farmer to himself go to the post office. There are many advantages, and but one disadvantage—the cost. But even the cost is not so great as might be anticipated. For example, one instance may be cited, in which the annual cost for a route, is \$400, the salary paid the postman. The latter, however, provides his own horse and buggy, the route is about twenty-five miles long, there are 150 farmers served, so that the annual cost for each averages only \$2.67.

The advantages, we have said, are numerous. It is plainly an economy of time, one man doing the work of many in going to and from the post-office. It is a great advantage to the farmers to get their papers regularly through harvest time and other busy seasons, and in stormy weather. It enables the farmers to subscribe, much more satisfactorily, for a daily newspaper, instead of a weekly. It enables the farmer to keep in better touch with the market reports when he has produce to sell. It overcomes in a great measure, the isolation of farm life, for although the farmer does not talk to the outside world, nevertheless the outside world, through the medium of the daily papers, can talk to him. It is, too, a great advantage in mailing letters.

The one great adjunct to a rural mail delivery is good roads. No country section can be served within a reasonable cost, unless the postman can travel over a long section, say twenty-five miles, daily, with a single horse vehicle, and this cannot be done unless the roads are reasonably good. At the present season, there are few districts in the province of Ontario where this could not be done. But our roads are, too commonly, dry weather roads alone. Rural mail delivery will not be practicable to any extent, until our roads as a whole, are much improved. Good roads which would serve this, and all the other good purposes that good roads serve, do not mean broken stone roads built at extravagant prices. They do mean roads, built by statute labor, if nothing better is available; but built by whatever means, must be skillfully applied, and when this is done rural mail delivery will be possible. For the most of townships are, in one way or the other, spending enough in labor and money to make good roads, if only the application of this energy were directed by the best principles of road-making.

Mr. W. W. Ireland, of Niagara-on-the-Lake, has been appointed Public School Inspector for the County of Lincoln, to succeed Mr. J. B. Grey.

The Country Road.

The making of a road is a matter which is too often undertaken without a knowledge of the real principles involved, and the result has been that, on some sections of many roads, labor and material have been lavished, year after year from time almost forgotten, and still these roads are, each fall and spring, almost impassible. The roadmakers are becoming discouraged, and wonder why their efforts are not successful. A solution of nearly every difficulty, in connection with these bad sections of our country roads is to be found in the fact that every good road has two essential features (a) a thoroughly firm and dry foundation and (b) a smooth, hard, waterproof surface covering.

The foundation of a road is the natural sub-soil, the original "dirt-road," which must be kept dry and firm by means of good drainage. This foundation is firm and strong, capable of supporting any load in dry weather, and the object of the road-maker must be to maintain dry weather conditions as far as possible. This cannot be done economically nor effectually by piling up the natural soil in a mound, higher and higher. Earth is like a sponge, and will soak up from below the water which softens and weakens it.

This means then, that water must be cut off before it can be drawn into the road in this way. This can be best accomplished by means of tile drains; or deep open drains at the side of the road will accomplish much the same purpose. Whether covered tile underdrains or open drains are employed, they must be real drains, not mere receptacles to hold water. They must have good fall and free outlet, to remove water from the road as quickly as possible.

The surface covering which protects the sub-soil from rain and melting snow, and from the action of wheels and the feet of horses is generally a coating of gravel or broken stone. This should be put on the road in such a way that it will not, in wet weather, be churned up and mixed with the earth beneath. That is, it should form a distinct coating.

To accomplish this, the gravel or stone should be clean, containing little sand or clay. The road should be crowned or rounded in the centre so as to shed the water to the open drains. Ruts should be filled up as soon as they form, as they hold water, deepen and enlarge quickly when neglected. The tile and open drains should, as has been said, have a free fall.

Tile underdrains are not needed

throughout the length of the road in all cases. They should be laid wherever open drains of a safe depth are not sufficient, where the ground has a moist or wet appearance, with a tendency to rut readily and absorb gravel. In some cases they should be run diagonally to the centre of the road if the soil is very spongy; or if a spring appears to exist underneath the road-bed it can be tapped by this form of "blind drain."

The dirt road should be carefully graded and crowned before gravel is placed on it. If a grading machine is available it is well to have all its work performed in the early part of the summer, before the ground, if a clay, is hardened and baked by the heat of the sun.

A fair crown for gravel roads, when newly constructed, is a rise of one inch to each foot of width from side to centre. On hills the crown should be greater in proportion to the steepness of the hill, otherwise water will flow down the hill in

gravel formation should never be covered with sod and soft stuff from the edge of road; so doing has ruined many fine roads.

The width of the roads of each township should be definitely laid down; and not range from ten to forty feet, as is the rule in most municipalities. A width of twenty-four feet between ditches will meet most conditions, the central eight feet being covered with gravel or broken stone.

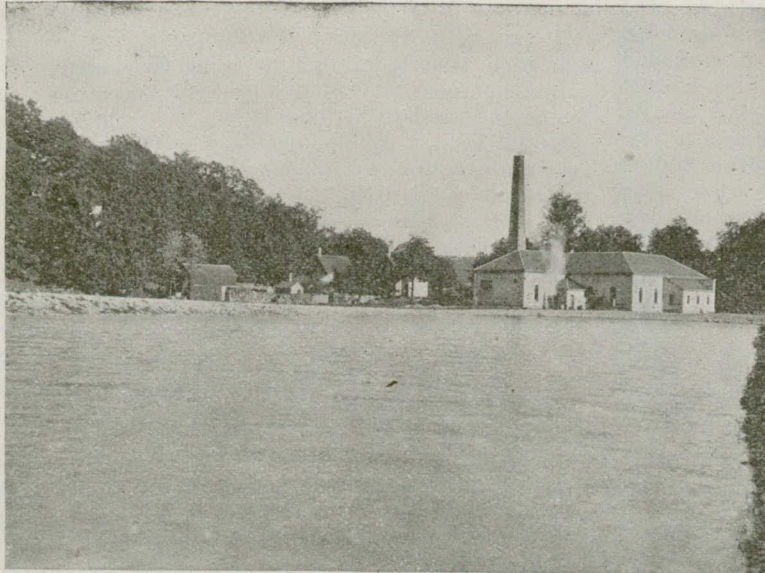
Every municipality should make provision for an examination of its roads after heavy rains, and during spring freshets. The work of a few minutes in freeing drains from obstructions, or diverting a current of water into a proper channel may become the work of days, if neglected, as water is very destructive. Surface water should be disposed of in small quantities, not gathered into one long drain, as great accumulations are difficult to handle, and do much injury.

Circumstances must govern each case, but outlets should be obtained into natural watercourses as frequently as possible. Culverts should have a good and free outlet, so that water will not stand and freeze in them. Deep open drains by the roadside are unsafe, and where deep drainage is needed, it is better to use tile underdrains which may be placed below the existing open drains.

A degree of moisture is necessary, in the summer season, in keeping sand roads, or roads over sandy ground in their best condition. In an excessively dry season roads of this kind are apt to "unravel," the gravel or stone covering becoming broken up. Drains

are necessary but they should not be deeper, in ordinary cases, than will provide suitable drainage in spring and fall. One of the most lasting and beneficial improvements to sand road is the planting of rows of trees on each side of the road, and close enough to provide a continuous shade. Evergreens are not suitable for spring; but maples, oaks, white shade the roads in summer only, and do so more effectually than will most evergreens.

A study of the foregoing will point to three main faults, commonly to be found in the roads. These are bad drainage, poor gravel, and improper methods of placing the metal (gravel or broken stone) on the roads. It is doubtful if any of these evils can be fully remedied under the statute labor system. To overcome bad drainage it is essential that there should be a constant system of repairs keeping the road well crowned, free from ruts, the gravel or broken stone raked into place, and the side drains and culverts open and without stoppages. The



NORTH VIEW OF RESERVOIR AND PUMPING STATION, ST. THOMAS WATERWORKS.

very shallow wheel tracks and quickly deepen them to ruts.

Gravel or stone should not be left on the road just as it falls from the wagon, but should be spread so that travel will at once pass over and consolidate it before the fall rains commence. Gravel or stone should be kept scraped or raked into the wheel and horse tracks until they are thoroughly consolidated. By careful attention to this, in the case of a newly metalled road, the lines subjected to greatest wear will be given almost steel-like strength.

Old gravel roads which have a hard centre, but which are too flat, with high, square shoulders, should be repaired by cutting off these shoulders with a grading machine, turning the sod and earth of which they are composed, ditchward and across the open ditch if necessary. A new coating of gravel or stone should then be placed in the centre of the road to round it up to a proper crown. The old

use of poor road metal (gravel or stone) is likely to continue until there is someone who, by experience, is able to select the best material available, and is provided with proper implements to screen and crush it when necessary. Nor can statute labor ever provide the means necessary for putting metal on the roads in the right way, first preparing the road by the use of machinery, then properly spreading the metal and rolling it.

Whenever statute labor is employed, it is advisable to employ it properly on the road. The grading machine should be operated by men employed by the council, before statute labor commences, and the work of ditching, grading, building of the culverts, the preparation of gravel or stone, should all be performed under the council by contract.

Cold Storage.

In pursuance of the acts recently passed by the Ontario legislature, whereby aid will be granted municipalities, co-operative companies, cheese and butter manufacturing companies in the erection of cold storage buildings, a bulletin has been issued by the Department of Agriculture containing plans and specifications for a combined ice house and refrigerator chamber, the cost of which is estimated at \$210. The capacity of this building is small, about half a carload, but the Ontario Public Works Department will, if desired, furnish plans for larger buildings.

A cold store would be of very great advantage to every municipality, whether urban or rural, and it would be well for councils to look carefully into the subject. Merchant, farmer and consumer will be benefited by having in every village and town, a refrigerator where perishable produce, particularly in hot summer weather, may be saved from decay during a temporarily glutted market. Poultry, butter, eggs, and fruit are among the farm products which can be most profitably stored. In regard to the advantages of cold storage and the plans adopted, the bulletin referred to says:

"The preservation of the perishable products of the farm, such as fruit, butter, cheese, meat, eggs, etc., is fraught with great blessing alike to the producer and consumer. In any year when an unusually large quantity is produced, if some portion cannot be carried over until the demand recovers, much of it must be wasted, and all of it will be reduced in value. By means of a cold storage system wherein the best existing methods for delaying decay in perishable products are employed, the goods can be held by the producer until the market demands them. The consumer thus secures for his use these delicate luxuries for a much longer period.

"That system of cold storage which will most commend itself will be: first, reliable; second, durable; third, simple in construction; fourth, easy to maintain; fifth, within the reach of persons of limited means.

"The plans and specifications herein presented for cold storage buildings will, it is believed, comply with these conditions, and if followed closely will give the maximum results in efficient cold storage.

The system is known as the Hanrahan System. It is used largely in the United States for long distance transportation and otherwise, and has given excellent satisfaction. It is within the reach of those possessing limited means, and its use will add largely to the profit as well as the pleasure of farm life.

"The principles involved are thorough and continuous circulation of air, the evaporation of all moisture and its condensation on the ice in the ice chamber. The odors and gases are also absorbed by the melting surface of the ice, with which the air containing them is brought into direct contact. The products are thus maintained in a dry, even temperature, best calculated to resist decay and leave them in the best possible condition when exposed for sale in a normal atmosphere."

The International Roads Congress.

The Good Roads Congress held in Port Huron last month, was one of the most satisfactory of these gatherings which has yet been held. Convened at a point on the boundary line between Canada and the United States, the proceedings partook largely of an international character, and as such, were of a very striking nature. Among the speakers were Hon. Martin Dodge, Director of the Office of Road Inquiry, a bureau connected with the Department of Agriculture at Washington, Gen. E. C. Harrison, engineering expert of the same bureau, ex-congressman Hutchins, of Chicago, ex-congressman Linton of Michigan, Prof Smith of the Michigan Agricultural College, Andrew Pattullo, M. P. P., Woodstock, A. W. Campbell, Provincial Road Commissioner of Ontario and others. Most energetic in inaugurating the convention, and in carrying it to a successful issue, was Chief Consul, H. S. Earle, Detroit, Michigan.

A feature of the convention was the construction of a mile of macadam roadway, for which the city of Port Huron had appropriated a sufficient amount of money. This work was from time to time visited by the convention, and addresses were delivered on the ground. The road machinery exhibited was also worthy of the considerable attention it received. One machine was of more than ordinary interest, being a traction engine, which, by changing the wheels, could be converted into a road roller. This is an implement which is destined to be of great service to rural municipalities for operating road machinery.

A committee consisting of Hon. Martin Dodge, Director Office Road Inquiry, Andrew Pattullo, President of Good Roads Association and Col. Carl Moote, of St. Louis, Mo., was named for

the purpose of conferring with the executive committee of the Inter-State Good Roads Association with a view to effecting a permanent national or international organization in the interests of better roads.

Resolutions adopted at the International Good Roads Congress were:

"Whereas the United States government in the earlier days of the republic espoused the cause of road improvement by building and maintaining national roads, and whereas aid has been given to the Western Railroads both by land grants and bonds, and whereas it is a well and long established practice of the general government to aid in transportation over water by deepening the rivers and harbours and the water communication between the great lakes, therefore be it resolved: that the same liberal policy should be extended to the over-land transportation upon the common highways of the people and that every reasonable aid should be extended by the United States government and State governments to reduce the cost of transportation upon the highway.

"Resolved, that the good work heretofore accomplished by the Office of Public Road Inquiries of the United States Department of Agriculture should be extended as rapidly as possible, and that every state in the union should be reached not only by the literature published by that office, but by public addresses and object lesson roads produced by the most skillful experts in the most economic and scientific manner.

"Resolved, that the state and local association for the encouragement of road improvement should be formed in all parts of the country and that members of congress should be requested and urged to further increase the annual appropriation to be devoted to this purpose."

2. "Whereas, one of the great questions of the present day is, how to improve our public highways, and in its discussion we are confronted by another, to wit, what is the best way of utilizing our prison labor so as not to come violently in contact and in competition with honest and free labor in any of the several branches of industrial pursuits, now therefore be it:

"Resolved, that we the First International Good Roads Congress do wish to declare that we are in favor of utilizing to the utmost possible extent prison and convict labor in preparing road material and placing same on the highways, so far as it can be done without interfering with good government and honest labor."

3. "Resolved, that we recognize the deep interest manifested by the Southern Railway Co. and other railway interests in sending representatives to this convention, and we most earnestly indorse the importance of their suggestions in having the leading highways of the state constructed and improved so that they will run at right angles to railways, and thus facilitate most cheaply the means of communication between the railways and the common roads of the country.

County Control of Main Roads.

The following is an extract from a report submitted by the Transportation Committee at the regular June meeting of the Orillia Board of Trade, which was laid over for further consideration at the meeting of the Board:

"Your committee have considered the suggestion made by Mr. D. C. Anderson at the April meeting of the board, regarding the control of main roads by the county council. Your committee is of the opinion that the change suggested by Mr. Anderson would be an improvement. By main roads your committee understand thoroughfares running between the principal centres of population. They find that the county of Simcoe and the municipalities of which it is comprised, spend about \$50,000 a year on roads, streets and bridges, in addition to the statute labor performed. They consider that the present condition of the roads and bridges does not represent adequate returns for this large expenditure, and believe that by concentrating the expenditure, and by building the roads under competent supervision, and by the most improved machinery, better result would be obtained without materially adding to the taxes. A sum of not less than \$20,000 a year might be placed at the disposal of the county council for roads and bridges, made up for instance as follows: The \$6,000 now raised and expended in dribbles by the county council, \$10,000 additional representing a rate of half a mill on the dollar, which might in such municipalities, as desired to do so, be withdrawn from the present expenditures, and say \$5,000 from the Ontario government. Simcoe's share of the amount that the province is to spend on roads, which we might reasonably expect to get in a lump sum if this is adopted. Your committee are strongly of the opinion that in applying the money it would be better, after doing necessary repairs, to spend whatever remains for the completion of one road each year, rather than to fritter it away in small grants to various roads. The different sections of the county might be made benefit by turn to avoid jealousy. Thus the road from Barrie to Collingwood might be built one year, that from Orillia to Barrie another, that from Orillia to Midland another, and from Penetanguishene to Elmvale, and from Barrie to Bradford by turn, until the county became thoroughly honeycombed with first-class roads between all the main centres of population and the principal markets. A certain proportion of the sum at the disposal of the county would, of course, have to be devoted to the maintenance of these roads but whatever remained over should be spent in bulk on one piece of road. The taking over of the main roads by the county should result in the improvement of the feeders also, since the township municipalities would be able to devote their whole attention to them. In submitting this

rough outline, based upon such information as is readily available, your committee do not ask that the board bind itself to the details. They merely ask that the principle of county control of the main roads should be affirmed. With a view to securing concerted action, your committee would recommend that the secretary communicate with the Barrie, Collingwood and Midland Boards of Trade, and with the municipal councils within the bounds of the County of Simcoe, asking for an expression of opinion, suggesting that they appoint representatives to a conference to be held in Barrie at the time of the fall meeting of the county council for the purpose of drafting a detailed scheme embodying the principle of county control of main roads, to be laid before the county council with a request that it be submitted to a plebiscite at the election in January. Your committee are firmly convinced that better roads would conduce materially to the development and increased prosperity of the county, and believe also that in taking this step, the board will be moving in the right direction."

Constant Attention Needed.

In their private affairs councillors are usually economical as to the care of their own property, and it should be the case with respect to the property, the roads and bridges, placed in their charge by the electors. There is necessity, however, for closely discriminating between false and true economy. It is false economy to refuse to spend \$10 to save property worth \$50; but it is wise and true economy to spend \$10 to save \$50. The councillor who on all possible occasions opposes expenditure, believing that he is thereby deserving the approbation of his constituents as an economical representative, is exceedingly short-sighted indeed. There is one crying necessity for our road systems throughout the townships, if true economy is to be attained. That is a plan of regular and immediate repair of all defects appearing in the roads. Railway companies practice, in every branch of their work, the strictest economy. They find it economy to employ section men to constantly pass over their roads, making repairs, and making improvements as fast as possible. There is in this the secret of a proper system of managing our township roads.

It must not be inferred that section gangs as found on railways are recommended for the common roads. But it is strongly urged that country roads do need regular and constant attention. In place of a number of men employed on a short section, as we find with the railways, one man could be appointed to take charge of a much larger section. His work would be to pass over the road as often as necessary with a rake, levelling the ruts, and filling them with the coarse stones which are being rolled to the outer edges of the road where they will not be

merely useless but an injury to the road. He shall see that the outlet of drains are kept from obstruction. He should see that the drains themselves are kept clean and a regular fall maintained. He should make small repairs to culverts and bridges as soon as needed. He should see that the road is kept well rounded up, the metal constantly raked into place, and a load of fresh gravel or stone applied wherever it would be of benefit.

In this way, and in this way only, can the most be made of such grading, metalting, and draining as is done to the road, saving it, keeping it in such condition that each year's application of money and labor will be a distinct gain. Roads maintained in this way will always be smooth and hard, rendering the best service of which they are capable. Were townships to adopt such a plan, they would quickly find that the truest economy would be the result. Men trained by experience in the work of roadmaking, would not be one of the least gains which the ratepayers would make.

A Small Waterworks Plant.

The village of Beeton is one of the smallest municipalities in Ontario possessing a public waterworks system. The source of supply is a spring creek with an average flow of about 60 gallons per minute, and situated at a distance of a little more than a mile from the village.

At this point on the creek, a coffer-dam has been placed, from which water is led in pipes to a reservoir about half a mile nearer the town. The source of supply is situated at an elevation of about 163 feet above the village, so that the flow is obtained entirely by gravitation, and no pumping machinery is required.

The reservoir has its sides and bottom faced with flat stones, grouted with cement. The upper outside area is 50 feet by 96 feet, the water standing at a depth of twelve and one half feet.

The supply from the creek to the reservoir is through 500 feet of 6 inch pipe, and 2000 feet of 4 inch pipe. From the reservoir the water is led to the village through 100 feet of 12 inch pipe, 600 feet of 10 inch pipe and 3000 feet of 8 inch. Throughout the village the supply mains are of the usual 6 inch and 4 inch pipes.

The trenches in which the pipes were laid have an average depth of five feet, the soil being a sandy clay, easily handled, seventeen men making an average run of 500 feet per day on 6 inch main, including re-filling.

For a village of about 800 population the installation of such a system of water supply is certainly very meritorious. The quality of water is found to be excellent, and filtration is unnecessary. The cost was \$14,500 approximately, and the system has now been in use seven years.

The village of Lakefield has passed a by-law aiding a cement works to the extent of \$10,000 and exempting them from taxation.

Question Drawer.

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

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

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

Exemption from Poll-Tax.

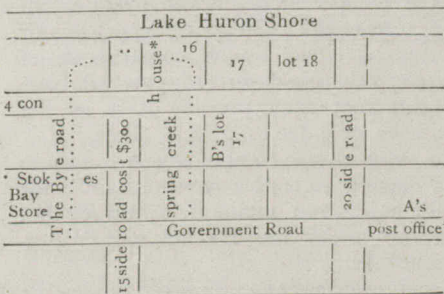
311.—J. B.—Is a resident of this town whose name appears on the assessment roll, (is of legal age) as M. F. exempt from paying poll-tax because he is assessed as tenant, and performs statute labor in another municipality?

Yes, if he produces a certificate that he has performed the statute labor, or paid the tax elsewhere. See section 99, of The Assessment Act.

Opening of Government Road Allowance.

312.—A. M.—A man of our municipality, living in it about eighteen years, he lived on the shore of Lake Huron about three or four miles from the government road. He had a little shingle mill, and he was making shingles and timbering. The fire went through some of his land, and a few years ago he began to clear up some of it. Two years ago he built a barn on it, and last fall built a shanty and moved to it. His mill burned down a few years ago, the premises are about two miles from the government road. About three years ago he came to the council to get some money on the road. Council granted him \$13.00, arrears of taxes on one of his lots. This is a timber road, small portion of sideroad, balance through lots 15 concessions, 5, 4, 3. He wanted council to repair that road or open the sideroad to his place. He asked me to go and see it. I did go with him, he agreed to open sideroad for ten years taxes, or \$15.00 or \$20.00 on by-road, but he thought he should get something for work repairing road last summer. I reported to council that it would take \$300 to open sideroad. Council said they were not able for it, but allowed me to go \$15 or \$20 on his road in the spring. I went in to see about the road, but he was not satisfied without council paid his taxes for 1899 for the work he did last summer on the road. I told him all I could do was to spend \$20 on the road. He said he would go to law with the council to make him a road, and for damages for his wife getting hurt on the by-road. Shortly after I got a lawyer's letter threatening to sue us if we did not build this man a road. I told him that it was impossible for us to build him a road, for everybody in the municipality that had as bad a road, and as good a right as this man A. No one living nearer than two miles from A. There is a young man working for him, got married last winter, B. He has a lot near A's lot. A is assessed this year for eight lots, at \$25 per lot. As far as we know no one else will use this road unless B will move on his farm, he may or may not. If he does he will also call upon us to let him out. Another young man, C, is trying to get a lot alongside A's, and corners the front of B's lot. (See diagram.) This part of the country is rocky, and not likely to be any more settlers in. Then the sideroad north is open. We are thinking of opening the concession from north corner of lot 16 to twentieth sideroad, more convenient to the post-office, but not to go to market. To open concession from lot 16 to twentieth sideroad would cost \$100; from 15 to lot 18, with bridge, \$150. A says the concession is no use to him, it's too much of a round to go to the store, yet he demanded the road, but to open the near road is too much, others want road, too.

2. If council opens either, can they stop when they reach corner of A's lot?
3. Can A compel council to open road to the road he has to get on sideroad?
4. If council opens concession 4 from 20th sideroad can they stop at corner of A's lot 16. He lives on a timber road from his house crossing concession on lot 17, owned by A, or could he compel us to open around to his road on the 15th sideroad?
5. Can any ratepayer compel us to open the nearest road if council do not wish to do it?
6. In our municipality there are a great many obstructions on the surveyed road, and therefore we have to make many deviations, will cost the township large amounts of money if we will have to put a surveyor on, and pass a by-law before we can register same. Can the council register an agreement without such expense?
7. Or if council would lease the road for a term of years could they register a lease without surveying it, or can you suggest any other way?



We think it best to answer your questions in a general way, as they all bear on the one point. The case of Hislop vs. Township of McGillivray, was an action brought by the plaintiff to compel the defendant township to open up for him an original road allowance, under circumstances very similar to those you state, and was finally decided on appeal to the Supreme Court of Canada. It was held in this case that it is discretionary with a municipal council as to whether they open an original allowance for road or not, and that the courts of Ontario have no jurisdiction to compel a municipality, at the suit of a private individual, to open an original road allowance, and make it fit for public travel. If, by reason of natural physical obstructions, or otherwise, it would be very expensive to open the road allowance, the council would exercise this discretion wisely in refusing to do the work. In the course of his judgment in the above case Mr. Justice Patterson said, "It must not be forgotten that they (the council) are the representatives of the ratepayers, exercising on their behalf the discretion vested in them, which discretion extends to (among other things) the opening and stopping up of government allowances for road." And Mr. Justice Osler says, "It is, in my opinion, a matter which

rests on the discretion of the council, as representing the whole municipality, to determine whether they will open for travel a road over any particular road allowance within their jurisdiction." The one or two settlers concerned cannot compel the council to acquire, by purchase or otherwise, open and establish a road in lieu of an original road allowance which it is physically impossible, or too expensive, to build. The settlers will have to accept such a road as the council, considering the nature of the locality and the expense of the work, deem it advisable to construct for them.

Voting on Money By-Law.

313.—CLERK.—In 1899 a portion of town was attached to adjoining township taking effect 1st of January, 1900. The voters' list for town for 1899 included names of those resident in portions so attached to township. Electors of town are called on to vote on 10th July, on by-law for issue of debentures for the improvement of streets, voting on '99 list.

1. Should names of those in portion now attached to township who are freeholders, and otherwise qualified, be included in the voters' list to be furnished to the deputy-returning officers?

2. Does it require any certain proportion of whole vote to carry such a by-law, or would a majority of those who do actually vote carry it?

1. No. Since the 1st January, 1900, the electors in those portions of the town then attached to the adjoining township have ceased to be electors of the town municipality, and are therefore not entitled to vote on the by-law. See section 1, of section 389, of The Municipal Act.

2. A majority of those who are qualified, and who actually vote, is sufficient to carry a by-law of this kind.

Poll-Tax By-Laws

314.—J. M.—Re poll-tax. I beg to submit copy of by-law re poll-tax in municipality of town of...

1. Is it sufficient?
2. Do you suggest alterations to make it sufficient?
3. What constitutes an inhabitant?
4. What constitutes a resident?
5. Should notice be verbal, printed or written?
6. If written or printed should it be signed by collector or clerk?
7. Should it be stamped with corporation seal?

BY-LAW NO. ...

To levy a poll-tax and appoint a collector of the same and to fix the remuneration.

Whereas by the provisions of the Consolidated Assessment Act a poll-tax of \$1.00 can be collected from certain persons.

Therefore be it enacted by the municipal council of the corporation of the...of...as follows:

1. That every inhabitant of the said...of...of the age of 21 years and upwards and under sixty years of age and not otherwise exempted by by-law from statute labor who has not been assessed on the assessment roll of the said...of...or whose taxes do not amount to \$2.00 shall instead of such labor be taxed at \$1.00 yearly therefor to be levied and collected by the constable or other person appointed by this council for that purpose.

2. Any person liable to pay the same to the collector appointed in this behalf within two days after demand thereof by the said collector and in case of neglect or refusal to pay the same the collector may levy the same by distress of goods and chattels of the defaulter with

costs of distress, and if no sufficient distress can be found then upon conviction before a justice of the peace or police magistrate of the county of . . . of his refusal or neglect to pay said sum and of there being no sufficient distress he shall incur a penalty of \$5.00 with costs and in default of payment at such time as the convicting justice shall order, shall be committed to the common goal of the county of . . . and be there put to hard labor for any time not exceeding ten days unless such penalty and costs and the costs of the warrant of commitment and of the conveying of said person to the jail be sooner paid.

3. And the said collector shall be allowed and paid ten per cent, on the amount so collected and paid over to the treasurer of this municipality.

4. And the said collector shall make a return of the amount so collected to the treasurer of this municipality monthly.

5. And the constable shall be and is hereby authorized to collect said poll-tax.

Done and passed in open council this . . . day of . . . A. D. 1 . . .

Clerk

Mayor

1. The by-law is objectionable in this, that it is made to apply to every inhabitant, whereas the statute is confined to *male* inhabitants.

1. We would suggest the addition of the word "male" in order to confine the by-law to male inhabitants, and the striking out of the words "police magistrate" for the reason that if they do not do any harm they do no good.

3. Stroud, in his legal dictionary, defines an Inhabitant of a place, as one, who, speaking generally, has his home there; but, he says, the word has no definite legal meaning, its signification varying according to the subject matter or sometimes to usage, and Wharton, in his Legal Lexicon, as a householder in a place.

4. Stroud, in his work above-mentioned, says that a person is a resident of a place where he eats, drinks and sleeps, or where his family eat, drink and sleep. It is an "ambiguous word" and may receive a different meaning according to the position in which it is found.

5. By notice we presume you mean the demand mentioned in clause 2 of the by-law. A verbal demand will be sufficient under the by-law and the statute, but a written demand is preferable. A copy of the demand should be kept by the collector, on which he should endorse the date of service on the defaulter. In this way, in the event of subsequent proceedings against the defaulter, becoming necessary, evidence of the notice or demand served and the date of service will be easily obtainable.

6. By the collector.

7. No.

A Ditches and Watercourses Drain.—Statute Labor.

315.—S. M.—1. There is an award ditch about to start at the eleventh concession line, about eighty rods of my farm. It angles across until it is about half way down the lot, then it runs within thirty rods of my lot all the way down to the tenth line; it is swamp land on both sides. I have cleared nearly half way back on my lot, and have a ditch along the sideline, which catches the water from getting in this ditch until it gets to the tenth line, and then it strikes this award ditch. Now the question is, can they make me dig on this concession? I have no outlet until it goes to the tenth line?

2. Can I force them to dig me an out-let any where across my land?

3. Now I have another farm on the eleventh concession, cornering this ditch, about sixty rods from the starting point. There is a good deal of water comes off this place, but it has a fall of four or five feet before it reaches the ditch. Can they make me dig for this farm?

4. This ditch runs across the C. P. R. Are they liable? Can they be made to put a culvert in opposite this ditch? They have a culvert not far from this place.

5. I have been appointed to locate a culvert on the road opposite C's farm. There are two runways about thirty rods apart. The east runway is where most of the water crosses. I took the level of the road and found that the west runway is over a foot the lowest, a little hill of about fifteen inches keeps them apart. The council purposed to grade off this hill, and the east water will all come down to the west runway, and we would put in a culvert and let it all across in one place. Young, across the road, objects because the east runway is where nearly all the water has always crossed. The question is, can any man stop the council from putting in a culvert where they think fit, and if we grade off that hill will council be liable?

6. Can the council, by a motion, give a man the privilege of doing all his statute labor in certain place for more than one year? Would it hold good when the next council would come in if they felt disposed to change it?

7. Can the pathmaster force a man to do his statute labor on the townline? That has been a disputed question here for some time.

1. If the engineer who makes the award, or the county judge, in the event of an appeal from the award, considers that your land is benefited by the construction of the ditch therein described, you will have to construct such portion of it as the engineer, or judge on appeal, allots.

2. You cannot compel any person to do any diggi g to enable you to drain your lands unless you obtain an award for that purpose under the Ditches and Watercourses Act.

3. If proceedings are taken under the Ditches and Watercourses Act, and an award is made allotting part of the work to you, you must do the work.

4. No, unless there is an agreement between the railway company and the municipal council made pursuant to section 21 of the Ditches and Watercourses Act. (R. S. O., 1897, chap. 285.)

5. If, in constructing the culvert, the municipality brings down an extra quantity of water, and discharges it on lands below the culvert, to their damage, the municipality will be liable to the owners of these lands to the extent of the damage occasioned to them. This is a case where the provision of the Ditches and Watercourses Act should be invoked, and proceedings taken thereunder. By this means the rights and interests of all parties concerned can be properly adjusted.

6. The performance of statute labor must be regulated by by-law and a by-law passed for that purpose will remain in effect until repealed. An incoming council may repeal such a by-law if it sees proper. See sub-sec. 5, of sec. 561, of the Mun. Act.

7. The pathmaster derives his authority in a matter of this kind from the council regulating the performance of statute labor, so that he cannot compel any man to do statute labor anywhere except in the division regulated by the by-law.

The latter part of s. s. 2 of s. 109 provides that "Every resident shall have the right to perform his whole statute labor in the statute labor division in which his residence is situate, unless otherwise ordered by the municipal council.

Unfair Equalization of Union School Assessment.

316.—T. I.—In our municipality we have part of a Union School Section. The whole section is composed of parts of four municipalities. Last year, 1899, the assessors of municipalities met for the purpose of equalizing the assessment, and the result was very unfair, some of the municipalities paying a great deal more than their just share, and others a great deal less. Owing to this fact the assessors were prevailed upon to meet this year again, and to reconsider the equalization. They changed the assessment in such a way that all parties interested now admit is just and fair.

1. Can municipality or municipalities recover from the others the amount their part of said section was overcharged last year, according to present equalization.

2. If so, how?

1. No.

2. Our answer to question No. 1 makes it unnecessary to answer this question.

One Person Clerk and Treasurer.

317.—C. H. W.—I have been township clerk for years, and have lately been appointed township treasurer also. Please tell me, can I legally hold both offices, referring me to chap. and sec.

Prior to the amendment to the law in 1897, we expressed the opinion that these two offices could not be held by the same person. One of the reasons why we held this opinion was that the form of declaration of office provided by section 271, of the Consolidated Municipal Act, 1892, indicated that it was not intended that the same person should hold the two offices. The legislature, in 1897, changed the declarations, and added the following subsection to section 271: "(2) Any person who has been elected or appointed to two or more municipal offices which he may lawfully hold at the same time, may make one declaration of office as to all the offices to which he has been elected or appointed, but the same shall be made and subscribed before he enters upon the duties of the said offices." This amendment was, no doubt, made to meet this particular case, and therefore, as the law now stands, these two offices can be held by same person.

Limited Restraint to Cattle Running at Large.

318.—T. P. C.—Some years ago a by-law was passed in our township prohibiting cattle from running at large in one-half of the township, while the cattle in the other half were not restricted at all in the by-law. This was satisfactory to all concerned for some years, until a party who lived in restricted part of township had his stock impounded, when he took legal steps for redress. Council got legal advice that it was not legal to have such a by-law, not operating equally all through the township, and that if let go to a legal decision, council would have to pay costs. The people in half the township are anxious to have their cattle run at large, the other half are willing to let them do so if it does not interfere with legality of by-law. Your opinion would confer a favor on many ratepayers.

We do not think the by-law in this case is good. No reason is given why the by-law is confined to a certain part of the

township. The powers vested in municipal corporations should, as far as possible, be exercised by by-laws, general in their nature, and impartial in their operation. There might be special circumstances warranting a by-law confined to a portion of a municipality, but as we have stated, no reason whatever appears for confining this by-law to a part of the township.

Exemptions from Assessments of Farmers and Merchants.

319.—BILLINGS.—1. Will you please give a list of exemptions on a farm. Is a farmer's machinery and stock exempt from taxation, and if so, is there a limited quantity or number exempt, or as much machinery and stock as he can keep? Some persons say that all should be assessed and \$100 exempt.

2. Our municipality had the goods of the merchants of our township assessed and at our court of revision had them struck off the roll. We now propose imposing business tax on merchants. Are we acting legally?

3. A merchant buys goods and gives promissory notes for them. Are those goods considered paid with those promissory notes, or is he in debt for them, thus leaving them not assessable?

1. Sub-section 16, of section 7, of The Assessment Act, exempts from assessment "all horses, cattle, sheep and swine which are owned and held by any owner or tenant of a farm, and when such owner or tenant is carrying on the general business of farming and grazing, 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 by him." It is only in cases where the net personal property of a person is under \$100 that the same is exempt. Under sub-section 25, of section 7, of The Assessment Act.

2. Yes. If your council passes a by law under the authority and in accordance with the provisions of section 36 of The Assessment Act.

3. Sub-section 24, of section 7, of the Act exempts from assessment "So much of the property of any person as is equal to the just debts owed by him on account of such property, except such debts as are secured by mortgage upon his real estate, or are unpaid on account of the purchase money therefor." The giving of the promissory notes in this case was not a payment of the price of the goods within the meaning of this sub-section, and to the extent of the amount of the notes a reduction must be made.

Height of Fences and Cattle Running at Large.

320.—W. H. S.—On page 96, section 264 MUNICIPAL WORLD for June, 1900, I infer by your answer to questions 1, 2, 3 that, notwithstanding a municipal council may pass a by-law regulating the height of fences and also allowing cattle to run at large, yet damage can be obtained whether fence or no fence, whether the cattle be allowed to run at large or not and that the power to regulate height of fences only relates to line fences. You would much oblige by explaining more fully, stating chapter and clause confirming your contention, or if it be by a ruling of any of the higher courts, please mention precedent as it is a matter of vital importance to be fully convinced on this matter.

We are of the opinion that an owner of land bordering on a highway is not bound to erect a fence along the highway to protect his crops as against cattle running

at large upon the highway, even though there is a by-law of the municipality allowing them to run at large on the highway. This question has not been before the courts of this Province as far as we know. Our opinion is based upon the meaning which we have placed upon the Line Fences Act, and those portions of the Municipal Act relating to fences.

Voting on Money By-Law.

321.—G. S.—In your answer to question No. 302 in last month's WORLD you say that the clerk in making up his list for voting on a bonus by-law should make it up from the assessment roll alone. Would this be correct? See sec. 353 Municipal Act "Provided such person is on the voters' list."

2. Section 348 provides that a list shall be prepared in accordance with schedule C. Section 361 and section 362 provides for voters' list and poll-book. Would it not appear from the latter section that both a voters' list and poll-book were contemplated?

3. See section 353, "And is rated on the last revised assessment roll as such freeholder, provided such person is named on the voters' list." I suppose this would be our voters' list as confirmed by judge?

4. Our last revised assessment roll is for 1900, but our last voters' list is for 1899. Now, looking at sections 353 and 354, it would appear in making out our bonus by-law list, we should be guided by those sections, and upon such list should not be entered the name of any dead person, or owner who has sold out and removed or farmer's son who is not an owner or a leaseholder whose term does not cover the period of the indebtedness. Now, how are we to arrive at the necessary knowledge. Farmer's sons are assessed with the father, and how is the clerk to know if all or any of them are actual owners or how long a term leaseholder's lease covers? I should very much like to get your opinion on above?

1. Yes. Section 353 should be read in the light of 348. The "voters' list" referred to in the latter part of sub-section 1, of section 353, means the voters' list which the clerk prepares under the authority of section 348.

2. Separate poll-books and voters' lists are not necessary, the two may be combined.

3. No. It means the list of persons qualified under the provisions of sections 353 and 354, to vote on the by law prepared by the clerk of the municipality pursuant to section 348.

4. Your last revised municipal voters' list is not to be used in preparing the list of persons entitled to vote on the by-law. Section 348 states distinctly that the persons so entitled to vote are "all persons appearing by the last revised assessment roll, to be entitled to vote under sections 353 and 354 of the Act." Your list should be prepared from the assessment roll of your municipality for 1900, since it is the one last revised, and should contain the names of all persons appearing thereon to be entitled to vote under sections 353 and 354, of the Act. Except such persons who, to the knowledge of the clerk, (by the registration of deaths or otherwise,) have, since the final revision of the assessment roll, ceased to possess the necessary qualification.

Collection of Arrears of Statute Labor.

322.—R. W.—There are some road divisions in the township that have done no statute labor during 1898 and 1899. Some of the parties

claim they were not warned out; the pathmaster has not returned any list. I sent out the lists for 1900 with the work for the two previous years added and instructed the pathmaster to get all the work done. I hear they have performed the work for this year only. Can the council order the amount due for 18-8 and 1899 to be placed on the collectors roll if the parties refuse to do the work, and can it be legally collected?

No. The council should obtain returns from pathmasters who failed to make such in 1899, and the commuted statute labor due from defaulters named on such lists should be placed by the clerk on the collector's roll for 1900.

Accident on Road out of Repair

323.—J. M.—This is a township municipality. A government road has been cut out about seven years ago from here to Massey, the next village. There are no settlers along it to put it in good condition. The road is passable and no complaints have been made about it. A man coming into the village with a big load gets his horse mired in a mud hole. At this place there is a road to get around the mud hole. Is the council responsible for damages? There is another road built to answer the same purpose but it is a little longer. The council is not able to keep both roads in first class condition.

This is a question of fact, and therefore not easily answered on the statement which you have given. The rule is that a public road must be kept in a reasonably fit state for travel. What will be a reasonably good road in one locality might not be considered so in another locality. The amount of travel, the means of the municipality, and other circumstances must be considered. Unless the mud hole was palpably dangerous as compared with the road generally, the municipality is not liable, nor is it liable unless there was knowledge of its existence or it had existed so long that the corporation was guilty of negligence in not having discovered it. Another question to be considered is whether the party was guilty of contributory negligence.

Ownership of Driftwood.

324.—J.—A purchases a lot in the district of Nipissing on Lake Nipissing and made first payment to the government. A river near by lets out every spring, lots of floodwood that very often the wind blows ashore on the banks opposite A's lots. The Crown Lands Department sold these lots by number for what they contain. One of A's lots contains 340 acres and the other 270 acres, and the boundary on the lake side is stated by the department to be high water mark.

1. Can A claim any damage for cutting such floodwood on the lake shore on his lots provided no damage is done except the taking of the wood, and that below the high water mark, no trespass being made above the high water mark?

2. Who is the owner of floodwood on the banks of Lake Nipissing?

1. Without a copy of the description contained in the patents granted by the Crown for these lots we cannot answer this question. Usually the descriptions of lots bordering on lakes run to the waters edge and if A under the patents granted to him by the crown is entitled to the land to the waters edge, he is entitled to driftwood without any known owner, which is thrown or cast upon the beach by the action of the wind or water

and no person except the actual owner of such wood has any right to it as against A. The law in that case presumes A to be the owner of such driftwood and the onus rests upon any other person claiming it to prove against A that he is the actual owner of it, assuming that rights do not extend beyond high water mark. He has no property in driftwood below that point but driftwood which is cast upon his land is his property except as against the man who can prove that it belongs to him and his prima facie right to it cannot be taken away by a person who succeeds in removing it without his knowledge.

2. The owner of the land upon which it happens to be, is prima facie the owner.

Damage to Property by Raising Level of Sidewalk.

325.—J. M. H.—Our town council propose laying a cement sidewalk along one of our business streets. To get the walk to right grade and level, it will be necessary to raise it about eighteen inches higher than the present wooden sidewalk opposite a brick building built close to the street line. The new walk will then come about fifteen inches higher than the door sill of this building. The building was erected in a low part of the town before any grade line was established and the street has been raised all of eighteen inches since the building was erected.

1. Would the owner of this building have a good claim for damages against the corporation should the new concrete walk be put through at the proposed level?

2. Would the council be acting within their right or would it be legal for them to agree with the owner of the building to grant a certain sum for damages before the work is proceeded with?

3. Would the better way be for both parties to appoint arbitrators to assess the damages before the work is gone on with?

4. Or after the work is completed?

1. If, in the exercise of the council's corporate powers, it is necessary to raise the sidewalk in front of the brick building, and there is no negligence on the part of the corporation in carrying out the work, the owner will be entitled to compensation under the arbitration clauses of the Municipal Act, if his lands are thereby injuriously affected. See *Adams vs. City of Toronto* (12 Ont. Reports, p. 243.). In a similar case, *In re Youmans and the Corporation of the County of Wellington*, (43, Q. B. p. 522), it was held that the owners of the property affected were entitled to compensation under the provisions of the Municipal Act, for injury sustained by reason of the municipality having, for the public convenience, raised the highway in such a manner as to cut off the ingress and egress to and from their property abutting upon the highway, which they had formerly enjoyed, and to make a new approach necessary.

2. We think so, but the agreement should provide that the amount agreed upon is only to be payable in the event of the work being done.

3 and 4. If the corporation and owner of the building cannot agree as to the compensation to which the latter is entitled arbitrators should be appointed as provided by the Municipal Act. The arbitrators should not be appointed until the work is

completed, because until then they cannot determine what would be proper to be allowed by way of compensation, and besides, this Act says that compensation shall be made for lands taken or injuriously affected, which implies the doing of the work before arbitrating. See section 437, of the Municipal Act.

Tax Defaulters Vote.—Tenants Qualification Jurisdiction of Police Magistrate

326.—SUBSCRIBER.—1. We are passing a by-law to prevent voting unless tax is paid. Does it extend to future years?

2. Must we advertise it? Please give all particulars, etc.

3. Our assessor has assessed in this way, saying a place worth \$3000, with five tenants, he assessed each tenant at \$200 of the realty to entitle him to vote, and balance \$2000 to landlord. Now suppose landlord pays his share, but tenants do not, can landlord vote on this property, or suppose tenants pay and landlord does not, can tenants vote on the property, or if all but one tenant pay in full, who can vote?

4. In making out voters' list A's property is assessed for \$1000, he has five tenants, how many are placed on the voters' list and whom?

5. The police magistrate at Sudbury has within his jurisdiction the town of Sudbury as well as parts of the district of Nipissing and Algoma, but the appointment is a general one made by the government. The town has no police magistrate of its own. Have the town mayor and justices of the peace power at all times to act in town cases, violating of by-laws, etc.?

1. We assume that you refer to a by-law passed under sec. 533 of Mun. Act subsection 1. Such a by-law will remain in force until repealed and apply to tax defaulters for the current year and all future years, until the by-law is repealed, if it is stated that it is to continue in force from year to year.

2. No, the subsection above referred to will give you all the particulars you require. (See also sections 88-137 (1) (b) and 151 (2) (b) 3. Since your municipality is a town where the population does not exceed 3,000, and assuming that the landlord and tenants possess the other qualifications mentioned in the Municipal Act entitling them to vote, they are all assessed for a sufficient amount. One tenant is not responsible for the default of another tenant and is therefore not a defaulter if he has paid all the taxes for which he is liable himself. In regard to the landlord the assessor did not assess him according to law. (See sections 20 24 of the Assessment Act.) According to these sections the landlord ought to have been assessed for the whole and, if he had been, he would be a defaulter if the whole tax were not paid within the time limited by the Act. As he has not, however, been assessed for more than \$2,000, he is only liable for taxes upon that sum.

4. A has the right to be placed on the voters' list, as owner of the premises, and on the same assumption as the preceding question, if all the tenants are assessed for an equal amount, namely \$200, they have all a right to be placed on the voters' list, and they have such right, if assessed jointly. (See section 93 of the Act.) If the tenants are not assessed for an equal amount, we cannot tell which of

them should be placed on the voters' list until you give us the amount of the assessment of each, except that any one not assessed for \$200 will not be entitled to vote.

5. We assume that the police magistrate was appointed under the authority of section 18 of chapter 87, R. S. O., 1897, and, if we are right in this assumption, justices of the peace may act in all cases in which they would have power to act, if there was no police magistrate except in those cases which they are precluded from trying by section 22, chapter 87. Section 22 is not so broad as sections 7 and 17. The only limit which section 22 places upon justices of the peace is that it prevents them from interfering with cases initiated before a police magistrate, but even in cases where the initiating proceedings were taken by or before the police magistrate, they may act in respect of such cases at the general session of the peace, or in the case of the illness or absence or at the request of the police magistrate. (See also section 23.)

Renting Fishing Privileges.—Ownership of Fish.

327.—A SUBSCRIBER.—1. A ratepayer in this township has rented his mill-pond to city people to fish. The dam, which is public road is given in lieu of the allowance crossing the pond and is not more than twenty feet wide to the water's edge mostly kept up by the township grants. Can people fish on the road or dam, the width of the allowance sixty-six feet?

2. Has the owner the right to rent the road or balance that is in the water?

3. To whom do the fish belong?

4. Are fish government property?

1. Yes, provided that in so doing they do not obstruct or in any way interfere with the use of the road by the public.

2. The owner of the pond can rent only what he owns. If the dam forming the roadway is vested in the municipality for a width of 66 feet no portion of it can be leased by the owner of the pond.

3. If the mill pond be the property of a private party, as it appears to be, the fish in it belong to the owner of the pond.

4. Yes, in public lakes, rivers and streams, but not in a pond owned by a private individual.

Rebate of Income Tax.

328.—J. M.—In 1899 A B who was assessed on \$1500 income claimed he had no income and appealed to the court of revision. The assessment was sustained, and finding endorsed on slip by chairman of court and slip returned. A B claims that he thought the income assessment was wiped out and consequently failed to appeal to judge's court. He was therefore obliged to pay taxes on this assessment. This year he produced evidence at court of revision showing he had no income assessable either this or last year and the assessment was wiped out. Now he claims that he is entitled to have amount of last year's taxes returned to him. Can the council legally vote him a rebate of this amount?

No.

Payment and Collection of School Money.

329.—J. J.—The trustees of a union school section connected with this Municipality have annually for the last six years sent in an ac-

count of expenses of running the school and asking for a levy. The clerk has annually struck a levy which has been collected and paid over to the township treasurer of this municipality. But the trustees of said union school section have never sent in a demand with corporate seal attached asking for the money collected and the township treasurer never sent it to them.

1. Is the township treasurer right in not sending the money without a requisition from the trustees?

2. Is not the township treasurer ordered by section 67 (1) of the Public School Act to pay all moneys collected to the treasurer of the school section before December 15th demand or no demand?

3. How must the trustees of said union section proceed in order to obtain from the township treasurer all back moneys due them?

4. If the assessor neglects to assess a certain property and the assessment roll is passed by the council without noticing the omission what remedy has the council in order to collect taxes off the property?

5. If a county or township rate cannot be collected, how must the school rate be collected? See section 67 (3) Public School Act?

1. Your statement of the facts discloses a loose way of doing business, both on the part of council and the school trustees. Section 67, subsection 1, of the Public School Act, provides that "the Council of every municipality shall pay the same (i. e., school moneys levied and collected under the section,) to the treasurer of the board, etc." The amount asked for by the school section having been levied, the council each year on or before the 15th of December, should, by resolution, issue an order or cheque on the treasurer of the municipality in favor of the secretary-treasurer of the board of trustees, for the amount levied, and cause the same to be handed or sent to such secretary-treasurer. The latter should then present the cheque or order to the treasurer of the municipality, whose duty it is to cash it.

2. The township treasurer is required to pay the moneys to which a school section is entitled in any year, only on the presentation to him of an order or cheque issued by the council of his municipality directing him to do so. He is not bound to make a special trip to all or any of the treasurers of the school sections in his township for the purpose of making these payments.

3. Obtain cheques or orders from the councils of the municipalities liable for the amounts due the union school sections, and present them to the treasurers of such municipalities for payment.

4. The municipal councils are given authority, by sub-section 3, of section 67, of the Public Schools Act, to make such corrections as will remedy the omissions of this property, and render it liable for its just proportion of the school rates.

5. The land omitted from the assessment roll can be made liable for the payment of the township and county rates also, pursuant to the authority of section 166, of the Assessment Act.

Entry of Township School—Levy on Collector's Roll.

330.—A. B.—The trustees of school require, say \$500, \$150 of which is raised by general rate every year on the whole township, the remaining \$350 by special rate on one section. Does the law require that each man's share of

the \$150 be in a separate column on the collectors roll from his share of the \$350, or is it enough to say the general rate is .5 mills and the special rate is 1.2 mills and state the whole in one column 1.2+.5=1.7 mills?

Yes. Each taxpayer's share of this rate should be entered on the collector's roll in a separate column opposite his name. This rate is specially imposed by section 66 of the Public Schools Act, and should be kept distinct and accounted for separately from all other rates. (See section 129 of the Assessment Act.)

Compensation for Road through Crown Lands—Collection of Defaulters Statute Labor.—Liability for Statute Labor.—Appeal from Court of Revision.

331.—NORTH EAST.—1. A road has been surveyed and opened out along the south half of a lot and across the centre of said lot to reach a sideroad. This was done while the lot was crown land, over fifteen years ago. The lot has since been sold by the crown and has changed hands several times. What right has the present owner for compensation from the council for value of land taken for roadway, the roadway taken from said lot forms a link in a main leading road, and also for extra fencing, and if entitled to compensation how is the value of the land taken and the extra fencing to be computed, and by whom? No previous demand has been made by any person for compensation for either land or fencing. The road was laid out by the municipal council. It is fenced partly rail and partly brush fence. A by-law was passed setting it apart for public use. It is now in use as part of a main leading road and has been over fifteen years. The road allowance was surveyed by the council.

2. Can the clerk insert in the next year's collectors roll the amount of statute labor not performed for 1899 against a lot which should have been placed on said roll for 1899 but has been overlooked? The statute labor was omitted from being charged against the said lot on the collector's roll for 1899 being overlooked by clerk. Can it still be charged to said lot on roll for 1900?

3. Can an owner of a lot, where the tenant has been made a taxable party and has to perform the statute labor for said lot, be made to perform one day statute labor as poll-tax? The owner was assessed by himself for lot, in another place on roll in alphabetical rotation the name of occupant was placed on roll in column four. He is designated as tenant, but columns numbers ten and eighteen are not filled in. Is he an occupant or tenant? Is he liable for one day's statute labor as poll-tax?

4. An appeal was made to the court of revision against a certain property as too low assessed. Notice of same was sent to owner. At said court the assessment of said property was raised \$200, notice of same was given to owner, court was adjourned from 1st to 30th June. Owner sent notice to clerk on receipt of same, dated June 11th, 1900, that he intended to appeal to judge. Six clear days' notice by mail was sent to owner of date of adjourned court requesting him to attend same. He did not. Council took no further action. Is said notice by owner of his intention to appeal valid, or must he notify clerk of his intention to appeal to judge, after said court was finally adjourned, as per sub-section 2, of section 75, chapter 224, Ont?

1. The land now used as the highway you mention was, at the time the by-law was passed by the council, setting it apart as such, vested in the crown. This being the case, without the consent or sanction of the crown authorities, the municipal by-law would be inoperative. You do not say whether in the original patent, a reservation was made of this road allowance, or when the patent was issued, or

the dates of the several transfers of the land thereafter. If the date of the deed to the present owner is more than a year prior to the time of his making a claim upon the council for compensation for the land taken for the road or for fencing same, he is barred by the statute. (See section 438 of the Municipal Act as amended by section 27 of the Municipal Amendment Act, 1899.)

2. Statute labor chargeable against persons who make default in its performance in 1899, should be returned to the clerk by the pathmaster for that year, and entered on the collector's Roll for 1900. (See section 110, sub-section 1 of the Assessment Act.)

3. The land is liable to be charged with statute labor according to the scale in force in your municipality. Neither the owner nor tenant can be charged with one day's statute labor as poll-tax because they are each otherwise assessed. (See section 100 of the Assessment Act.)

4. We are of the opinion that the notice of appeal to the county judge, served as you state, was not sufficient. It should not be served until the court of revision completed its labors. The court must complete its labors before the 1st of July in each year. (See section 71, subsection 19.) Persons wishing to appeal to the county judge must serve a notice of his intention to appeal WITHIN five days after the date limited by the Act for the closing of the court of revision. (See section 75, subsection 2.)

Authority of Clerk to Administer Oath.

332.—T. S. Has the clerk of a Municipality in Nipissing power to administer any oath affirmation or declaration relating to the business of the place, even if not municipal business? If not, explain 316 of the Municipal Act.

No. The oath, etc., which section 316 empowers the clerk to administer, must be an oath, affirmation or declaration *under the Act*, and must relate to the business, (that is, the *municipal* business) of the place in which he holds office. His power to administer an oath, etc., is confined to oaths, etc., in matters arising under and within the Municipal Act, and in his municipality. The clerk of one municipality, under this section, has no authority as such clerk to administer an oath, etc., in another municipality in a matter pertaining to the business of the latter. Section 39, of chapter 225, R. S. O., 1897, makes this section applicable to a municipality in an unorganized district.

Residence of Clerk.

333.—CLERK.—Is a township clerk obliged to reside in the township of which he is appointed clerk? There is a town on the boundary of the township and it would be more convenient for the clerk and the ratepayers that the clerk's office be in the town.

No.

Collection of Non-Resident Statute Labor.

334.—J. O. S.—In preparing the collector's roll for 1899, the clerk omitted to place on it the statute labor of non-residents whose names

were on the resident roll. Can this statute labor be placed on the collector's roll for 1900 with the statute labor for 1900?

Assuming that the clerk in preparing his statute labor lists for 1899, placed thereon the names of these non-residents, and the amount of statute labor they were liable to perform, that the work was not done, and that the lists were returned to the clerk before the 15th day of August, the clerk should have entered the commutation opposite the names of the defaulters in the proper column of the collector's roll for 1899. (See section 109, sub-section 1, of the Assessment Act.) There is no provision in the statutes authorizing the clerk to enter such commutation money on the collector's roll for any subsequent year. Since the clerk's powers in this regard are derived wholly from the statute, it follows that he cannot now supply the omission. Nor can proceedings be taken to compel him to do so. In the case of *In re Risdale vs. Brush*, (22 U. C. Q. B., page 122), a rate having been imposed for the purpose of building a new school-house, certain persons in the municipality, who were not Roman Catholics, but Protestants, signed a notice to the clerk (he being one of them) that as subscribers to the Roman Catholic separate school, they claimed to be exempt from all rates for common schools for the year 1861, another clerk, in making up the roll, omitted this rate opposite to their names. It was held that the clerk had acted illegally, and was liable to punishment. It was judicially stated in this case that "there is no difficulty in pronouncing that the clerk did not discharge his duty according to law; but the difficulty consists in saying that we can, by a *mandamus*, at this stage of the proceedings, order him to do anything which will have the effect of remedying defective execution of his duty.

We would suggest, however, that the clerk place the statute labor for 1899 on the collector's roll for 1900, with a view of collecting as much of it as possible. It must be understood, though, that *such collection* cannot be enforced.

Entry of Number of Road Division in Assessment Roll.

335.—S. R. B.—Whose duty is it to mark the road divisions on the assessment roll, the assessor or the clerk? Also number of days' work?

It is the duty of the clerk, unless the assessor on his appointment, is specially required to do so by the council. See sub-section 4, of section 13, of the Assessment Act and the headings of column 18, in schedule D, to the Act. The column headed "Number of road division," in the assessment roll, is not shewn in the form appended to the Assessment Act (schedule D,) but is intended for the use of the clerk in preparing his statute labor lists annually.

The ratepayers of the town of Hawkesbury are evidently opposed to the Good Roads Movement. By a majority of three (3) they recently defeated a by-law to raise \$15,000 for the improvement of the streets in that town.

A New Disinfectant.

No doubt medical officers and sanitary inspectors have often felt the need of a small but pungent disinfectant whilst on their rounds in the dark and insanitary places of the earth. We should therefore like to call their attention to three dreamy-looking owls, perched on a twig—not that these birds of the night are able to exercise scavenging functions, but because they represent the trade-sign of the Chinosol Hygienic Company—a firm which has on the market a particularly powerful and efficacious disinfectant and deodorant, which, moreover, is non-poisonous and non-corrosive, and in this respect alone supersedes the poisonous carbolic acid and corrosive sublimate, which so far have been considered the most efficacious germicides. Chinosol has been placed on the market in several forms, but we desire here to call particular attention to the Chinosol sanitary tablet, believing that it meets a long-felt want by sanitary officials. The tablets constitute an ideal and most portable form of disinfectant and deodorant. One of these tablets will make a pailful of strong disinfectant, and when it is stated that twelve of the tablets, packed in a small tin, can be carried in the waistcoat pocket—a sufficient quantity to produce thirty-six gallons of reliable disinfectant—the value of Chinosol will be appreciated. Sanitary authorities will also find the crude Chinosol in granular form an effective and economical means of disinfecting streets, markets, slaughterhouses, &c. This crude Chinosol is very soluble, and the powder, thrown into a water-cart, will dissolve while the cart is filling from the hydrant. One ounce of crude Chinosol is sufficient to convert sixty gallons of water into a disinfectant suitable for the purpose of street watering. The standard solution II., one ounce of which is required for seven and one-half gallons of water, is recommended for use in work-houses, unions and shelters, and can be effectually employed for killing vermin by allowing inmates troubled with them to wash therein. The Chinosol disinfecting sprinkling powders also perform a useful purpose. The powders are extremely light, and therefore cover a larger area than the ordinary disinfecting powders. They partly dissolve and partly float on the water, and are, therefore, carried to where their action is required. For deodorizing and disinfecting dustbins, dry heaps of refuse, &c., they are useful and reliable. The chemical was recently examined by Dr. Moor, M. A., the senior demonstrator of the State Medicine Laboratory at King's College, and he states that his experiments show clearly the value of Chinosol as a germicide, and it has in addition a powerful action as a deodorant. He has tried the effect of Chinosol on putrid sewage and on stale milk, and the effect is immediate and lasting. To him Chinosol appeared to possess all the advantages of the best

disinfectants, was free from the dangers attending carbolic acid and mercuric chloride, while its portability was no small recommendation, as so small a quantity as one-fifth of an ounce dissolved in three gallons of water makes a very strong and reliable disinfectant solution.—London.

Aldborough Drain Account.

For a long time it has been customary with councils of the township of Aldborough to charge up various items to repairs made on the various municipal drains of the township, to those drains and they have been so entered in the treasurer's books and the auditors in their annual reports have entered them up each year as an asset of the township. At the same time no effort has been made to collect these amounts by placing them on the collector's roll against the lands benefited by the various drains. This has gone on from year to year until the amount so charged up amounts, according to the last auditor's report, to nearly \$2,500. The present council felt that if this amount were collectable an effort should be made to collect it and if it were not it should be written off the township books. For this purpose at the council meeting held in June the reeve and clerk were instructed to take legal advice in the matter, which they did by consulting Mr. Mathew Wilson, Q. C., of Chatham, an eminent authority on drainage laws. In course of opinion given, Mr. Wilson says, "the course that your council of Aldborough has pursued in the past in the above regard is irregular and illegal, and the costs of the repairs ought to have been raised out of the drainage area from year to year as the money was expended. Your by-law creating the assessment and the liability of the ratepayers ought to have been passed without delay so that the rate for the expenditure would become an assessment and charge upon the respective lands assessed, and then any purchaser of these lands would take them subject to that charge." As to repairs to culverts on such drains, Mr. Wilson says: "In regard to the charge upon the drainage area for any culverts upon the drain or the repairs thereof, this wholly depends upon whether the culvert has ever been brought into the drainage system, pursuant to the report of an engineer. If the culvert was not provided for in, or constructed under the report of an engineer for the construction of the drain, but was constructed and paid for by the municipality at large, then the council has no right to charge the cost of repair of the culvert to the drainage area but must pay for it out of the general fund, unless an engineer first be sent on for the purpose of repairing the drain, and he report that the culvert is part of the drainage works requiring repair, and estimate the cost thereof and assess such costs together with the other costs of repair upon the local lands and roads."

Legal Department.

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

LEGAL DECISIONS.

In re Medland and City of Toronto.

Municipal Corporations—Local Improvement—Block Pavement—Liability to Repair—Reconstruction—R. S. O., chapter 223, section 666, 62 Vict., sess. 2, chap. 26, sec. 41.

A city corporation having, by by-law passed in 1888, adopted the local improvement system, a pavement was constructed as a local improvement in 1891, composed of cedar blocks, circular in form and seven inches in length, laid upon a bed of clean gravel, the roadway having been first graded to the proper level, with wooden curbing on each side of it. The by-law for levying the assessments stated that ten years was the "lifetime" of the pavement. Sections 664 and 665 of the Municipal Act, R. S. O., chapter 223, authorize the passing of by laws providing for the construction of local improvements and the making of assessments therefor. Section 666 provides that "nothing contained in the two preceding sections shall be construed to apply to any work of ordinary repair or maintenance, 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 city generally."

Held, that what the legislature contemplated was that the initial cost of the construction of the local work or improvement should be borne by the owners of the property benefited by it, but that they should not be responsible for the keeping of it in repair, that duty being cast upon the municipality generally, and that when it should become necessary to reconstruct the work or improvement, the cost of doing so should be defrayed by the owners of the property benefited by the work of construction.

Held, also, that this duty to repair is imposed upon the municipality for the benefit of those at whose expense the work or improvement has been made, and is not to be confounded with the general duty to repair, which is one towards the public.

Held, also, that this duty ends when it becomes necessary to reconstruct the work or improvement, and that whenever it is in such a condition that practical men would say of it that it is worn out and not worth repairing, no order for repair can be made under the amendment to section 666 contained in section 41 of 62 Vict., sess. 2, chapter 26.

Semble, that if the dilapidated condition of the pavement were due to the municipality having in the past neglected the duty to repair, the result would be different, the Amending Act of 1899 being applicable to cases where the breach took place before it was passed.

Queen vs. Langley.

Municipal Corporation—By-Laws—Transient Traders—Sale—Trading Stamps—Convictions—R. S. O., 222, s. 583, sub-s. 30, 31.

The defendant entered into an arrangement with various retail merchants by which each of them was to receive from him a number of "trading stamps" (the property in which, however, was to remain in him,) and to pay him fifty cents per one hundred of such stamps received, and to give one of these stamps to each customer who purchased for cash ten cents worth of goods, while he, on his part, was to advertise them in certain directories to be distributed by him and also in newspapers. A blank space was left in these directories for pasting in such stamps, and every customer of any of the merchants who brought to the defendant one of these directories with 990 stamps pasted in it was entitled to receive in exchange any one he might select of an assortment of goods kept in stock by the defendant. Apart from these goods were not for sale.

Held, that these transactions did not constitute a selling or offering for sale by the defendant within the meaning of a municipal by-law, passed under R. S. O., c. 223, s. 583, sub-s. 30, 31, the stamps delivered to defendant in exchange for his goods being of no value to him. The essence of sale is transfer of property from one person to another for money or money's worth.

Caston vs. City of Toronto.

A case of very great interest to municipal officers of Ontario was decided by the Supreme Court of Canada at Ottawa on Tuesday, June 12th.

The writ was issued in the action the 12th day of June, 1896, and judgment was delivered which may or may not be a final termination of the action, exactly four years afterwards.

The case it is said has been constantly on the move from the day it was first started.

A short statement of the facts is as follows: The plaintiff is Captain Caston, of Toronto. He lived at No. 66 Huntley Street in that city. The house immediately adjoining his house was owned by Richard T. Coady, the treasurer of the city of Toronto. It seems that Mr. Coady made an agreement some years ago to sell this house to one Mrs. Robinson, who was a sister of Captain Caston, but the deal was not carried out for a considerable time afterwards. It was while the deal was pending and while city treasurer Coady yet owned the house that the taxes which were alleged to be unpaid accrued which formed the sub-

ject for this action. Captain Caston in the year 1896 had a demand made upon him for about \$75, which were alleged to be unpaid taxes on his own house. These taxes were said to be the taxes for the year 1893. Captain Caston at once answered and said that he didn't owe the City of Toronto any taxes, that he had always paid his taxes and produced a receipt for the taxes of 1893. The city of Toronto claimed that while the sum mentioned in the receipt had been paid at the time it was paid they said with a direction to apply it for taxes owing on the house next door. Captain Caston disputed this and he held that he had quite enough to do to pay his own taxes without paying other peoples.

The city of Toronto were relentless, however, and after a great number of communications between the city officials and the captain's solicitors the city finally put in their bailiffs and seized the captain's furniture for the taxes which they alleged were unpaid in the year 1893. Captain Caston's solicitors at once advised him to issue a writ against the city and to obtain an injunction to prevent the threatened sale of his furniture.

The action came to trial, and at trial the city of Toronto succeeded. The case, however, was appealed to the Queen's Bench Division which unanimously gave judgment in favor of Captain Caston and awarded damages against the city of Toronto. The city were not satisfied with this judgment but carried the case to the Court of Appeal for Ontario, where it was heard by five judges who unanimously pronounced in favor of the plaintiff. The city alleged the case to be of great importance to them and that if that ruling of the Courts were sustained it would mean a great loss to the city of Toronto and took the case to the Supreme Court of Canada where it was argued in the month of April and judgment was delivered on June 12th in favor of Captain Caston. The city of Toronto was condemned in all cost from the beginning of this litigation which has extended over a period of fully four years.

The Town Won.

On Tuesday His Honor Judge Morrison non-suited Mr. G. S. Price, proprietor of the Owen Sound Meaford stage line, in his action against the town to recover \$60 damages for injuries received by his horse in an accident caused by a damaged culvert near the railway track on St. Vincent street. The judge held, on the evidence submitted, that the town had repaired the break immediately upon notification, and as the culvert had been in a safe condition prior to and until within a few days of the accident, it was not liable for damages, and the case was dismissed. As the plaintiff, however, had suffered considerable loss, His Honor relieved him of the town's witness fees, and assessed him only for his own costs and the costs of the court.

Weeks vs. Middleton.

Judgment was delivered at Simcoe in the case of Weeks vs. Middleton, tried at the county court on June 12 and 13. The action was brought by Ira Weeks against the Township of Middleton for the loss of his team, which was drowned in the Big Otter Creek at the bridge on the sideroad running from the toll-gate on the Port Burwell road to the Forge road. The bridge was carried away in the spring and while the bridge was closed at both ends no barrier was erected at the bridge. Plaintiff was engaged with his team making a gap in the fence opening on this side road. After drawing a stump into this road he left his horses, to go back into the field for an axe when the horses started to go and being frightened by the whiffletrees striking their feet, ran away, and ran over the bridge into the gap and were drowned. The judge held that the plaintiff was a trespasser on the highway and not being under control, that there was no liability on the part of the township and dismissed the action with costs.

Whitby vs. Grand Trunk.

Judgment in action tried at Whitby. Action to recover \$50,000 the amount of the penalty in certain bond agreements made by the Port Whitby and Port Perry R. W. Co., whose successors are the defendants. The amount of the bond was paid to the said railway company by way of bonus to build the road, and the company agreed to establish and maintain its chief workshops and head office in the town of Whitby. The plaintiffs also claim in the alternative damages for the breach of an order for the restoration by the defendants of the shops. Held that the obligation of the bond was cast upon defendants as successors to the Port Whitby, etc., Company, except as to head offices, the provisions as to them being superceded by legislation, but the same statute (45 Vic., ch. 67, sec. 37, and sched.) preserves the right of the plaintiffs regarding the workshops. Reference directed to fix damages sustained by plaintiffs. Further directions and costs reserved.

Horsman vs. City of Toronto.

Judgment on appeal by defendant from judgment of Meredith, C. J., in action tried without a jury at Toronto. The only question reserved at the trial was that of the right of the defendants to levy their distress for taxes upon such of the goods of the plaintiff as had been purchased from the Royal Loan Company. The taxes were those of the year 1897, in which year the premises in respect of which the taxes were payable were occupied by John C. Palmer, as a hotel, on the south-west corner of York and King streets, in the city of Toronto, and the goods in question had belonged to him in the hotel business. The Royal Loan Company were mortgagees of these goods

by virtue of a mortgage from Palmer, dated July 13th, 1896, which contained a power of sale on default. Default having occurred the company sold the goods to plaintiff, and they were transferred to her by bill of sale, dated August 25, 1898, and she thereupon entered into possession of them and remained in possession, carrying on the business of the hotel up to the time of distress, January 7, 1899. The trial judge held that the goods were not at the time of the levy the property of the person assessed or of the owner of the premises, nor did they come within the definition in R. S. O., chapter 224, section 135 (4b.) The title of plaintiff to the goods was not claimed by purchase, gift, transfer or assignment from the owner or person assessed within the meaning of that clause. Appeal dismissed with costs.

McCarter vs. Mulmur.

In the action taken by Mrs. McCarter, to quash the local option by-law lately passed in the township of Mulmur, it was held that the omission to state the names of the deputy-returning officers in the by-law passed and published December 7th, 1899, pursuant to the provisions of section 338, of the Municipal Act, was fatal to the validity of the by-law. The by-law passed subsequently on December 15th, 1899, appointing deputy-returning officers for the year 1900, not containing any reference to these officers as being authorized to take the vote, and never published, does not help. Other objections need not be considered. Order made quashing by-law, with costs to be paid by the municipality.

Village of Port Stanley vs. Herrick

Judgment on appeal by defendants from order of a Divisional Court, affirming judgment of Robertson, J., in favor of plaintiffs. Action for a declaration that defendants are in possession of and occupying without any color of right, and are thereby obstructing a highway known as Bridge Street in the village of Port Stanley, and for possession and for removal of obstruction. The trial judge, after setting forth the facts with great particularity, found that there was evidence of a dedication by a former owner, Colin Munro, of lot D, of which the portion of highway in question forms a part. He owned land on both sides of Bridge street and by a deed made in September 1878, to one Fawcett, referred to a plan made by Baikie, which was one made upon proper authority, which showed Bridge street to be one chain wide, and his executors conveyed lot 20, an adjoining lot, in 1888, to defendant's grantor. The Divisional Court in affirming the judgment held that formal acceptance of a dedication by the public authorities is unnecessary, it may be indicated by a common user; and referring to Reg. vs. Donaldson, 24 C.P., 148, and other cases, that the public are entitled to the whole width, evidence of enjoyment by them of

part in dispute is not essential. Appeal dismissed with costs, the court agreeing with the findings of fact by the trial judge.

A Road Disinfecter.

It is an easy task to water the roads, but it is not so easy to satisfactorily disinfect them at the same time. A great deal of time and ingenuity has been expended in the effort to produce a thoroughly efficient automatic disinfecter, and the ideal, it is claimed, has now been reached by Mr. J. L. Wade, managing director of the firm of Messrs. J. L. Wade & Co., Limited, of Nine Elmslane. The appliance may be fitted to water-carts, public water-closets, and urinal cisterns, and it has also found a great deal of favor in private dwelling-houses. The appliance consists of a metal vessel, from the top of which rises a tube communicating with the interior. This tube curves, and is bent downwards, so that the free end reaches to within a short distance of the bottom. When the water rises in the cistern or tank, and in the tube referred to, the pressure in the interior of the vessel is, of course, increased, and a quantity of the saturated disinfectant solution which it contains is forced out through a small tube in the interior, which opens on the upper surface of the container, this surface being in the form of a shallow reservoir, which, upon the falling of the water below its level, retains enough to replace the quantity of disinfectant previously ejected. As we have stated before, the appliance is admirably adapted for use in water-carts, and it entirely obviates the necessity for the introduction of a fresh quantity of disinfectant each time the van is filled with water. The charged disinfecter is placed in position in the interior of the watering van through the manhole, after which it requires no attention whatever until the disinfectants which it contains are exhausted. The time one charge of disinfectant will last is dependent, of course, upon the size of the disinfecter, the nature of the disinfectant, and the time during which the water-van is at work, but it may be taken that in ordinary circumstances one charge will last from one to three months.

The invention has received the highest commendation from experts. Dr. S. Rideal, D. S. Sc. (Lond.), F. I. C., public analyst, says with regard to it: "I have made a careful examination of the automatic flush disinfecter (patent No. 9,276, 1898) which your firm sent me for trial. It has been working perfectly satisfactory since I received it, and it is so simple in construction that it cannot easily get out of order. When charged with a disinfectant it will be very useful, as it is made in sizes adapted to all cisterns." As might have been expected, many public authorities have taken the invention up, and the Wandsworth Board of Works, in particular, has expressed itself as entirely satisfied with the results.

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