THE MUNICIPAL WORLD

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The Municipal World

PUBLISHED MONTHLY

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

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

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ST. THOMAS SEPTEMBER 1, 1902

Mr. Thomas McKee, who has been for many years clerk of the county of Essex, died on the 31st of July last.

* * *

The convention of the Municipal Association will be held in Montreal on the 15th, 16th and 17th days of this month.

* * *

The electors of the town of Cornwall have unanimously carried a by-law to give a bonus of $15,000 and free site to a new furniture factory.

* * *

Mr. John F. Millen, of the township of Gosfield North, has been appointed clerk of the county of Essex, in the place of Mr. Thomas McKee, deceased.

* * *

Mr. John H. Hawkins, jr., has been appointed treasurer of the township of Elizabethtown in the place of Mr. John Halliday who recently resigned.

* * *

The electors of Stratford have carried a by-law authorizing the city to guarantee the bonds of the Kemp Manure Spreader Company, to the amount of $15,000 by the large majority of 1084.

* * *

Stouffville, one of the most progressive of the smaller towns, has voted $5,000 for the macadamizing of its main street, and it is the intention of the energetic council to make this one of the finest streets in Ontario.

An excellent sample of concrete work, just completed, is to be seen in a culvert built over the stream crossing the main street. The culvert has a ten foot arched span, and is one hundred feet in length.

The council of the township of Elizabethtown has had an audit of the books and accounts of the late treasurer of the municipality made, by an auditor specially appointed for the purpose. This auditor recently presented his report to the council, and it shows that the treasurer was indebted to the township in several amounts that he had not paid over or accounted for at the time of filing his resignation. At its meeting on the 21st July last, the council passed a resolution instructing its solicitor to take immediate steps to recover the amount due the municipality from the late treasurer and his bondsmen, as shewn by the report of the special auditor.

* * *

We are in receipt of the August number of the "Industrial A vocate," a monthly industrial and financial journal published in Halifax, N. S., and Sydney, C. B. Its object is the furthering of the interests of the financial institutions and mining and other industries of the Maritime Provinces in particular, and of Canada generally. It contains departments devoted to mines and miners, steel ship building, the iron and steel industry, insurance and finance, the coal industry, lumbering, wood pulp and forestry, the fisheries, transportation and communication, patent news, sanitation, articles on the fast Atlantic services and the manufacture of rope and twine in Canada, and numerous other articles of general interest. Its news notes and statistics as to mines, mining, and mining stocks are particularly interesting as pertaining to an industry which is bound to play an important part in the development of this great country.

* * *

The extent to which the property of street railway, telegraph, telephone, light and power companies are exempt from assessment and taxation was the subject of a recent decision by the Court Judge of Lincoln County. The Cataract Power Company appealed against its assessment in the Township of Grantham, and their counsel on the hearing of the appeal, argued that under the provisions of subsection 4 of the Assessment Amendment Act 1902 (chap. 31) all the plant and appliances of the company except those located upon the streets, roads, etc., are exempted, and that the only property of the company now assessable is its land, its buildings and those appliances, etc., which are located on public places. The court accepted this view and struck from the assessment roll all the plant and appliances of the company situate upon its own premises. These were formerly assessable as "scrap," but are now freed from taxation of any kind. As the most valuable part of the Cataract company's plant is located upon its own land the effect of the decision was to cut down the assessment from $110,000 to $25,115. The assessment of the poles and wires on the highway was increased from $500 to $6,300, this amount being included in the sum above mentioned.

Remuneration of Councillors in Towns.

The following appeared in a recent issue of one of our exchanges:

"Why is it that the mayor and councillors are afraid to vote themselves a salary? $500 for the mayor and $100 each for the councillors is not too much. No man would give his time and ability to running another person's business for glory, to say nothing of the abuse he is bound to incur. If the council is afraid, the people will object and think they are making a steal, let them pass a by-law that the mayor and councillors for next term receive the above salary.

The town cannot run itself and the men who the peo le choose to manage their affairs should be paid."

In so far as the remuneration of the councillors is concerned our contemporary is advising the passing of an illegal by-law. Sec. 280 of the municipal act makes provision for the remuneration of the HEAD of the council of any county, city, TOWN or village to the extent determined upon by the council of the municipality. Under this section the council may pass a by-law providing for the payment of a salary to the MAYOR of the town only. Sub. section 1 of section 538 of the act authorizes the councils of COUNTIES and TOWNSHIPS to pass by-laws "for paying the members of the council for their attendance on council," or "for paying any member while attending on committee of the council, at a rate not exceeding $3 per diem, and five cents per mile necessarily travelled (to and from) for such attendance." Sub. section 2 of this section makes provision for the remuneration of the aldermen, etc., in cities having a population of 100,000 or over. There is no provision made anywhere in the statutes for the payment of any remuneration whatever to councillors in towns.

We observed in a recent report of a township council meeting, a resolution appointing the clerk of that township to meet the clerk of an adjoining township to equalize the assessment of a union school section formed of parts of the two townships. We fail to find any statutory authority for the passing of a resolution of this kind. Since municipal councils derive all their powers from the statutes, they are always courting danger, expense and litigation when they assume to take proceedings not thereby authorized. Section 54 of the Public Schools Act, 1901, contains the law in regard to this matter. By this section the ASSESSORS of the respective municipalities interested are required to perform this duty once in every three years, after they have completed their respective assessments, and before the first day of June. An equalization made by any officials other than those mentioned in this section would be practically a nullity, and in no way binding on any of the municipalities or ratepayers concerned.

Municipal Officers of Ontario.

Clerk, Township of Monmouth.

Mr. Day was born in England. He received no education. During the American civil war he was engaged in running the blockade, and joined the British Army in 1864. He served in the rebellion in Jamaica in 1865, was four

MR. JOSEPH DAY.

years in the West India Islands, saw service in East, West and South Africa, and went through the Nile Campaign of 1884. He received his discharge and a pension in 1885 and settled in the Township of Monmouth in 1886. He engaged in farming, was assessor for three years and was appointed clerk in 1889.

Water Rates.

In the construction of a public water-works system, it is estimated that the additional cost for an adequate fire protective system over that of merely domestic system, is about forty per cent. of the cost of the works. This is on account of the greater head pressure required, the larger pipes, and the many fire hydrants necessary.

If there be no charge for the public use of water, the small dwelling-house, having the ordinary water conveniences, is contributing very much more for the benefit of fire protection and other public uses of water, than is the large mercantile and manufacturing property, having a high valuation and paying but a small water rent. The largest part of the revenues comes from the dwelling-houses, while the greatest benefit for fire protection is to the business interests.

Assessment of Telegraph Companies.

In his judgment in an appeal to him from the decision of the Court of Revision for the town of Collingwood, County Judge Ardagh has construed the Assessment Amendment Act, 1901, in so far as it applies to the assessment of the property of telegraph companies. The following extracts from his judgment embody His Honor's views of this legislation :

The company's appeal is on two points ; (1) that said assessment is too high ; (2) no real estate is held by the company in Collingwood.

To take the last ground first. By an Act of the last session of the legislature, 2 Edward VII., chap. 31, the eighteenth section of the Assessment Act was repealed and a new section substituted therefor. By subsection 2 of that section it is enacted that if the head office of any telegraph company is not in any municipality, then the assessment may be in any ward thereof. This gets over the difficulty that formerly existed when all property had to be assessed in the ward in which it was situated and valued accordingly to the great detriment of the municipality.

By subsection 3 it is enacted that the poles, wires, substructures and superstructures belonging to any such company being upon the streets, roads, highways, lanes and other public places of the municipality shall be land within the meaning of the Assessment Act, and shall, when and so long as in actual use, be assessed at their actual cash value as the same would be appraised "upon a sale to another company possessing similar powers, rights and franchises in and from the municipality." The above quotation is in substitution—as far as regards companies—of the words "in payment of a just debt from a solvent debtor" in section 28 of the Assessment Act.

In considering the applicability of the above words "to another company possessing similar powers, rights and franchises in and from the municipality" to a telegraph company such as these appellants' we must, I think, read them in this way, "to another company possessing powers and rights in the municipality." As far as I know this company has no franchise from this municipality.

If they were selling out to another company, which would have the same rights and powers in the municipality, I presume the question would be, "What is the value of the plant", and that only.

If it cost an old company $1,000, say, to put in their poles, string their wires have the line ready for use, the value could, I suppose, be that $1,000, subject to any depreciation by reason of long use, and supposing the sum of $1,000 was the fair cost of completing the line.

Now, after hearing the evidence offered as to value, and allowing for depreciation, I think I am not far wrong in fixing the assessment at the rate of $250, the same as last year.

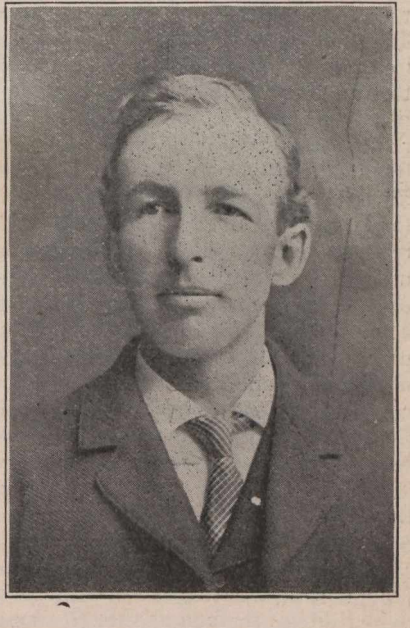
No increase in the value of the plant was shown to have taken place, but, on the contrary, it would not be wrong were a small sum allowed for depreciation.

I cannot accede to the argument that the instruments and calls should be taxed. I do not think they come under the head of "superstructures," the only word of subsection 3 of section 1 of the new Act, which might be argued to warrant such a thing.

One, Lawrence, a market gardener living in Owen Sound recently brought an action against that town to recover damages for injury to his land caused by water flowing through a cutting constructed by the defendants without the authority of a by-law. It was held that the defendant corporation are liable for damages, and a reference was directed to ascertain the amount thereof.

Clerk, Township of Hungerford.

Mr. Stokes was born in the Township of Rawdon in 1876. He received his education in the public schools of Hillier and Hungerford Townships. Owing to



MR. GEORGE H. STOKES.

ill-health he was compelled to give up school and his intention to qualify as a teacher at the age of twelve years. Ever since leaving school he has been engaged in farming, residing at present just outside the thriving village of Tweed. He was appointed clerk in March, 1901, and is also secretary of the Tweed Manufacturing Company, and local representative of the Continental Life Insurance Co.

Council not Compelled to Carry out Drainage Scheme.

The following opinion recently given by Mr. M. Wilson, K. C, of Chatham, to the reeve of Colchester North, will prove of interest to municipalities whose councils have occasion to consider petitions for the passing of by-laws praying for the construction of Drainage works.

Dear Sir:—I regret the delay occasioned in regard to the proposed drainage scheme in the Canard River, but I desired not to give an opinion until I saw the exact wording of the amendment made last session to the Drainage Act. I have gone carefully through the petition and have put upon the map a blue line surrounding the territory which the petioners ask to have drained, I have also gone carefully over the report of the engineer. I add to the information thus received, your answer to my enquiries by which it appears that none of the drains leading into the Canard River extend down or along the bed of the river, but on the contrary merely convey waters to the river within the banks and discharge them to flow as best they may between the higher banks of the channel. I understand also that in some places the flats have been cleared while in other places they are in a state of nature. I wish to state in the first place, and you may keep this in mind in regard to my subsequent remarks, that it is purely optional with the council to adopt or reject the proposed drainage scheme. The council is not under any obligation to act upon the petition. Those opposed to the drainage wosk are protected purposely by statute in the three separate requirements, namely, firstly they are not bound to submit to the drainage scheme unless a majority of the ratepayers petition for it, and secondly, unless the engineer reports recommending it, and thirdly, unless the council in its wisdom approves of the report of the engineer. If the couucil shou'd for any reason consider it unwise or inexpedient to uudertake the work petitioned for, it is quite proper for the council to r fuse to go on with the work. On the other hand however, if the council sees no reasonable objection to the work it would naturally be influenced by the fact that a majority of those assessed for benefit, petitioned for it and the engineer recommended it. If the council in its judgment desires to proceed with the work then I advise the council not to adopt the report as submitted to me, but to refer it back to the engineer in order that the engineer may give further information and may amend his report in various parts to comply with the present state of the law. Should the report be referred back to the engineer I will advise you or the engineer more fully in regard to the requirements. Assuming now that you should undertake the work upon the petition, it is in my opinion within your powers, but at the same time it is also within the power of the referee on an appeal to decide that it is inexpedient to proceed with the work. If an extensive work is petitioned for by a small number of people the referee takes the fact into consideration when adjudicating upon the appeal and will not stop a work (even within the powers of the council) if in his judgment the cost of it is disproportionate to the benefit to be derived and in this case there would be danger of his coming to that conclusion when it is considered that only a small number of acres will be benefited, while the work will be very extensive, and that a great proportion of this benefit would follow from the land owners merely grubbing and cleaning out the flats between the banks. While therefore a work of this kind is within the juri diction of the council to adopt when based upon a petition, yet the referee has power to prevent it from being carried out, but it is only in very exceptional cases where the referee will stop a work if it is within the power of the council to perform it. Owing to refusal of the Legislature at the last session to amend section 75 of the Drainage Act in that regard, it is in my opinion, impossible for the council to proceed with the work in question other than under a petition. Therefore if the petition is not sufficient to uphold the work the referee would be bound to quash the whole proceedings. If the petition is sufficient then the referee is not bound to quash it, but he may in his judgment, as I before mentioned, direct that the work shall not be proceeded with on the ground that the benefit to be derived is not sufficiently great in proportion to the cost of the work. If you, knowing the locality, would fear an adverse decision upon this last ground from the referee, then you would be incurring unnecessary expense in starting the proceedings and putting the opposing parties to an appeal. To repeat what the foregoing shows my opinion to be, I therefore advise that you are not bound in any event to undertake the work; also that it would not be proper for you to undertake the work, if in your opinion the benefit to be derived is not proportinate to the cost of the work; also that if you do undertake the work the report of the engineer must be materially added to and improved before you adopt it and it should be referred back to the engineer for that purpose. If the report should be abandoned, and if the ratepayers sustain injury by the excessive flooding caused by the increased flow of water brought into the Canard River by drains dug by the municipality, then those damages would be recovered in the first instance from the municipality, but the municipality would have the right to assess and charge them back against the drainage area from which the waters causing the damages are brought. Should you require further information, or if I have failed to make clear all the matters upon which you ask my opinion I shall be glad to hear from you again.

Yours truly,

MATTHEW WILSON.

Farmers Institutes for Women.

What the Farmers' Institutes have done for the farmers so the Women's Institutes hope to do for the farmers' wives and daughters. Two years ago the superintendent of Farmers' Institutes made arrangements and called meetings of farmers' wives in different parts of the Province, and as a result there are now forty-two organized Women's Institutes, with a total membership of 3,048.

A handbook of Women's Institutes has just been issued by the Ontario Department of Agriculture for use at the meetings during the coming fall and winter. It contains specimen programmes for women's gatherings; it suggests topics of study; it contains lists of good books, bulletins and other publications that should be helpful in the home. In addition to this there are leading articles by Canadian and American authors on subjects relating to the home, care and furnishing of the house, care of children, treatment of servants, housekeeping as a profession, housekeeping in the country, etc.

Mrs. Martha Van Rennselaer, of Cornell University, contributes an article on "Saving Steps," which contains many useful hints in reference to economizing time and money in the home. "How to build the farm home," is discussed at length, and illustrations of convenient country houses are given, together with the plan of construction, cost of material, etc. "A simple method of disposing of house sewage on the farm," has been written by an officer in the Deparment of Public Works, Ontario. This most important topic is given the attention it deserves, and plans are shown for cheap and convenient methods of disposing of all house wastes.

The pamphlet concludes with descriptions and illustrations of methods of home adornment with flowers. Photographs are shown of porch and yard decorations, and the book generally will be appreciated by all who may have the pleasure of reading it.

An Inexpensive Arbitration.

A Toll Roads arbitration in Wentworth in which properties scattered through several townships were involved, was settled a few days ago.

The county council, in its endeavor to straighten out the tangle and give Wentworth a chance to abolish a discreditable arrangement, offered $50,000 for the roads at a recent conference. The companies asked $70,000, and arbitration followed.

Judge Snider was appointed sole arbitrator, and he seems to have done his work well. His award amounts to $63,000, and with it the county is well pleased. The judge put in a very moderate bill. The sum of $50,000 will be spent in improving these roads, $20,000 of which will be contributed by the Ontario Government.

Engineering Department

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

Road Reform.

The movement for better roads has, unfortunately, in many sections been misunderstood. It is believed that the cry for good roads, or better roads, is raised by a few enthusiasts who know little or nothing about the practical phase of the question, and frequently this argument is used by men from whom better things might reasonably be expected, because it suits their peculiar purpose for the time being. No agitation for municipal reform has ever been put on foot that is more far reaching in its economy than that for road reform, and fortunately, the discussion of the question in all its phases, in many parts of the province, has attracted the attention of conscientious municipal men who are honest in their endeavors to serve their constituents faithfully and well, and in these sections the matter has been taken hold of with genuine enthusiasm and marvellous benefits are resulting.

The work performed by the Eastern Ontario Good Roads Association is only an illustration of what may be done in other parts of the province. Central and western Ontario have in the past expended more money, and consequently have, as a general thing, better roads than are to be found in the eastern counties, but, unfortunately for the ratepayers, these better roads are not good roads, built upon a foundation or in a manner likely to prove easy of maintenance within reasonable cost. In the eastern counties, through the work of the new organization, road administration in the municipalities is being reduced to a science. Last year the association engaged a man skilled in the working of concrete, who travelled through the different municipalities making concrete pipe in local gravel pits, and, in a few hours pointing out to local workmen how concrete pipe for smaller sluices can be easily and cheaply made by themselves, and also building a concrete arch in a culvert where the capacity required is too great for the ordinary pipe. The simplicity of the work and the cheapness and durability have so impressed the people of any township visited, that concrete for this purpose is now being used generally. The economy of this simple diversion is one which appeals to every municipal man of experience, and has so impressed councillors generally of the many similar ways in which reform can be worked that a new awakening has been created.

At the beginning of the season of 1901, the association organized a good roads train, equipped with all modern machinery, such as steam rollers, rock crushers, graders, etc, and started on a campaign of illustration, visiting municipalities where material had been collected and building a stretch of one and one-half to one mile in length as required. The material and labor for this purpose was supplied by the local authorities, and the machinery was all handled by experts. The result has been a clear demonstration of modern practice; as to how a road should be formed and drained, how the material should be prepared and applied, how the road should be finished, and showing what a good road really is, and what such a road really will cost, and something of equal importance is proving, on the ground, the utility of modern implements in building roads cheaply and perfectly.

So popular was this work of illustration, that it was carried on during the whole season, and the demand was so great as to compel the association to continue the work which was recommenced this year as early as the weather would permit.

Several townships have already been visited, and many stretches of road built, and it is expected that the work will be continued during the season. Each piece of work during its construction is visited by thousands of farmers, who sit for hours watching most interestedly the work in progress, and towards the conclusion of each section a public meeting is held for the purpose of clearly pointing out the merits of each part of the work, and rendering a statement to the ratepayers of the actual cost, and generally for discussing some plan by which a regular system of that kind of work might be inaugurated for the township. These stretches of road are usually selected from bad pieces of leading roads which require immediate attention, and which the council with their imperfect implements do not feel capable of handling. They are not built for exhibition purposes only, and consequently the money and the labor are only such as would have to be expended in any event. The work of this association is meeting with the enthusiastic approval of the people of the eastern counties, and it is not predicting too much to say that vastly better roads will be the result of their efforts, and that millions of dollars will be saved to the ratepayers of these counties.

Similar organizations should exist in every part of the Province, and we are pleased to see that an effort is now being made to organize what might be known as the Western Ontario Good Roads Association. At the last meeting of the Eastern Good Roads Association invitations were sent to counties outside their district in order that those counties might have, if they so desired, an opportunity of attending their meeting, and benefiting by the work of their session. To this invitation many counties responded and a goodly number of delegates were present.

The delegates from the county of Ontario were so impressed with the proceedings, and with the advisability of having similar work done west of Kingston, that in the county council, they recommended that Mr. J. E. Farewell, their county clerk, be instructed to communicate with county clerks of other counties, calling a meeting of delegates during the second week of the Toronto exhibition, to meet for the formation of a similar organization at Toronto. This report was adopted by the council, and a circular letter issued by Mr. Farewell has been sent to the county clerks requesting that the warden and chairman of the committee on legislation and memorials, and the chairman on roads and bridges do attend such meeting.

Fully appreciating the importance of such a movement, we trust that this invitation will be readily accepted, and that delegates from every county not now receiving the benefit of the Eastern Association will be present, and that a strong association of municipal councillors will be formed, and this far-reaching question of road reform be taken hold of in a substantial and businesslike way. The small cost of sending delegates to such a meeting is insignificant when compared with the vast amount that may be saved to the ratepayers by a more profitable expenditure of the road appropriation resulting from the work of such an association.

Meeting of Health Officers.

The annual meeting of the Executive Health Officers' Association of Ontario will be held in Berlin on Sept. 9 and 10. The experimental work carried on at Berlin by the Government under the Provincial Board of Health, on the septic tank method of sewage disposal is well advanced, and it is expected that the members of the association will find much that is interesting and instructive in the work being carried on. The usual reduced rates on the railways will be given on the certificate plan. Dr. P. H. Bryce is the secretary-treasurer of the association. The programme provided embraces the following subjects: (1) The public water supplies of Ontario. (2) Sewerage works and methods of sewage disposal. (3) The needs for sanitary supervision in the construction and operation of workshops and factories in Ontario. (4) Sanitation of transportation. (5) Problems in the preparation, storage and transportation of food products. (6) The problem of municipal health work. (7) Report of special committee on vaccination. (8) Variation in type of contagious disease.

Owen Sound recently had an object lesson on the saving that may be effected by day labor. Its lowest bid for a stretch of granolithic sidewalk was $6,136.74, but City Engineer McDowall did the work for $5,011.67, and included in that sum curbing to the value of $544 that the contractors did not tender on.

Sewage Discharge.

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

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

The location of a sewage outfall where it will discharge into living waters cannot be under any circumstances a permanent location; sooner or later all such sewage outfalls will be abated, and each and every city thus contributing to the pollution of our inland waters will be required to cleanse or otherwise purify its sewage and discharge only clean water into them. As towns grow larger and the population becomes more dense within them, the question of sewage pollution and sewage disposal will receive the attention it even now deserves, and the simplicity of its solution will perhaps cause us to wonder why it has not been solved much sooner. A map of a sewerage system should show, when completed, the location of all sewers, with the different kinds, (whether pipe or brick material), marked plainly thereon; also the grade of each line of sewer, as well as the size or diameter; it should also show the location of the outfall or outfalls, man-holes, (catch basins, if the combined system is planned), and flushing tanks. There should also accompany the map a profile of the main and intercepting sewers, a detail drawing of outfall, man-holes, flushing tanks, respectively, with complete specifications for the performance of each and every kind of work required to be done to build the system, or any part of it, in a practical, workman like manner. The town having such plans made should also obtain, if it does not already possess it, a full and complete draft of a sewerage by-law, from which a by-law may be framed and adopted suitable to the requirements of the locality desiring it. The object of introducing such a by-law is to regulate the construction and maintenance of public sewers, tapping and using them; to provide for flushing, cleansing and repairs; and to adopt a method of assessments whereby to raise money in an equitable manner for the payment of sewerage construction, etc. None but licensed drain layers should be allowed to tap or make connection with the public sewers, and a record should be kept of all such connections. The town should designate what kind and size of pipe should be used, not only for street sewers, but of all house connections laid between the street sewer and the block lines, and it should also require the use and employment of the best material and workmanship connected with the public sewers and house connections.

Abolition or Commutation.

Statute labor may be done away with, either by commuting it at a fixed rate per day, or by abolishing the system entirely, and for road purposes, collecting a rate on the township assessment with the general taxes. Which of these methods is the better will depend largely on the special circumstances in each township taking action in the matter. In one township the question may have been fully discussed at public meetings, the conncillors and leading citizens may have for some time been active in talking the question over with their people whenever opportunity occurred, and public sentiment may be fully prepared to support whatever action may be taken by the council. There will, of course, be some to oppose, there always are opponents to every reform, however beneficial it may be. But if the feeling of the people in any township has been sufficiently educated, there can be little doubt that a complete abolition of the statute labor roll will be beneficial.

If, on the other hand, the proper steps have not been taken to mould public opinion, if the members of a council have not themselves felt sufficient interest in the welfare of the township, and have not realized the responsibility of their office sufficiently to study the question carefully themselves, and to endeavor to create friends for the reform, then a less complete change may be advisable.

The contractors who undertook to build a roadway across the Wrigley marsh in North Dumfries have completed their work. It is said that the job was much easier than was anticipated.

An Independent Telephone Company.

Beaverton has an independent telephone system, established in opposition to the Bell Telephone Company, and giving good satisfaction to those using its lines. The rate per instrument is $18 to farmers and $15 to those residing in the village.

The new company is just a few months old, and the 'phones have been in operation only a couple of months. The high rates demanded by the Bell Telephone Company are at the source of its organization. Last spring the Eden Creamery Company, whose creamery is situated about five miles from Beaverton, applied to the Bell Company, and were asked $60 a year for a connection. This rate the Creamery Company considered extortionate, and determined to see what could be done with an independent concern.

A firm of Beaverton merchants and the farmers interested in the creamery joined hands and formed a private company, of which Mr. George A. Proctor, a farmer of Thorah Township, was a leading member. The low rates at which they offered to instal 'phones found a ready demand in the community, and there are now between twenty and twenty-five instruments in operation. Those who have used both the Bell instruments and the instruments of the independent concern, affirm that the independent line gives just as good satisfaction as the Bell, if not a little better.

The success with which the new company has met, will be realized when it is known that within a couple of months they have installed as many 'phones as the Bell Company has in operation altogether. The number of Bell instruments in use probably does not number more than twenty-five, if it even reaches that figure. It shows what can be accomplished with 'phones at reasonable rates.

The lines are not all completed yet, but the instruments already installed have proved the value of telephone connection to the farmers, and further extensions will be made immediately. About fifty 'phones will be put in this fall, and an equal number next spring. The system has, even in its early stages, given an indication of the possibilities of a rural telephone system in Ontario, and the same system will probably be applied extensively throughout the district, and eventually throughout the Province.

The town of Renfrew, notwithstanding the very large amount of money expended in street improvement, in the way of macadamizing roadways and building artificial stone sidewalks, which make it the best paved town of its size in Ontario, is now devoting its attention to the improvement of the main inlets from the country, and will, it is expected, before the end of the season, do a large amount of good work on these streets. Renfrew has a complete outfit of roadmaking machinery, including a steam roller.

Hills.

Roads located on hills, or along the sides of hills, are generally found difficult to build and maintain, and very often we find a large proportion of the statute labor annually placed on them, to little effect. The difficulty usually arises from the rushes of storm water, and from springs underneath the road, and, especially on sidehill roads, from water soaking from higher levels.

The rushes of storm water are often occasioned by the practice of carrying water long distances in open drains, and finally pouring it over the hill by the roadside. If the hill is steep, and a cut has been made, the water is not, and very often at the time of spring floods and freshets, cannot be kept in the open drain, and so is allowed to make a channel of its own down the centre of the road. This condition is the common result of not disposing of water in small quantities along natural watercourses. No water should, as a rule, be allowed to pass over the hills by the roadside, except that which naturally falls on the surface of the slope. Provision should be made for the disposal of water of the drains back of the hill, by carrying it through private property, under the provisions of the Drainage Act, if necessary. Property-owners, however, should understand the wisdom of permitting drains to be constructed across their lands, when the benefit to be derived is not only better roads but better drainage of their own fields as well.

The surface drainage on hills should be very pronounced. The crown of the road should be slightly higher than is needed on level ground, a rise of one and one-half inches to the foot from side to centre being advisable for gravel roads. The crown must be sufficient to draw the water to the side gutters, and to do so, it must be sufficient to overcome the tendency of the water to flow directly down the hill, following the line of the wheel tracks. If the water commences to take the latter course, the wheel tracks are quickly deepened to ruts, stones are loosened or protrude, and the road becomes roughened and channeled.

Underground currents of water often find outlets on the hillsides. If any of these springy places occur under the roadbed, it will be necessary to tap them at a good depth below the surface with tile drains. In such cases tile drains will be needed under the open drains at the sides of the road, and the blind drains may then be carried diagonally across the road into the side underdrains. The open drains will sometimes need to be protected with cobble stones, if the hill is long or subject to damaging rushes of water.

Roads passing along the sides of hills are frequently softened and injured by the soakage water from high laying lands. This water should be intercepted before it passes under the road, by a deep drain along the side of the roadway next the hill. Tile should be used, if possible instead of a deep open drain, and the trench filled with gravel, stone or other porous material, to more readily intercept and absorb the soakage water.

Municipalities will usually find it a measure of economy to bring hill roads to the grade at which they are desired to remain as quickly as possible, and to this end special money grants will be necessary. To leave such work to be performed by statute labor alone is often not satisfactory. The grading done one year is apt to be so inefficient that it is, in a large measure, destroyed by the rushes of water in the ensuing wet seasons. The roadway, moreover, being annually covered or cut for a number of years, is slow to settle, becomes impassable on the slightest provocation, and absorbs labor which is needed by other sections. Municipal grants are needed on main roads, but they are also needed in doing permanent work on the lesser travelled roads, where hills or other unusual circumstances of location render the construction of roads a matter of more than average difficulty. The labor and cost of road building should be equalized as far as practicable among the different sections of the municipality, so that efforts put forth in road improvement will not be retarded by discouraging difficulties.

A Concrete Arch.

A considerable number of townships are this year constructing concrete arch culverts. The majority of cases appear to be met by a span of about six feet. For a semi-circular arch of this opening, recently erected, the thickness of the arch at the top is ten inches. The top of the abutment is two feet in thickness. Half way between the top of the abutment and the top of the arch, the thickness of the arch is eighteen inches. From the top of the abutment to the foot, the outside of the wall is given a frost batter of about two inches to the foot. The base of the abutment rests on a hard-pan stratum. These dimensions are not such as would be demanded by a stone arch, but appear to produce a substantial work in concrete. With good material, workmanship and an absolutely secure foundation, a concrete arch becomes a single stone of great strength which should last for ages.

Concrete Fence Posts.

Artificial stone fence posts is one of the most recent applications of that remarkable material, cement concrete. These posts are set deeply in the ground beyond the reach of frost, and holes are moulded, through which to attach the wire, which is woven from post to post. By bracing these posts firmly, and stretching the horizontal wires to their limit of tension, these posts have been spaced forty rods apart. A great saving in first cost as well as for repairs is claimed for them.

Bridge Sites.

The question of choosing the site of bridges is an important one. If the selection is not restricted to a particular point, the river should be examined for a considerable distance above and below what would be the most convenient point for crossing; and, if a better site is found, the line of the road must be made subordinate to it. If several practicable crossings exist, they must be carefully compared in order to select the one most advantageous. The following are controlling conditions; (1) Good character of the river bed, affording a firm foundation. If rock is present near the surface of the river bed, the foundation will be easy of execution, and stability and economy will be insured. (2) Stability of the river banks, thus securing a permanent concentration of the waters in the same bed. (3) The axis of the bridge should be at right angles to the direction of the current. (4) Bends in the river are not suitable locality and should be avoided if possible. A straight reach above the bridge should be secured if possible.

In making the final selection, the principles to be observed as far as practicable are:

Follow the route which affords the easiest grades. The easiest grade for a given road will depend upon the kind of covering adopted for its surface.

Connect the places by the shortest and most direct route commensurate with easy grades.

Avoid all unnecessary ascents and descents. When a road is encumbered with useless ascents, the wasteful expenditure of power is considerable.

Give a centre line such a position, with reference to the natural surface of the ground, that the cost of construction shall be reduced to the smallest possible amount.

Cross all obstacles (where structures are necessary) as nearly as possible at right angles. The cost of skew structures increases very rapidly.

Cross ridges through the lowest pass which occurs.

Cross either under or over railroads if practicable, for grade crossings mean danger to every user of the highway. Guards and gates frequently fail to afford protection, and the daily press is filled with accounts of accidents more or less serious, and while statistics fail to give total casualties, the aggregate must be great.

The township council of Lancaster, Ont., has an arrangement with the Grand Trunk and C. P. R. by which gravel is laid down by the carload at small cost for road improvements. As a result, the township will soon have roads second to none in the province.

Are You Ready?

"We know statute labor is not the best method of improving the roads, but our people are not yet ready for the change." This is what some councillors say of the situation in their townships Is that the case in yours? If it is, what are you doing to get the people ready for a change?

It is the duty of every councillor to be a leader in public thought. He occupies a position of influence in the public interest, not as a means, merely, of keeping himself in office. If public opinion has not yet advanced to that point where some action can be taken in this important matter, in your township, then it is time for you, personally, to bestir yourself, if you would merit the trust which the people have placed in your keeping.

A councillor should lead. He should not attach himself to the rear and allow himself to be dragged along by the people. He should not be a middle man, where he is safely carried along by the throng If in the foremost rank, he should not be pushed forward by the weight of the people behind him. He should be a leader, well in advance, marching independently, with that confidence that creates confidence in those following.

The question should not be:—"are the people ready?" The real point is, "are you ready, and are you doing your duty?" Do not wait until you find out what the people think before forming an opinion of your own. Form your own opinion, base it on careful, unprejudiced study, be sure you are right, then exert your energies to carry public opinion with you. If public opinion in your township will not support some change in doing your road work, the probability is that you have not been ready. Don't blame the people. If they are not ready, it is because you have not been doing your best to get them ready.

When you are convinced that a change is advisable, get all the information that you possibly can upon the subject, frame a plan, which in your opinion, will be the most suitable to the requirements of your township, call the people together in public conference, explain the matter fully to them, talk it over with them. The rate-payers are always pleased to meet for the purpose of discussing methods that will promote their own interests, and add to the economy of municipal machinery.

Moreover, they admire a council or councillor, who is progressive and who is sufficiently interested in their welfare to spend his time and talents in thinking out reforms that will be of benefit to the municipality.

The town of Pembroke has purchased a new 15 ton steam roller, and is about to commence, on an extensive scale, the macadamizing of the streets of that town.

Cost of Traction.

An Indiana engineer recently estimated that the cost of one ton per mile by horse power over a dry, sandy road, was 64 cents; over wet sand, 32 cents; over ruts and mud, 39 cents; over broken stone and ruts, 26 cents; over an earth road that is dry and hard, 18 cents; over a broken stone road in good condition, 8 cents; over a compact gravel road, 8.8 cents; over stone paving, 5.33 cents; over asphalt, 2.7 cents. If wagon transportation could be carried on at a cost of 5 cents per mile per ton, the result would be a saving of many millions of dollars, and would put in motion many millions of tons of merchandise that cannot now be handled at a profit.

A. W. Campbell, Commissioner of Highways for Ontario, has been looking over the Temiskaming District, and has decided that about forty miles of roads should be built as soon as possible. So interested are the people in the matter that some of them walked 18 miles through the bush to attend Mr. Campbell's meeting. Two hundred men are now employed on these roads.

Many of the older methods of building roads in new districts have been abandoned, and modern methods for building a more substantial class of road have been laid down by the Public Works Department. Only leading roads are being built by the Government, and the work on these has been done according to a fixed standard. The allowances are being cleared the full width, the road is being laid down in a straight line as far as practicable, and the deviations are being made with due regard to easy grades and maintenance. Roads are being graded to a regular width of 24 feet. Ditches are being constructed on each side of the grade of sufficient size to fully drain the road to a depth of at least 2½ feet, and to form a proper outlet for the drainage of adjoining lands. Off take drains are being systematically built in every natural water-course and carried through adjoining lots until a proper outlet is reached.

Green stumps are being removed by the use of dynamite, and the introduction of this labor saving means of clearing roads through green forest is being enthusiastically praised by the settlers, who fully appreciate its superiority over the old system of grubbing. Corduroy is being abandoned, and swamp and wet places demanding such treatment are being made dry by thorough drainage. So completely are stumps removed and roots drawn by the use of dynamite, that grading machines are now being used to excellent advantage on these new roads. Wheel-scrapers and all modern machinery are now being employed. First-class roads are being made, and by the use of such modern devices, the cost has been reduced to a minimum.

Good Roads Needed in Athens.

There is an idea prevalent that only in America are to be found poor roads, and that all roads on the continent and in England are in first-class condition. A report from Athens, Greece, however, shows, at least, one place in which highways need improving. The roads that connect Athens with the Piræus, its seaport, and with the bathing places on the Phalerum Bay, are narrow, badly graded and very poorly kept. In consequence, transportation between these places is most disagreeable. Efforts have been made, however, to remedy these evils, and a new boulevard is now being constructed, starting on Hadrian's Arch, on the Boulevard Amelia, in the city of Athens, and extending to the shore of Phalerum Bay, near the place where the ancient Athenians used to bathe.

The boulevard will be about three and two-fifths miles in length and ninety-eight and two-fifths feet in width. The intention is to divide it into a carriage drive, a bicycle path, and a promenade, to be separated from one another by rows of trees. A wealthy Athenian lady has furnished the money to finish the boulevard, and this is estimated to cost $58,824.

The new boulevard will intersect a driveway on the seashore which now connects the old bathing place with that of the new, and with the Piræus, and it is hoped that soon this driveway will be widened into a broad avenue to pass the zoological gardens now building. It is also to connect with another driveway which passes along the face of the bluffs on the west shore of the bay, and along the ancient walls of the Piræus down to its harbor.

Stockholm may be said to be the paradise of telephones, both from the point of view of the companies and the public. Telephones in the Swedish capital are both good and cheap. The best known private company charges less than $15 to put up the apparatus and less than $5 per quarter afterwards for an unlimited service. In 1883 this company commenced with 60 employees and 1,160 subscribers; in 1901 the figures were respectively 688 and 29,801. These figures are eloquent, but to show what cheap telephones, combined with efficient management, have done in Sweden as compared with other cities, it is interesting to note that while London, with an approximate population of 4,000,000, has 20,000 telephones, Stockholm, with a population of 362,000, has 29,000 telephones in use.

An important vote took place recently at Lindsay on three money by-laws to raise $36,000—$20,000 for good roads, $14,000 for a public school building and $2,000 to purchase a site for the Carnegie library building. All three propositions were snowed under, a large adverse vote being cast against each by-law.

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.

Private Weigh Scales on Public Highway.

387—J. H.—Some years since weigh scales were placed on Main street by the proprietor of a store in front of his premises. The store is now sold to one party, the scales to another party. The present owner of the store requests the council to move the scales off the street claiming they are an obstruction.

1. Have the council power to remove them and charge costs to the present owner?

2. Can the council legally remove the scales?

3 Can they compel the present owner to remove them?

1, 2, 3. Section 582, of the Municipal Act, empowers councils of villages to pass by-laws for erecting and maintaining weighing machines in convenient places, and charging fees for the use thereof, etc. This enactment does not authorize the councils to pass by-laws permitting the erection of such scales, public or private, on a highway, and we are of opinion that such scales cannot be so legally placed. In the case of Cline vs. Town of Cornwall, (21, Grant 129,) it was held that a municipal corporation may not place, or authorize the placing of obstructions upon highways, for example, weigh scales, upon a street in a town. The private owner has no right to maintain the scales on the highway, and the council ought to notify him to remove them, because if any accidents were to happen, by reason of the scales, the persons sustaining injury would have a good cause of action against the municipality. If the person owning these scales neglects or refuses to comply with the terms of the notice, he may be indicted and punished for maintaining a nuisance on the public highway. It is doubtful whether the council can remove these scales at the expense of the present owner or not, in the event of the neglect or refusal of the owner to do so, as it is questionable whether they would be held to be an obstruction within the meaning of sub-section 3, of section 557, of the Municipal Act. And, anyway, they were not *placed there by the present owner.* The council may remove the scales at its own expense.

Maintenance of Indigents.

388 I. A.—There is a certain man who was formerly a resident of this municipality, but a few months ago sold out his property here and his wife and family moved away from this part altogether, and the man himself took sick and was in a helpless condition and went away to a hospital, and from there to a friend's house in another county. After about three months he was brought back to this municipality again by his friend who went to the magistrate and made an affidavit to the effect that the party referred to was out of his mind and was dangerous, and on the strength of this affidavit the magistrate issued a warrant and sent him to jail under custody of a constable. Since that time the officials of the jail have had a doctor's examination as to the sanity of the man and they say that there is nothing wrong with his mind and have written to the magistrate asking him what they would do in the matter, as they could not hold him there on that warrant. The magistrate called upon the reeve of the municipality asking his advice in the matter, whereupon the reeve telegraphed to the sheriff asking him to try and get the patient in the General Hospital. Was the reeve right or wrong in acting as he did in this matter, and what responsibility, if any, rests on the municipality in this case? We might just further add that this man is in a helpless condition, having lost the use of his limbs and has no means of support whatever, although he has friends who are able to help him, but refuse to do anything.

We do not see that the reeve did anything wrong in telegraphing the sheriff asking him to try and get this man into the general hospital. In doing this he does not appear to have pledged, or made any attempt to pledge the credit of the municipality for the sick man's expenses while at the hospital. In any event the voluntary, personal act of the reeve would not fix any responsibility on the township. We are of the opinion that the municipality is in no way liable in this case.

Vote Necessary to Carry Bonus By-Law.

389 A. Mc. N.—Complying with the Municipal Amendment Act, 1900, page 110 subsection 4, of section 8, is a by-law to grant a bonus to a manufacturing industry carried, when the conditions are as follows:

Total number of ratepayers in municipality	500
Total number of voters entitled to vote	600
Total number of votes polled for the by-law	275
Total number of votes polled against the by-law	30

We do not understand how the number of ratepayers entitled to vote on a bonus by-law can be one hundred more than the total number of ratepayers in the town, as appears to be the case by the figures you furnish us. However, for the purposes of your question, all we require to know is the total number of ratepayers entitled to vote on the by-law, and the number who voted for and against it. Taking your figures as the basis for our answer, since the number of ratepayers voting against the by-law (30) does not exceed one fifth of the total number entitled to vote (120,) then the assent of THREE-FIFTHS of the total number of ratepayers entitled to vote on the by-law is necessary to carry the by-law. Three-fifths of 600 is 360; since the by-law received the assent of only 275 of the ratepayers entitled to vote thereon, the requirements of the section quoted have not been met, and the by-law is defeated.

Duties of Pathmaster.

390—W. H.—1. Can a pathmaster after all the statute labor in his divison has been performed, legally compel a young man (who has returned home after an absence of eleven months, and intends staying only about three weeks,) to perform statute labor or pay commutation tax? If he has such power might he not as well compel any person whose home is in his road division, and returns any time during the year, to do the same?

2. If the pathmaster has acted illegally, how can he be compelled to refund the money?

1. By section 100, of the Assessment Act, it is provided that, "subject, etc., every male INHABITANT of a township who is not otherwise assessed, etc., shall be liable to one day of statute labor, etc." Wharton, in his "Law Lexicon," defines an "inhabitant" as a dweller or householder in any place, and in the case of R. vs. Mitchell, 10, East, 511, it was held that an "inhabitant" of a place, speaking generally, is one who has his permanent home there. This young man appears to be only home on a visit, and is not, therefore, an inhabitant of the township within the meaning of section 100, of the Assessment Act, and is not liable to perform statute labor in the municipality, or to pay commutation therefor.

2. This young man should have refused to pay the commutation money, but since he has paid it, the payment is a voluntary one, and he cannot compel the pathmaster to refund him the amount.

Payment of Expenses of Persons Quarantined.

391—J. R.—We had a case of small-pox in this township and wish a little help as to several matters in connection therewith. At the request of the M. D. in attendance, the secretary of the Board of Health authorized the party in charge of the quarantine to hire help to care for and milk the cows etc.

a. Will the words "other assistance" in section 93 of the Public Health Act justify his action? I understand the party quarantined pays expenses of isolation etc.

b. As to procedure in paying expenses, should the Board of Health draw orders on the treasurer of the municipality in the first case as per section 57 of the Act, or should it send the accounts to the party who is well able to pay?

c. In case the party refuses to settle all or any of the accounts, by whom should action be entered, the Board of Health or the municipal council?

d. Would section 61 justify the clerk, in case he refused to pay, placing the accounts on collectors roll as municipal taxes, or must they be recovered by an action at law?

a. No. The person quarantined is the proper party to look to for all expenses of and incidental to his isolation, if he is able to pay them, otherwise they will have to be defrayed by the municipality.

b. The Board of Health has no authority to pay or order payment of these accounts in the first instance. The persons to whom the several amounts are payable should look for payment of them to the person quarantined, or his parents, or other person or persons liable for his support, and make every reasonable effort to collect them from such persons or some of them. In case these persons prove

unable to pay the accounts, then the municipality will have to pay them.

c. Neither the local Board of Health nor the municipal council should enter any action for the recovery of the amount of these accounts, nor has either of them any authority to do so. The persons to whom the accounts are payable are the proper parties to prosecute actions at law to enforce payment of the respective amounts.

d. No. This section can be invoked only when the local Board of Health has authority to direct that any matter or thing shall be DONE by any person or corporation, such as compelling the abatement of a nuisance, etc.

Township Clerk Cannot be Collector.

392—A SUBSCRIBER.—1. Can township clerk act also as township collector?

2, If not, why not, give the Act prohibiting?

1. No.

2. The latter part of sub-section 1, of section 295, of the Municipal Act provides that "the council shall NOT appoint as assessor or COLLECTOR a member of the council or the CLERK or treasurer of the municipality."

Regulation of the Weight of Bread.

393—W. J. W.—Is there an Ontario statute stating what *the weight of a loaf* of bread should be?

No. Sub-section 1, of section 583, of the Municipal Act, empowers councils of cities, towns and villages to pass by-laws "for regulating the assize of bread." It was stated by Hagarty, C. J., in the case of Regina vs. Nasmith, (2, O. R., 192,) that "the apparent meaning of the assize of bread seems to be the power or privilege of 'assizing' or adjusting the WEIGHT of bread."

Assessment of Land of Loan Company.

394—G. S. W.—The W Loan Co., of S own a very large quantity of land in this village, and they have disputed the value I put upon it last year and appealed from my assessment. This year I have sent them some declarations which the village clerk got from your company and asked them to fill them out, stating the value of their different properties in the village. They have written me stating they are not compelled to give a statement. Will you kindly let me know if I can compel them to provide a statement of all the lands they possess in this village, giving the values they put upon each lot?

We see no reason why this company should not be compelled to deliver to the assessor, when requested by him to do so, the statement mentioned in section 47, of the Assessment Act. This section does not, in terms, mention an incorporated company, but sub-section 13, of section 8, of the Interpretation Act, (R. S. O., 1897, chap. 1,) provides that the word "person" should include any *body corporate* or politic. We are of opinion, however, that your better course is to assess all the lands you believe to belong to the company, in accordance with the provisions of section 28, of the Act. If the company is not satisfied with the assessment, they will have to appeal to the municipal Court of Revision.

Amount of Township School Levy.

395—S. M.—Two years ago our council increased the general school levy from $150 to 200. Now what I want to know is, has the council power to increase that levy above $150? In looking over the statutes of 1897, section 66 of the Public Schools Act, I cannot find where the council gets permission to increase the levy. If it is legal to make to this change, please let me know.

It is doubtful whether a council can, under section 70, of the Public Schools' Act, 1901, levy more than $150.00 for each school in the municipality, which has been kept open the whole year, exclusive of vacation. In the case of Regina vs. Smith, (16, O. R. 454,) the Queen's Bench Divisional Court, held that the words "not less than $50," and "not less than $100," in the Canada Temperance Act, should be construed as $50 and no less," and "$100 and no less" In using the words "at least," in section 70, of the Public Schools' Act, we are inclined to think that the legislature intended to make it clear that $150 must be raised in each year, rather than to fix the minimum amount.

Liability of Township Council to Repair Culvert.

396—C. S.—1. Is a township council liable to keep in repair a culvert which was built twenty years ago by the council of this township and kept in repair by them up to the present year, said culvert being built in front of a store and post office, also being very necessary to carry the water away that flows down the regular water table leading to it. This culvert has now fallen in and is in a very unsafe state. The present council refuse to repair or rebuild it, taking the ground that they are not responsible for said work, said culvert being built on the regular road allowance and in an uncorporated village?

2. Can a council refuse the payment of an account for a job of rebuilding a culvert let by a member of a council, said culvert being built and maintained by the municipal council for fifteen years past. Said culvert is built across a main travelled road and is in front of a place of business?

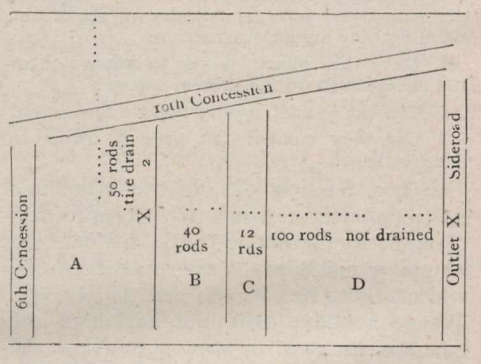
1. This culvert being on a regular road allowance, in an unincorporated village, in the township, the council of the latter has jurisdiction over it, and as long as it remains on the road must keep it in repair, and in a reasonable condition of safety, otherwise, the municipality will be liable in damages to any person injured by reason of its unsafe condition. Unless the culvert is in the course of a natural watercourse, that is, a stream with regularly defined banks, the council may close it up, and leave the other parties interested to their remedy under the Ditches and Watercourses' Act, (R. S. O, 1897, chap. 285.) for the carrying away of the surface water.

2. If the repairing of the culvert was necessary in order to put it in a condition of safety for the travelling public, and the councillor did nothing more than, in his judgment, was necessary to put it in such repair, the council can be compelled to pay the reasonable cost of the work.

The Ditches and Watercourses' Act Should be Invoked. Who may Select Jurors.

397—J. C. M.—1. Several years ago our council contributed about one-fifth of cost of putting in a tile drain on A's farm from 1 to 2. Between 2 and outlet is not drained, and B, C and D now wish to have the drain continued to outlet. Has the municipality a right to bear any of the cost of constructing any more of drain as there is sufficient outlet at 2 for all municipal purposes?

2 Our assessor has left the country. Can the reeve and clerk select jurors or how do we get a third man?



1. It is not stated whether this drain was constructed under the provisions of the Ditches and Watercourses' Act, (R. S. O., 1897, chap. 285,) or not. We gather, however, that the contribution of part of the cost of the drain by the council was a voluntary act on its part. If the latter is the case, the council acted without authority, and should not voluntarily contribute anything further towards the cost of the extension of the outlet of the drain. The parties should be left to their remedy under the Ditches and Watercourses' Act, and the engineer's award made thereunder should be the council's guide as to what further steps it shall take in the matter.

2. The reeve and the clerk can legally perform this duty without the assessor or any third party.

Gravel Expropriation.

398—R. S. O.—In this township there is very little gravel on the road allowance, but plenty in the farmer's fields. The council want to buy an acre or so of the gravel lands from the owners for the use of the municipality in road making. The owners refuse to sell except by the wagon load and then at a high price. The township is suffering thereby. Is there any method which the corporation can adopt through the council to appropriate gravel pits from the owners at a reasonable figure or at the price the land is actually worth? If so, please give the steps to be taken by the council and also the sections of the Act governing the same?

Sub-section 10 of section 640 of the Municipal Act provides that councils of townships may pass by-laws "for searching for and TAKING such timber, GRAVEL, stone or other materials, as may be necessary in keeping in repair any road or highway within the municipality," Clause (a) of this sub-section provides that "the right of entry upon such lands, as well as

the price or damage to be paid to any person for such timber or materials, shall, if not agreed upon by the parties concerned, be settled by arbitration under the provisions of the Act". (See section 437 and following sections of the Act).

Collection of Taxes

399—J.W.—**A**, who is a non-resident, was assessed in 1901 as owner of a house and two lots in this town, and B was also assessed for same as tenant. In September of same year A sold said property to C who took possession, the tenant moving out, but not leaving the town. C, after occupying the property till February 1902 removes the house off same to a lot in another part of the town and sells the vacant lots on which it had stood to D who now owns them. The taxes for 1901 on the original house and lots have not been paid and all the parties concerned disclaim responsibility. Now who should pay these taxes? To whom shall the collector look for the taxes of 1901?

We should have definite information as to whether the collector's roll for 1901 has been returned by the collector or not. We however, infer that it has not, and frame our answer on this understanding. Subsection 1 of section 135 of the Assessment Act provides that if taxes are not paid within fourteen days after demand made or service of notice effected by the collector (as the case may be), the collector may by himself or by his agent, levy the same with costs by distress "upon the goods and chattels *wherever found within the county in which the local municipality lies*, belonging to or in the possession of the person who is *actually assessed for the premises*, and whose name appears upon the collector's roll for the year as liable therefor." Neither C nor D is personally responsible for payment of these taxes to the municipality, as neither of them was "*assessed*" for the premises in 1901. A and B being both assessed for these premises in that year are liable for the payment of these taxes. If the collector cannot find goods or chattels (not exempt from seizure for taxes) in the county within which your municipality is located, out of which to realize by distress the amount of these taxes or a portion thereof, he should return the amount, or the balance remaining unpaid to the municipal treasurer, as required by section 147 of the Act against the lands in respect of which they are chargeable, and these lands should in due time be sold by the county treasurer to realize the amount. (See section 173 of the Act.)

Service of Notice on Parties Complaining to Court of Revision.

400 — W. H. C. — In your letter you state that the Appellant to Court of Revision did not require to be served with such notice. Sec. 71 of the Assessment Act states that the clerk shall serve notices on parties making appeal. How shall I reconcile these?

We see no difficulty in reconciling our answer as to the necessity for service of notices of the holding of a Court of Revision upon *parties filing an appeal* with the clerk, and the statutory enactments in that regard, for the reason that the latter contain no such provision as stated. Sub-section 3 of section 71 of the Assessment Act provides that "if a municipal elector thinks that any person has been assessed too low or too high, or has been wrongfully inserted in or omitted from the Roll" he may give notice in writing to the clerk of the municipality and the clerk shall give to such person (that is the person complained against) the notice mentioned in this sub-section. Sub-section 9 provides that the clerk shall prepare a notice in the form following for *each person with respect to whom a complaint has been made*: The service of a notice of the time and place of the sittings of a Court of Revision or of a notice similar to that set forth in sub-section 9 upon the person filing an appeal is not required by the statute, and would be unnecessary and useless. The party filing notice of appeal knows that an appeal in which he is interested, is pending before the Court of Revision, having filed it himself, and it is his duty to inform himself as to the date of the holding of the Court. The person whose assessment is appealed against is not in this position and he would have no knowledge of the filing of the appeal against his assessment or opportunity to defend himself, if the statute did not require service upon him of the notice mentioned in sub-sections 3 and 9 of sec 71.

Liability for loss of Horse.—Separate School Supporters' Liability for Debenture Rate.

401—SUBSCRIBER.—One of our ratepayer's horses was injured and died from wounds received in the following manner. He sent a boy about fourteen years old to a neighbor with the horse, returning a horse rake he had borrowed, and on leaving the neighbor's he was closing the gate when the horse walked away from him and went about 120 feet and then lay down and rolled on a culvert and accidentally rolled over end of culvert and got one leg fastened in sewer pipe which had a sharp edge, and cut her so she bled to death. There is a railing along each end of culvert but this railing has only one pole on top. The space between ground and top pole of railing where the mare went over is about three feet six inches. She rolled under railing or top pole. At the end of culvert where mare went over their is a drop of about four feet on a hard stone bottom. Are we as a township, liable for the value of the mare?

2. About six years ago a union school section was formed part off our township They issued debentures to pay for building new school. A certain farm was in the new section for the first two or three years when debentures were issued, The last four years this farm has joined a Roman Catholic Separate school, at least the tenant has put it in there. The debenture tax was paid for two or three years but last four years the debenture tax has not been paid. Can the debenture tax that has not been paid for four years be collected yet, and what steps will have to be taken to collect them and to get the debenture tax in future collected every year? The tenant in the lease has to pay the taxes.

1. No.

2. By the expression "this farm has joined a Roman Catholic Separate School, etc.," we presume you mean that the tenant has given the notice mentioned in sub-section 1, of section 42 of the Separate Schools Act. (R. S. O. 1897, chapter 294.) Assuming that this is the case the property is still liable for payment of its share of the debenture rate for building the new school house if the rate imposed, therefor, was so imposed before the *establishment* of the Separate school to the support of which the tenant is a contributory. (See sub-section 5 of this section.) If this debenture rate was imposed AFTER this Separate school was established the tenant is not liable for the payment thereof, after he has given the notice required by sub-section 1 of this section. In any event we are of opinion that the portion of the debenture rate, which might be payable in respect of these lands and which for the past four years, the municipality has neglected to collect, is not now collectable for this reason: It is the duty of the collector to collect all the taxes on the collector's roll each year, if there are any goods to be found belonging to the person liable to pay the taxes, and if not, it is his duty to make his return accordingly and when that is done, the taxes can be returned against the lands of the person liable and such lands or a competent part thereof may be sold to make such taxes and if there are no lands a suit may be brought to recover them. But it is imperative that the course which we have pointed out be taken in order to make the lands liable for the taxes.

Requisities of Trustee's Application for School Moneys.

402.—C.B.—As the trustees of rural school sections send in their requisitions yearly to the councils to levy moneys for school purposes the secretarys of the sections sometimes send in the requisition with only their own names to the requisition and sometimes with stamp and sometimes without it. Is the council justified in levying on this authority or does it require to have the trustees sign it or at least a majority of them?

By sub-section 9 of section 65 of the Public Schools Act 1901, it is the duty of the public school trustees to submit to the municipal council etc., an estimate of the expenses of the schools under their charge for the current year, and sub-section 1 of section 71 requires municipal councils to levy such sums as may be required by the trustees for school purposes. The requisition presented to the council for the levy of this amount should be signed by the members of the Board of Public School Trustees or a majority of them, or by the secretary and chairman and the school section seal affixed. The statute however, prescribes no particular form in which this requisition is to be made. The form generally used, being one which best meets the convenience of trustees and councils. If the requisition be not signed as above, the council would not be justified in refusing to make the levy. If the trustees or a majority of them instruct their secretary to make a requisition upon the council for a certain amount required to defray the expenses of carrying on the school, or if the secretary waits, with such requisition upon the council, we think that is sufficient.

Council Should Finally Audit Municipal Accounts.

403.—W. M.—To settle a dispute would you kindly inform me if it is legal and right for a municipal board to appoint two of their numbers to go over the auditor's report after the auditors have finished their duties and collect pay for the time they were occupied?

Section 307 of the Municipal Act provides that "the COUNCIL shall, upon the report of the auditors, finally audit and allow the accounts of the treasurer and collectors, and all accounts chargeable against the corporation, etc." There is no statutory provision empowering two members of the council, or a committee thereof, to make the final audit, and to receive pay for so doing. This authority is conferred by this section upon the *council* as part of its ordinary duties.

The Law of the Road.

404—G. W. T.—What is the statute law on rigs driving on the road? One is behind the other, the one behind wishes to pass and to get past. The one ahead does not want to let him past, and crosses and re-crosses the road to keep him back to the annoyance of the one behind. On which side should the first one turn?

Section 2 of chapter 236, R. S. O., 1897 furnishes a complete answer to this question. Sub-section 1 provides that "In case any person travelling or being upon a highway in charge of a vehicle (as aforesaid) or on horseback is *overtaken* by any vehicle or horseman *travelling at greater speed* the person so overtaken shall quietly *turn ont to the right* and allow the said vehicle or horseman to pass. Sub section 2 is as follows: "Any person so overtaking anothar vehicle or horseman shall *turn out to the left* so far as may be necessary to avoid a collision with the vehicle or horseman so overtaken, and the person so overtak n shall not be required to leave more than one-half of the road free." As to the penalty that may be inflicted for transgressing the provisions of this section see section 11 and following sections of the Act.

Liability for Building and Repairing Bridge in Police Village.

405—A. M.—In a police village there is a bridge built by the township, in which village it was situated previous to said village becoming incorporated as a police village. Does the township council have to maintain said bridge, and if so, are they also liable under section 605 chapter 223 R. R. O., 1897, to keep up 109 feet on either side of bridge and being a portion of the streets in said village? The township receiving nothing for said purpose from the rate levied for such purposes on the ratepayers within said village, or in other words, the rate levied by the township council on the property in Police village before incorporation for road and bridge works is now retained for the sole use of said village and the township gets nothing.

Section 741 of the Municipal Act empowers the trustees of every police village to pass by-law for letting contracts for building sidewalks, CULVERTS, etc. Where the structure is a BRIDGE as distinguished from a mere CULVERT, the police trustees have no jurisdiction over it. This question involves the point as to whether the structure under discussion is a bridge or a culvert. If it is a bridge (and since you term it so, we assume that it is) the township must build it, and keep it in repair. But even if it is not a bridge, it is doubtful whether the trustees of the police village are bound to to build it, because the power given by section 741 is permissive. We do not think that the township council can compel the police trustees to build the culvert, and if the trustees neglect or refuse to build it the township council cannot safely leave it unbuilt, because if it does, and an accident happens, the municipality would be liable to damages. It is not easy to define the difference between a bridge and a culvert. The opinion of an engineer would be of more value than ours. The question is pretty fully discussed by Mr. Justice Ferguson in the case of North Dorchester, vs. Middlesex. 16, O. R., at page 666 he says: "As to the Caddy Creek bridge, the span is said to be nine feet only, the witness said that a CULVERT would be sufficient in the place. It is true that a culvert may mean a larger or a smaller waterway, but the line must be drawn somewhere. I apprehend that Mr. Justice Patterson used the word and intended to use it according to its ordinary signification, and with reference to culverts as commonly used in the construction of roads, etc." Mr. Justice Ferguson in this case held the structure referred to was a culvert and that the county was not bound to maintain it. In the same case this judge held that a structure over Daly's Creek, being a span of sixty-seven feet, and one over Kettle Creek having a span of 31 feet, nine inches, were bridges. The township council should have protected itself as to its liability for the building and repair of this bridge when making its agreement with the trustees of the police village pursuant to section 740 of the Act. Section 605 of the Act has no application to this case, as a police village is not a "local municipality" or a municipality at all within the meaning of the Act. Notwithstanding the fact that it has been set apart as a police village it still forms a part of the township in which it is located.

Clerk's Fees in Connection With Drainage Scheme.—Proceedure in Passing By-Laws.

406—Essex.—1. Is it legal for an engineer to receive pay for attending Court of Revision on a drainage work?

2. Is there any scale for a clerk's work on Drainage By-Laws, or must he take the price the engineer places in the estimates?

3. If the council is of the opinion that the engineer's report on drains has placed clerk's fees too high, has the council any power to reduce it?

4. Is it legal to receive a by-lawas read the first and not read the second and the third time?

1. Yes. The engineer is entitled to receive pay for attending the Court of Revision as well as for all the work he does in connection with a drainage scheme.

2. There is no statute fixing the amount to be allowed to municipal clerk for services performed under the provisions of the Drainage Act. These fees form a part of the cost of the drainage work, and should be fixed by the engineer and included in his report to the council. The fact that the engineer in his report has fixed these fees at a certain figure does not constitute that figure absolutely correct and binding on all parties concerned. It is still open to the clerk to contend that the engineer has not allowed him a sufficient sum for his service, or to the council when considering the report to reduce the amount to what they may consider reasonable.

3. Yes. See our answer to question No. 2.

4. This depends upon the rules of proceedure adopted by the council for the government of their proceedings. The usual rule is that a by-law should be read three times in full in open council before it is finally passed. If a drainage by-law is referred to particularly, it should be read a first and second times in open council and provisionally adopted. After it has been published and Courts of Revision held and closed as required by the provisions of the Drainage Act, it should then be read a third time and finally passed.

Powers of Drainage Referee.—Duties of Municipal Treasurer.—Disposal of Surplus on Sale of Debentures.

407—SUBSCRIBER.—1. Has the referee under the Ontario Drainage Act in settling a dispute between two municipalities, power to reduce the size of the drain in the initiative municipality from the size laid out by the engineer?

2. Is it the county treasurer's duty to send school moneys to the township treasurer or must the township treasurer go after it, and the township pay them for going?

3. Does the statute compel the township treasurer to take the county rate to the county treasurer or can he send it by draft?

4. When there is a drainage scheme being put through in which the by law states a certain per cent., when the debentures are sold at a premium, does the drain receive the extra per cent., or does the treasurer receive this for his trouble, or has he a right to charge the ratepayers for his trouble?

1. Sub-section 3 of section 89 of the Municipal Drainage Act empowers the referee, *with the engineer's consent*, and upon evidence given, to amend the report in such mann r as may be deemed best, and upon such terms as may be deemed proper for the protection of all parties interested, etc." This provision would enable the referee to make the change mentioned with the engineer's consent, but we do not think he has power to do so without it.

2. The county treasurer should forward the school moneys to which the township is entitled, to the township treasurer by draft, express or post office order, or such other manner as he may deem safe and proper under the circumstances.

3. The township treasurer can send the

county rate to the county treasurer by draft, or such other way as he may deem safe.

4. Whatever amount is realized as premium on the sale of debentures of this kind, should be placed by the treasurer to the credit of the drainage account. If the council thinks that the treasurer is entitled to anything in addition to his regular salary for his time and trouble in disposing of the debentures it may, by resolution, grant him such sum as it may deem reasonable, and charge the sum so granted to the drainage account.

Filling Vacancy in Township Council.

408—Enquirer.—I have been asked by a large number if the township of D, will have to have an election. The reeve of this township died about ten days ago. What steps will be required? Who orders the election? If it is the county Judge, whose duty is it to ask him to do so?

A new election will have to be held to fill this vacancy, and since the office of reeve of your township is vacant, the clerk is the proper person to issue the warrant for the holding of the new election. (See section 212 of the Municipal Act.)

Law as to Traction Engines.

409—S. R. W.—Can owners of traction engines make township council pay for damage received from breaking through bridges? An owner of a traction engine in our township said that he saw in *The Globe* of June 5th, 1902, where an appeal case was decided against the township. Do you know if such is the case?

No. Sub-section 1, of section 10, of chap. 242, R. S. O., 1897, provides that, "Before it shall be lawful to run such engines over any highway whereon no tolls are levied, it shall be the duty of the person or persons proposing to run the same to strengthen, at his or their own expense, all bridges and culverts to be crossed by such engines, and to keep the same in repair so long as the highway is so used." The case referred to is, no donbt, Pattison vs. Township of Wainfleet. This was an appeal by the defendant township from a judgment of the county court of the county of Welland, in an action for damages for injury to the plaintiff, and to engine attached to a grain threshing machine which plaintiff was driving over a bridge belonging to defendants, and which bridge, plaintiff alleges, was so defective and unsound that the engine on which he was riding was thrown down into the bed of a creek below. The judge, at the trial, found that the bridge had been out of repair, and unsound, to the knowledge of the defendants, for a considerable time before the damage complained of, and that the engine, NOT BEING A TRACTION ENGINE within the statutory meaning of that term, the statute, (R. S. O., 1897, chap. 242, sections 4, 5, 6 and 10, and sections 1 and 2,) pleaded by the defendants, did not apply so as to relieve them from responsibility, and gave judgment for plaintiff for $75 and costs. It was held on the appeal that the only question is one of fact, namely, whether the engine is a *traction engine within the meaning of the above mentioned Act*, and that the trial judge properly found in favor of the plaintiff. It was also held that the evidence of negligence on the part of defendants was sufficient to justify the finding of the trial judge, and that the damages found by him were reasonable.

Removal of Sand Causing Subsidence of Road.

410—SUBSCRIBER.—A owns a farm that fronts on a lake. A public road runs across the front of his farm. There is a large deposit of sand along the beach, and A sells the sand, and it is taken away by barges that come as close to the shore as they can and suck the sand up out of the water. The constant removal of the sand is causing the road to become narrow. What should the council do to protect the road?

If the removal of the sand is causing a subsidence of the road, that is a falling away of the road, A and all persons causing such subsidence, are doing a legal wrong and may be restrained from doing so upon the principle that an adjoining owner of land has no right to so cut down his own land as to cause a subsidence of his neighbor's land.

Dog-Tax and Protection of Dogs.

411—J. B. H.—As reeve here for some years past I have been annoyed with the question of dogs. Two years ago we passed a dog-tax. Has this to be renewed every year, or does it stand until repealed? We have no sheep, but cows are run and chickens are killed and people are attacked. If his owner pays for a tag, who pays the damages he does perhaps at night, and most often when it cannot be brought home to him? What is to be done for necessary protection against dogs? What can a dog do and still have protection under the dog-tax? What does dog protection mean?

We assume that the council passed a by-law pursuant to section 2 of chapter 271, R. S. O., 1897, dispensing with the collection of dog-tax under the provisions of that statute, and subsequently passed a by-law imposing a tax on dogs in the municipality, pursuant to sub-section 3 of section 540 of the Municipal Act. Unless the operation of the latter by-law is by its terms, confined to one year, it will remain in force, and the tax will be collectible thereunder, until it is repealed. The mere imposition of a dog-tax implies no protection for dogs. If a dog is vicious it should be taken care of or killed by its owner. If it does damage, the owner of the dog is liable for the damages committed. If the dog doing the damages, or its owner cannot be ascertained, that is the misfortune of the party who sustains the injury.

Council Cannot Make Grant to Sufferers by Cyclone.—Rights of Pathmaster.

412—M. S. B.—Re the recent cyclone in the township of Winchester, there was a committee appointed to interview the several councils in the county for aid for those who met with heavy loss. Our council made a grant of one-half a mill on the dollar of the total assessment of the township. Is it contrary to law for the council to make such a grant, or should it be submitted to the people for a vote? Would the council be personally liable if they ordered the township treasurer to pay over the money by resolution?

2. Where a pathmaster does roadwork in his division and applies to the council to give him a receipt for it so as to unable him to hand it to his successor, is it right for council to issue such certificate, or should said pathmaster just give a receipt to his successor that his work is done for another year, or can a pathmaster be allowed for work done by him when he is pathmaster?

1. The council has no legal authority to make a grant for this purpose. If it desires to do so, it will have to obtain special legislation from the Ontario Assembly giving it the power, as did the city of Toronto, in 1900, when desirous of aiding the sufferers by fire in the cities of Ottawa and Hull. (See section 6, of chap. 101, Ontario statutes, 1900.) If the persons this council desires to aid have been reduced by their losses to circumstances of extreme poverty, so as to bring the matter within the provisions of sub-section 1, of section 74, of the Assessment Act, the Court of Revision for the municipality can remit or reduce the amount of their respective taxes. If the members of the council persist in making this illegal grant they may be held personally responsible for so doing.

2. The pathmaster should not, under these circumstances, be granted a certificate to enable him to obtain credit for work on his next year's statute labor. If it was necessary to do any work in his road division in excess of what could be done by the statute labor available, the pathmaster should report and certify it to the council, and the latter should pay its reasonable cost. A pathmaster is not entitled to any credit for any time he devotes to superintending the work in his road division over and above the number of days' statute labor he is liable to perform in accordance with the ratio of statute labor in vogue in the municipality.

Objectionable Tree Near Line Fence.

413—A READER.—I have had some trouble with a line fence between my neighbor and I. She is holding nine inches of my land by possession. There are California maples planted tight up against the present line fence which shade my lot, and in time will spoil the fence. What is the law regarding trees in village which is incorporated being planted too near the line fence and spoiling the property of the neighbor?

We are of opinion that you have no remedy in this matter. The trees appear to be wholly on your neighbor's premises, and there is no law to prevent her planting or allowing them to remain there. Even if the trees were growing on the boundary line between your lot and hers, you would be without a remedy, unless she gave her consent to their removal. (See section 7 of chapter 243, R. S. O., 1897.)

Trustees not Bound to Allow use of School House at Elections.

414 T.—We require the use of a public school house for a polling place at our municipal elections. We pass our by-law for municipal elections appointing the officers required and naming said school house as a place where poll will be held. No objection is taken to our by-law. Our municipality is a township.

1. Can the trustees of the public school section whose school house we have named by by-law as a place where poll is to be held, refuse to allow the township the use of their school house for a polling place? (Said school has been used for election purposes for many years.)

2, Can the trustees prevent their school house being used as a polling place at Dominion or Provincial elections?

1. Yes. Before passing a by-law fixing the places at which polls are to be held, the council should ascertain whether the owners of the premises are willing that their buildings, or a portion thereof, should be used for this purpose. The fact that this school house has been previously used as a polling-booth, does not bind the trustees to allow it to be so used at future elections.

2. Yes.

Mode of Conducting Separate School Trustee Elections. —Qualification of Voters.

415—P. F. S.—Kindly let me know whether separate school supporters (I mean Roman Catholic separate school supporters) of rural districts must vote openly at all elections, or can they vote by ballot also?

2. And can all female supporters vote also at all elections? R. S. O., 1897 say so. Has any change been made since?

1. The mode of voting at elections of Separate school trustees in rural Separate school sections is set forth in sub-section 6 of section 27 of the Separate Schools Act. (R. S. O., 1897, chapter 294.) No provision is made for the use of the ballot at these elections as has been done in the case of elections of Separate school trustees in cities, towns and incorporated villages by section 32 of the Act or by section 61 of the *Public* Schools Act, 1901, in the case of the election of public school trustees in urban municipalities and townships.

2. Yes. If they are householders or freeholders of the full age of twenty-one years. No change has been made in the law in this regard since 1897.

Compensation for Sheep Killed by Dogs on Government Lands.

416—W. C. V.—The government bought seventeen acres of land in the township of A, and have erected rifle ranges on the property. This property is not assessed, hence pays no taxes. They keep a flock of sheep on their grounds, and recently a number of them were destroyed by dogs. This being government property, is the township liable for two-thirds proven damages to these sheep?

If the sheep, when killed, were on these lands, and the lands were enclosed, the owner is entitled to be paid by the township, the compensation mentioned in section 18 of chapter 271, R. S. O., 1897. (See also section 20 of the Act.) The mere fact that these are Government lands and exempt from taxation, does not affect the right of the owner of the sheep killed to compensation under the Act.

Levy and Collection of Cost of Small-pox Epidemic.

417—J. H. W.—The small-pox epidemic this year cost the township of N. $1600. The council wish to know if they can pay half the amount this year and allow the remainder to lay over till next year, or will they be obliged to levy for full amount this year?

Unless such a course would cause the aggregate rate in the municipality to be more than two cents on the dollar on the actual value, exclusive of school rate and local improvement rates, this amount should be levied and collected in the year in which the debt was incurred. (See sub-section 1 of section 402 of the Municipal Act.) If this cannot be done and the payment of the account will have to be extended over two or more years, since it is not part of the *ordinary expenditure* of the municipality, a by-law providing for the issue of debentures to raise the amount required will have to be submitted to and receive the assent of the electors. (See sub-section 1 of section 389 of the Act.)

Farewell Dinner to the Late Clerk of Gravenhurst.

The farewell dinner tendered Mr. B. H. Ardagh, at the Windsor House, recently, by the members of the Curling Club, Masonic Lodge, the town council, and citizens generally, was the best of the kind Gravenhurst has seen, says the *Banner*. An enthusiasm which manifested itself at the beginning was maintained to the last, and every toast was drunk with a heartiness not to be denied. Mayor Grant acted as chairman and toast master, and in a neat speech presented Mr. Ardagh with the following address:

MR. ARDAGH,—

We, who are assembled here to-night, have been called together at a moment's notice, on hearing of your immediate departure from amongst us, where for several years past you have been an honored resident, a game sportsman, and with the interests of the town, municipal and otherwise, at heart. We are assembled together to-night "to speed the parting guest," to enjoy with you the "good cheer" before us, and to wish you God speed and "bon voyage" on the journey, we understand, you purpose taking, and that wherever you may permanently locate in the future you may enjoy prosperity and make, as we are sure you will, as many and more friends as you leave behind you in Gravenhurst. It is hardly necessary for us to express the regret we feel at our loss through your departure, and only hope and trust that it may be for your benefit and advancement."

Mr. Ardagh replied with characteristic modesty, and in a few well chosen words he expressad his appreciation of the high honor done him.

On Monday evening, also, a very interesting event took place at the residence of Mr. H. H. Marter, when the officers and choir of St. James church, presented Mr. Ardagh with an address and a handsome Cabin Bag, and Collar and Cuff Case.

Municipal Politics.

The United States has had a large range of experience in Municipal Government. Her people have had to govern a great variety of cities in a great variety of conditions. From this long and varied experience, her thinking men have come to the conclusion that Municipal Government cannot long be clean or efficient under national party control, and that it is upon the issues of municipal politics that municipal elections should be decided. A like experience, though with a limited range, has been found to prevail in Canada. Every town and city that has undertaken to elect its municipal councils on a party basis has had occasion to regret the course it has adopted. The questions which divide men who vote for a mayor, councillor or school trustee because the candidate is Liberal or Conservative, and not because he is capable of dealing prudently and successfully with the local affairs of his town allows himself to fall into an error, which will militate against himself, against his fellow-citizen, and against the best interests of his town generally. For the past few years we have had little or no party politics in our municipal elections and it is to be hoped that in the futur such a consideration will in no wise enter, but that every elector will vote for the men nominated simply because they believe they are the best fitted to manage our local affairs.—*Ex.*

In connection with the application of the Modern Telephone Company for a franchise from the city of Hamilton, Solicitor Mackelcan has written to the chairman of the Financial Committee, stating that he can find no provision in the Municipal Act to give the city power to enter into an agreement with the company to grant it a franchise, unless it is an exclusive franchise. As the Bell Company already has legal rights on the city streets, an exclusive right cannot be granted to any other company. Mr. Mackelcan points out that there are general Acts under which light and power, gas and water companies get power to use city streets, but no such Act in reference to telephone companies. The Bell Company gets its powers under special statutes of the Dominion and Province.

The city of Hamilton is to have telephone service at ten dollars a year for residences, and fifteen dollars for offices. This is a warning to the Bell Telephone people, and it may have a good influence.

The electors of the town of Mount Forest have recently, by large majorities, carried by-laws, granting bonuses of $20,000, and $12,000 respectively to a furniture factory and a moulding factory.

Legal Department.

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

Re Trustees of School Section Five, in Township of Cartwright, and Coropration of Cartwright.

Judgment on appeal by the trustees from an order of Falconbridge, C. J., dismissing their motion for a mandamus to the township corporation requiring them to pass a by-law for the issue of debentures for $1,000 for the purpose of the purchase of a school site and the erection of a schoolhouse thereon, and to issue the debentures as they should be required by the appellants. All steps necessary to entitle the appellants to require the by-law to be passed, and the debentures to be issued were regularly and properly taken, unless the proceedings to change the school site were ad pted in contravention of the provisions of section 31, sub section 3, of the Public Schools Act. 59 Victoria, chapter 70, because of an award made on 24th February, 1899, determining that no change should be made in the site, which, if a valid award, according to the provisions of the sub-section, was to be binding for at least five years after its date. The appellants disputed the validity of this award, and contended that it was void, because, according to section 31, sub-section 2, it is only after the trustees have decided upon a change of site, and thereafter, at the meeting of the ratepayers of the section, called pursuant to sub-section 1, a difference is found to exist between a majority of the ratepayers present at the meeting and the trustees as to the suitability of the site selected by the trustees, that an arbitration is to take place, and because the trustees had not, before the special meeting of the ratepayers in 1899, made any selection of a site. It appeared that the majority of the ratepayers voted in favor of a change of site, and that the question was submitted to and dealt with by the ratepayers without any selection of site having been first made by the trustees. Held, that a determination of the trusteee not to change the site, but to erect a new schoolhouse on the existing site, is not within section 31. The intervention of the ratepayers is to take place only after the trustees have come to a decision, and, subject to the provisions as to the effect of the award of the arbitrators, it is to control the action which the trustees have determined upon and to prevent effect being given to the decision of the trustees if it is opposed to the ratepayers' view. The position taken by the appellants that the arbitration and award were unauthorized and nugatory is well taken. The validity or invalidity of the award is to be determined on the motion for the mandamus. The award having been made without jurisdiction it was not necessary th.t it should be set aside. Appeal allowed with costs and order made for mandamus with costs. The township corporation applied for leave to appeal from this judgment, and the following is the judgment on the application: The circumstances of the first order having been made in chambers and the additional fact that the applicants for leave to appeal to this court were the respondents in the Divisional Court, and would have been entitled to appeal, as of course if the motion has been heard in the first instance by a judge sitting in court, are material factors—when coupled with reasons of a substantial kind for questioning the judgment complained of—in affecting the discretion to be exercised. An important question is raised as to the true construction of a somewhat obscurely phrased section of the Public Schools Act. Plausible grounds of objection to the construction placed upon the legislative pr visions in question by the Divisional Court are presented. Questions relating to the validity or invalidity or binding effect or orherwise of an award purporting to be made in pursuance of these provisions are also involved, and the matter is of some public interest. Order made giving leave to appeal upon the usual terms. Costs in the appeal.

McIntyre vs. Town of Lindsay.

Judgment on appeal by plaintiff from judgment of County Court of Victoria dismissing the action as against the town corporation with costs. The action was brought against the town corporation and the Lindsay Gas Company to recover damages for injuries sustained by plaintiff on the night of October 9th, 1901, by stepping into a deep trench dug by the defendant company along one of the streets of the town. Judgment was entered for plaintiff against the company for $75 and costs. The company had been authorized by a by-law of the town council to lay down their mains along the streets of the town, they agreeing to indemnify the corporation for all damages to arise therefrom and to properly protect and warn the public against accidents by lights. At the same time that the gas company had opened a trench at the point in question, the town corporation were laying a granolithic walk and had erected a barrier round the walk usually used by pedestrians. The plaintiff was turned out of the usual path by this barrier and slipped in the dark into the ditch and was injured. Neither of the defendants had put up any lights at the point in question, and the street itse'f was dark On previous nights the Gas Company had hung lamps along the excavation to warn persons of its existence. Held, that the action was properly brought against both the town corporation, whose duty it was to keep the highway in repair, and the Gas Company, who had dug the trench; Stilliway vs. City of Toronto, 20 O. R., 98. An absolute duty was cast upon the town corporation by section 606 of the Municipal Act to keep the highway in repair, a d they could not divest themselves of this duty by requiring the Gas Company to assume it. The Gas Company had no right to dig up the highway without the authority of the by-law passed by the council, and, in giving that authority, the town corporation did not free itself from its statutory liability. Section 611 does not apply, because the Gas Company was acting with the consent and license of the corporation. The evidence shows that the highway was out of repair to the knowledge of the town corporation, and that the accident was caused by such non-repair and by the negligence of both defendants to see that the trench was lighted. Dallas vs. St Louis, 32 S. C. R., 120, distinguished. Appeal allowed and judgment to be entered for plaintiff against both defendants for $75 with costs. The town corporation to have judgment over against the Gas Company for the amount so recovered, and the costs of the plaintiff and of the town's defence. The plaintiff to be paid the costs of this appeal by the town corporation, but the town corporation should not recover these costs from the Gas Company. No costs of appeal to Gas Company.

Ottawa Electric Co vs. City of Ottawa.

Judgment on appeal by plaintiffs and cross-appeal by defendants from report of local Master at Ottawa, heard at the Ottawa Weekly Court. The reference was for trial of the action, which was brought to recover $18,669.50 for electric lamps and lighting under a contract with the defendants. The controversy was as to the legal relationship of the parties in consequence of the destruction of the works of plaintiffs, in common with a large part of the city of Ottawa by the great fire in April, 1900. The result was, as found by the Master, that the city was left without electric light from the plaintiffs for a long period, and, though due diligence was used in restoration of the works, for a further considerable period there was but a partial supply of light by plaintiffs. Held, that it was well found by the Master that this was "unforeseen accident, not occurring through any default of the company." a contingency provided in these terms by the agreement between the parties. The solution of the difficulty with regard to the non-lighting during this period depends upon the construction of the seventh clause of that part of the agreement which embraces covenants and conditions. This group of clauses is preceded by the declaration:—"It is hereby covenanted and agreed between the said parties hereto as follows, and these presents are on the express conditions." The seventh clause

provides that the company shall at all times keep lighted the lamps at their own cost, unless when prevented by some unforeseen accident not occurring through any default of the company, but in any event the company shall pay fifty cents for each night for each lamp that is not kept lighted to the satisfaction of the superintendent of fire alarms, whose report is to be final and conclusive as to the number of lamps not kept lighted by the company according to the terms of this agreement. The Master held that the company were to be paid the contract price for the period when no light was furnished, and that the city were entitled to deduct therefrom penalties liquidated at fifty cents for each unlighted lamp during the same period. The chancellor reads the contracts as meaning that if no light was furnished from unforeseen accident there was to be no pay and no penalty during such times; when light began to be furnished then pay began *pro tanto*, the company all the while being in no default. Appeal of plaintiffs allowed with costs, and appeal of defendants dismissed with costs.

A Defective Assessment.

The town of Huntsville is without an assessment for the year 1902, Judge Mahaffy having declared the assessment taken to be null and void, the proceedings having been irregular. Last year Huntsville was proclaimed as a town, and forgeting the fact that it was in the District of Muskoka, and entitled to only township privileges, its council proceeded to appoint an assessment commissioner, who associated with himself two members of council, and the three proceeded to appoint an assessor. The commissioner raised the assessment, and there was a general appeal, also an appeal to the Judge from the Court of Revision. At the judge's court, Mr. R. D. Gunn, K. C., appeared for the appellants, and showed that the council had neither authority to appoint an assessment commissioner nor allow its members to sit with him as a board, but to appoint an assessor only who shall return his roll before the first of May. The judge ruled accordingly, threw out the whole assessment. It is difficult to state what the position of the town now is, and whether it can collect taxes without an assessment is a point for the courts to decide.—Orillia *Times*.

"There's nothing in my name, no matter what Shakespeare says," commented the new boarder.

"How's that?" asked the landlady.

"My name is Naughton," answered the new boarder. By diligently explaining the meaning of "naughts" he managed to draw non-committal smiles from a few of those present.—*Baltimore American*.

"He is awfully nice," she sobbed, "but I can't—I can't"

"Can't what?" queries the mother.

"Give up my name of Willoughby for his of Snobkins," was the tearful answer.

COMMUNICATIONS.

Clerk's office, Paisley, 9th August, 1902.

The Municipal World, St. Thomas:

As the implement manufacturers of the cities try to kick out of paying their just taxes in villages and towns where they may have branches, and in in some cases have been successful in getting free on appeal, while in others they are not assessed at all, the enclosed judgment in the appeal from the Court of Revision to the county judge might be of interest to some of your readers. The Frost & Wood Co, Ltd., also appealed with a like result.

Yours truly,
TOWN CLERK.

JUDGMENT.

In the matter of Appeal from the Court of Revision of the Municipal Corporation of the town of Paisley, ———, appellants and the Municipal Corporation of the Village of Paisley, Respondents.

The Appellants are manufacturers of various kinds of agricultural implements which are made in Toronto. In order to sell these machines they ship samples of the different kinds to agents residing elsewhere, who as a rule sell the machines, showing the samples and ordering those sold from Toronto, but if occasion requires they sell the samples when so directed from the head office. In this case the municipality assessed a number of said machines which were in the possession of the company's agent at Paisley. Over the door of the place of business was a painted sign of the company. Besides the machines for sale by the agent the company store there such part of the different machines as are necessary for them to use in making repairs of such machines as have been sold and broken. The agent is paid by commission on the sales. These samples were shipped from Toronto to Paisley so early this spring, before the snow left the ground at Paisley, that it is unlikely that they were assessed in Toronto, and a general agent of the company, who testified, could not say they were assessed there and in fact it was tacitly admitted that they were not, and if they were not so assessed the company will escape taxation thereon if they cannot be assessed at Paisley, contrary to the spirit of the act enunciated in section 7—"All property in this province shall be liable to taxation"—with certain exemptions. The company know whether this property was assessed at Toronto or not, and in the absence of evidence to that effect, I cannot presume one way or the other in the matter. It is true they produced a certificate dated April, 1902, signed by R. J. Fleming, stating that he had assessed the company for the whole of their personal property at their head office at Toronto, but this falls far short of testifying that he had assessed the property in Paisley, even if he had the right to do so, for at the date of this certificate, this property was in Paisley. Section 40 of the Assessment Act, sub-section 2 is as follows: "If a partnership has more than one place of business each branch shall be assessed as far as may be in the locality where it is situated for that portion of the personal property of the partnership which belongs to that particular branch, and if this cannot be done other provision is made." That it can in this case be done admits of no doubt, as it has been done, and for a sum that is not objected to. Then has the company a place of business at Paisley. If so, that branch of their business is assessable there. That the company have a place of business there when their goods are placed for the purpose of sale in the custody of their agent and that the public come there and purchase from him cannot be denied, so that if the property which has been assessed belongs to that particular branch, then I should dismiss the appeal. I think it does so belong, for if not, it does not "belong" anywhere. This case is quite different from Watt vs. the city of London. The sugar there assessed was simply deposited in a warehouse, not in charge of an agent for a day, and all the business concerning it was done at Brantford, nothing more being done in London than merely shipping the sugar to purchasers, and it could not be said that the plaintiff had a place of business in London. The appeal is therefore dismissed.

Walkerton, July 24th, 1902.

(Signed,)
WM. BARRETT,
J. C. C. B.

Brantford, July 31st, 1902.

Editor Municipal World, St. Thomas:

DEAR SIR,—I am quite interested in your article of July, entitled "School property not an asset of a municipality," and am pleased that same has called forth a discussion in your August number.

I will not attempt to find fault with your construction of the wording of the Statute, but think it is abundantly clear that the officials of the Ontario Government take the contrary view, and further the practice of most good municipal accountants is opposed to it.

If you will refer to the form of the return which all treasurers are compelled to make to the Bureau of Statistics, (vide Sec. 293, Municipal Act) you will find "school property" (land, buildings and equipment) among the assets of the municipality, and the same division is made in the annual report of the Bureau, called Part III, Municipal Statistics. F. H. MacPherson, C A. of Windsor, is looked upon as a fair authority, having had considerable municipal experience, and in his late work on Municipal Accounting, he furnishes a specification for a Municipal Balance sheet, placing among the "assets," "School Buildings and Equipment."

Yours truly
A. K. BUNNELL,
Chartered Accountant,
Treasurer.

At a Good Roads Congress in Buffalo there was a general agreement among delegates that the rise of public interest in good roads was steady and strong, and it was believed by the delegates from every section that much progress would be made in the next few years. This hopeful view is probably well founded. In nearly every important district there are enough good roads, or samples of r ads, to serve as object lessons, and it is certain that wherever people have an opportunity to use and enjoy fine highways they will demand the improvement of other roads near by. Comfort and convenience in the use of public roads soon seem necessities to those who have an opportunity to rfde on highways such as all prosperous civilized countries ought to consider indispensible. Then ways and means of building and maintaining them are found even though it may have seemed impossible to do so when all the roads were bad.