

MEMBERS OF THE MUNICIPAL CLERKS' ASSOCIATION, COUNTY OF OXFORD.



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 ✓ E. CODY ✓ W. R. SMITH ✓ E. L. SUTHERLAND ✓ ALEX. MCFARLANE, Pres. ✓ W. M. FAIRLEY, Sec. ✓ A. E. RAYNES ✓ JNO. PEERS

THE MUNICIPAL WORLD

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

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ST. THOMAS, ONTARIO, OCTOBER, 1898.

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Calendar for October and November, 1898.

Legal, Educational, Municipal and Other Appointments.

OCTOBER.

1. Last day for returning Assessment Roll to Clerk in cities, towns and incorporated villages where assessment is taken between 1st July and 30th September.—Assessment Act, section 58.
- Last day for delivery by Clerks of Municipality to Collectors, of Collector's Rolls, unless some other day be prescribed by by-law of the municipality.—Assessment Act, section 131.
- Notice by Trustees of cities, towns, incorporated villages and township boards to Municipal Clerk to hold Trustee elections on same day as Municipal elections, due.—Public Schools Act, section 58 (1).
- Night schools open (session 1898-9).
5. Make return of deaths by contagious diseases registered during September. R. S. O., chap. 44, section 11.
- Copy of Roll to be transmitted to County Clerk.
10. Selectors of Jurors meet in every municipality.—Jurors' Act, section 18.
31. Last day for passing by-laws for holding first election in junior township after separation.—Municipal Act, section 98.

NOVEMBER.

1. Last day for transmission by local clerks to County Treasurer of taxes on lands of non-residents.—Assessment Act, section 132.
- Last day for transmission of Tree Inspector's Report to Provincial Treasurer.—Tree Planting Act, section 5.
10. Last day for Collector to demand taxes on lands omitted from the Roll.—Assessment Act, section 166.

NOTICE.

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

VOTERS' LISTS BOOKS.

AS REQUIRED BY THE ONTARIO VOTER'S LISTS ACT, 1898.

3 The Ontario Voter's Lists Act was amended at last session by adding thereto the following section:—

9a.—(1) The clerk of the municipality shall keep a book in which he shall enter particulars showing the day on which the copies of the alphabetical list were posted up by him and were transmitted to each of the persons mentioned in sections 8 and 9, and also whether such copies were delivered personally or transmitted by post. There shall be added to each such statement of particulars an affidavit or statutory declaration verifying the same.

(2) Any clerk who fails or omits to comply with the provisions of this section and of sections 8 and 9 shall for each omission incur a penalty of \$200 and shall also be liable to be imprisoned for a period of three months in default of payment.

We have prepared a suitable book for this purpose which will last any municipality for 20 years. Price, 50 Cents.

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The Municipal World

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

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J. M. GLENN, LL.B.

Associate
Editors

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ST. THOMAS, OCTOBER 1, 1898.

A committee was appointed at the meeting of the National Health Association at Ottawa to investigate the sanitary aspect of the different kinds of material used in paving streets. The committee is composed of civil engineers, medical experts and bacteriologists. The Canadian members are A. W. Campbell, C. E., Provincial Instructor in Roadmaking, convenor; City Engineer VanBuskirk, Stratford; Dr. Bryce, Secretary Provincial Board of Health; J. J. Mackenzie, Provincial Bacteriologist; J. A. MacGill, Dominion Chemist.

* * *

Dr. J. W. Considine, clerk of the village of Port Dalhousie, celebrated his 78th birthday on Tuesday, September 6th, and is enjoying good health, despite his close proximity to the four score mark. The doctor has been in the practice of his profession for 52 years, having obtained his degree in London, Eng., on May 29, 1846. With his class of nine successful students he was presented to Her Majesty, the Queen, who had expressed a desire to meet the first class graduating after her birthday, and the doctor well remembers the circumstance. He has been clerk since 1872.

* * *

The ex-clerk of the town of Barrie sued the corporation in the Division Court for \$55, the fees to which he was entitled for registration of births, marriages and deaths for the year 1897. The council held that he was not entitled to these by the town by-laws. He got judgment for the amount. In the meantime the town auditor discovered discrepancies in the police court accounts, amounting to \$391.26, for which the council made a counter claim. After fighting it for some time, the ex-clerk admitted the claim, with costs, leaving a balance of \$335.66 in favor of the town.

The West Zorra Audit.

The Provincial Auditor's Report in reference to the books and finances of West Zorra has been the subject of a great deal of discussion in the Township.

The Council submitted the report to their Solicitor, who considered the recommendation contained in the report, and referred to in our September issue, as follows:

"The recommendations made by the auditor, those that require the Council or Treasurer to proceed in a way that is not required in the statutes (as a number of them do), or in which the statutes leave an alternative, I consider altogether outside the duties of the auditor and a piece of gratuitous advice given for some purpose, which may have been in his mind, for some reason not expressed in the report, and which recommendations you need not consider for a moment."

In closing, the Solicitor referred to the Auditor, and said that in his opinion he did not properly understand the duties of his office, and the purposes for which he has been appointed.

"I do not believe that it is the wish of the Government that any treasurer should be unfairly dealt with, for personal or political purposes, but the intention of the act was to have the various treasurers' accounts put in proper shape, and the duties of an auditor were as much, if not more, for instruction purposes than for taking technical objections to the manner in which accounts are kept; and it was certainly not their purpose that councils should be directed, as they are in this case, to adopt modes of procedure which the Legislature does not require.

I am of the opinion, after considering the manner of conducting same, and the reports on this audit, that your council should request the Provincial Treasurer to investigate the manner in which Mr. Laing and Mr. Macpherson have conducted the enquiry into the treasurer's accounts."

The council passed the following resolution in reference to the report.

"Resolved that this council, having heard the report of Mr. Macpherson and the supplementary report of Mr. Laing and Mr. Macpherson, and having considered the same and the statements therein, and after considering the evidence taken by Mr. Laing in their presence, are of opinion that the auditors' reports do not, in several particulars, fairly represent the treasurer and his accounts with the township, and further that in the supplementary report there are a number of statements as to the acts or wishes of this council which are not correct in fact, and were not expressed or done by the council as in said report stated. This council do hereby instruct A. S. Ball, their solicitor, to have the conduct of Mr. Laing, Provincial Auditor, and of Mr. Macpherson, appointed by him, brought before the Hon. R. Harcourt, Provincial Treasurer, for investigation as to the manner in which the audit had been conducted, as in the opinion of this council the reports are not fair ones on the face of the evidence produced, and that in the meantime the account of Mr. Macpherson be not paid."

With this issue we present our readers with a photogravure of the members of the Oxford Clerks' Association. Their annual meeting was held at Woodstock, in the beautiful new court house, on September 1st, and the report and papers read at the same show that the association is doing a good work. Their example could be followed with equal benefit by many counties in the province.

Oxford Clerks' Association—Annual Meeting.

The annual meeting of the Municipal Clerks of Oxford County was held in the office of the county clerk at Woodstock on Thursday Sept. 1st., with A. McFarlane, of S. Norwich, president, in the chair, and Wm. Farley, Norwich village, secretary. The others present were: R. J. Henderson, Blandford; M. F. Ainslie, Blenheim; Alex. Bell, Dereham; W. E. Andison, E. Nissouri; R. Seldon, N. Oxford; John Peers, E. Oxford; W. G. Francis, W. Oxford; Jas. Anderson, E. Zorra; E. L. Sutherland, W. Zorra; John Morrison, Woodstock; W. R. Smith, Ingersoll; A. E. Raynes, Tilsonburg; E. Cody, Embro; James White, County Clerk.

The president in opening the meeting gave an address of practical interest to the clerks, after which the following papers were read:

The Duties of Ratepayers, by A. E. Raynes; Liability for Non-repair of Highways, by Alex. Bell, and The Municipal Amendment Act, 1898, by E. L. Sutherland. Each of the papers was discussed by the meeting and many points of interest explained.

Mr. Henderson stated he could not find anything in the Municipal Act that makes it clear whether the registration of drainage by laws in townships which authorize the issuing of debentures is optional as in the case of local improvement by-laws in cities, towns and villages.

During the discussion that followed many instances were given of such by-laws in townships not being registered and the debentures were bought by banks and other investment concerns with the knowledge that such was the case. After considerable discussion the conclusion was come to that the law is not as clear on the point as it should be.

Since the change was made requiring a column in the Voters' List for the occupation of the voter some clerks have put it next after the name and others last or just before that for the post office. In order to have the lists uniform in this respect it was decided to place the column for occupation next after the name.

Many minor matters, which came up as questions asked, were discussed and settled.

The president and secretary were re-elected for another term and instructed to arrange a programme for next meeting, which will be held the first Thursday in September, 1899.

* * *

Mr. Philip Kelly, clerk of Burford, Brant county, was present at the convention, and Mr. McCally represented THE MUNICIPAL WORLD, with samples of blank forms, books, etc., for municipal purposes, which were examined with interest by those present.

"Pete, I used ter have a carriage of my own." "How d'yer happen to lose it?" "I grew too big fer it."

The Duties of Ratepayers.

(By A. E. Raynes.)

The ratepayers of a municipality are all who pay rates to the corporation, i. e. all those who are rated for their respective contributions towards the fund or funds required to administer the affairs of the municipality.

"Ratepayers" therefore include the rich and poor, the learned and unlearned, and nearly all classes and grades of citizens and also some non-residents.

The person chosen or elected to legislate for the municipality within the limits authorized by law, and to administer the affairs of the municipality, are also ratepayers.

The officials appointed by council to execute and perform the various duties connected with such administration assigned to them by the council of the corporation, are also ratepayers.

It is however, more especially with the ratepayers in his simple capacity of one who pays rates that I propose to deal in this paper.

The opportunities and advantages possessed by a man or a ratepayer will usually indicate many of the duties which devolve upon him.

The importance to the world of the words "duty" and "ought" and all that is bound up in them, is I fear in these days not fully appreciated.

In critical times when men are "stirred" and all their grander and nobler impulses are awakened they are, no doubt, still words to conjure with, but along the current of life when everything is moving quietly and peacefully they create too slight a ripple and are too small a force. The immortal words of the gallant Nelson in Trafalgar's Bay "England expects every man to do his duty," will go ringing on down through the centuries and will ever continue to touch a responsive chord in the heart of every true man or woman.

Each man and woman and each ratepayer is, however, too apt to consider these words as applicable only to great events and stirring times and the chord in the heart touched by the great truth uttered in these noble words vibrates all too feebly to the equally solemn and great truth that God and humanity expects every man and every ratepayer every day to do his duty to himself, his fellow ratepayers, and the community composing the municipality of which he is a ratepayer.

To gain some conception of the duties of ratepayers, let us examine some of the opportunities and advantages possessed by them.

Once a year every ratepayer has the opportunity of exercising a choice as to the persons who shall administer the affairs of the municipality for the ensuing year.

Duties therefore devolve upon him in connection with the choice he makes.

He ought to make a choice and he ought to vote for the man of his choice. Every good citizen should take time and trouble in the matter instead of waiting to be canvassed and coaxed, even coerced to go to the polls.

To abstain from voting is clearly a shirking of his duty and does not in any sense fill the measure of his responsibility as a citizen. I take it that the responsibility of the ratepayer under the existing condition of affairs even begins earlier. He certainly has some opportunities in connection with the question as to who shall be the candidate for any given position and he ought therefore to see to it that proper and suitable candidates are forthcoming.

My own experience has been that in many cases candidates are nominated in a haphazard, happy-go-lucky way, at the nomination meeting, and sometimes men who are totally unfit for the office are put forward by way of a joke.

If a man is of the opinion that he can be useful to his fellowmen in a certain position in the community he should seek that position in an honorable way, endure whatever hardships it may entail, and take the risk of his motive being wrongly construed as a selfish one.

No man is relieved from duty because municipalities are ungrateful.

The Municipal Amendment Act, 1898.

(By E. T. Sutherland.)

In endeavoring to prepare a paper on the Municipal Amendment Act, 1898, I have to say at the outset that the amendments looking to better government by municipal corporations, I think are along the right line. I think the Ontario Government wise in increasing the district over which the representatives are elected, as it certainly has a tendency to do away with sectional feeling in the councils, and enlarges their views with reference to the affairs of the municipality, and to a large extent, at least, does away with the tendency to grasp a benefit for one locality in a municipality at the expense, and perhaps the detriment, of a more needy one, and by so doing, do an injustice to the municipality as a whole, and I hope that every municipality in the province, town as well as township, will take advantage of this act.

As the clerks of the smaller municipalities, as a rule, also act as treasurers of the municipality I should like to say a word with reference to auditors, as I notice the 1898 amendment has something to say with reference to that. In the first place I think it wise that the various councils should appoint auditors purely on account of their ability to audit, and not at all because they have been old municipal representatives, though this is a recommendation in their favor, nor because they are popular with the council, nor because they are in need of financial assistance (as it would be cheaper probably in the end to pension them if they have to) but as I said before purely on account of their ability to act, as their doing their work properly and having the confidence of the public may be the means of a saving to the municipality in two ways: 1st. It would probably save the municipality from a loss at the hands of the clerk or treasurer. 2nd. By having the confidence of the people, doing away with the excuse of a class of busy bodies and mischief-makers of getting up a petition to have books examined by the appointed Provincial Auditor at a great expense to the municipality, purely, perhaps, for the sake of giving a good fat job to some persons, political friends, or for the sake of causing some vexation of spirit to some poorly-paid municipal clerk or treasurer, or for the purpose it does not effect, of getting at the working of the municipal council. I should not like to say the government is deserving of censure for the appointment of a general municipal auditor, but I think that the intention of the government is not carried out, viz.: that the said auditor was to be an instructor to the various treasurers throughout the province, in place of which he is more of a detective. As you are well aware, it takes but a flimsy excuse to get the names of thirty ratepayers for an audit that may be totally unnecessary and very expensive, I would strongly recommend that capable auditors therefore be appointed by the municipalities themselves. I also think it would be a step in the right direction to have the taxes payable earlier in the year, say by the 30th of November, so that the books might be audited and the yearly statement made in time for use in the yearly municipal elections, so that a capable council would more likely be retained if they were willing to act, and so far as the amendments of 1898 go towards this end I am in favor of this. I would also recommend that the registrars not only send a statement of the business done at their offices during the year, but that said statement be subject to the audit of the auditors of the municipality before whom they are laid, as per section 12, and that the government be memorialized to this effect by the various municipalities. What good does it serve to lay the account before the auditors and have same read before the council when neither have any control over same? The stamp on the audited accounts is certainly convenient and correct. I think I have now touched on all I can of the Amendments of 1898 pertaining to the minor municipalities without making the paper too long and tedious.

Liability for Non-Repair of Highways.

(By Alex. Bell.)

It may appear presumptuous on the part of a municipal clerk to attempt to discuss the question of non-repair of highways, and secondly, the liability of municipalities for damages caused by defective roads, as it is a question that has many times been brought before our highest courts of justice, and argued out by some of the best ability on the bench, as well as at the bar, and my only hope of reaching any measure of success is that possibly I may succeed in citing points of interest in a greater number of cases than are usually brought before the courts in any one case. In this way only I hope my efforts may in a measure meet the object I had in view when I asked for a paper on this subject a year ago, but to reach this end I must of necessity be somewhat lengthy.

I trust that I shall not be held wholly responsible for trespassing upon the time at the disposal of this convention, as the subject is capable of an unlimited discussion, and in my search for information I have merely picked out a point here and there, such as I thought would have a general application, and would be of interest in some if not all cases that might arise under this head.

My first question is, "What constitutes non-repairs on our public highways?" The law governing the matter is brief though concise, as brought down to Sec. 31 of Chap. 42, of the Consolidated Municipal Act of 1892, and re-enacted in the Revised Statutes of 1897, Sec. 606, Chap. 223, which reads as follows:—"Every public road, street, bridge and highway shall be kept in repair by the corporation, and on default of the corporation so to keep in repair, the corporation, besides being subject to any punishment provided by law, shall be civilly responsible for all damages sustained by any person by reason of such default. But no action shall be brought to enforce a claim for damages under this section, unless notice in writing of the accident and the cause thereof has been served upon or mailed through the post office to the mayor, reeve or other head of the corporation, or to the clerk of the municipality, within thirty days after the happening of the accident, where the action is against a township, and within seven days where the action is against a city, town or village."

We have often heard the question asked, "What constitutes a lawful road?" In answer, a lawful width is sixty-six feet. Some person has said, and the statement is widely circulated, that the lawful width of a bridge is sixteen feet. Having thus far failed to find any authority for such a contention I feel that there are reasonable grounds for assuming that the nature of the structure, and the safety of the travelling public while using such bridge, will in all cases go farther in determining the legal status of a bridge, than the mere question of width. My own opinion is that nothing short of sixty-six feet will constitute a legal width, unless safe-guards are so erected that the public will be protected from injury. In the majority of cases a bridge sixteen feet in width, properly guarded, I believe would be protected by our courts, while a structure double that width would not be protected if it is unguarded. Again I refer to the question, "What constitutes a lawful road?" If any certain standard could be laid down as a criterion, an important point would be reached, but as yet the definition of the term, sufficient state of repair, is so indefinite, that we are in a large measure uninformed. In general terms non-repair may be said to be any defect in a highway that renders it unsafe for ordinary travel, but it has been held that the season of the year, the place of accident, the hour of the day or night, the manner and nature of the accident, must all be taken into consideration in determining the question. (See *Caston v. Uxbridge*, and other cases. Q. B. report, 113. But experience and observation has shown that such a definition is not

always a safe criterion. Instances have occurred, and may occur again in which nine hundred and ninety-nine persons could pass at any hour of the day or night with safety, while the one-thousandth would find dangers insurmountable. Litigation followed by a verdict and costs against a municipality, all because one man in a thousand is careless, and evidence for the plaintiff is not wanting to establish a case in the majority of such cases.

It was held in the case of *Hull v. Richmond*, that the nature of the country, the character of the roads and the care usually exercised by municipalities, in reference to roads must all be taken into consideration. In the case of *Caswell v. St. Mary's Plank Road Company*, Justice Wilson said it must be a question of fact altogether for a jury to say whether the place alleged to be out of repair is dangerous, and if so from what cause, and if from a natural cause or process, whether the persons liable to repair the road could reasonably and conveniently, as regards expenditure and labor, have made the road safe for use.

In the matter of liability of municipalities regard is held by our courts, for the decisions given both in England and the United States, and are quoted. Prominent among cases that have been quoted I will cite the case of *Hewson v. New Haven, Conn.* It was held that any object in, upon or near the travelled path, which would necessarily obstruct or hinder one in the use of the road, for the purpose of travelling thereon, or which from its nature and position would be likely to produce that result, would generally constitute a defect in the highway.

In the case of *Sherwood v. Hamilton, W. C. Q. B.*, reports 410, It was held that should a railing or other barrier be necessary to the safety of passengers, it may be held to be the duty of the corporation to provide the same.

In the spring of 1877 the case of *Lucas v. Township of Moore*, reported in 42 Q. B., reports page 334, was tried, and a verdict of \$2,500 was given against the township. The complaint was that the township caused and permitted a certain ditch to be dug on the public highway, and negligently left the same unsecured. The case was appealed to the Court of Appeal. That Court decided that the trial judge had erred, and a new trial was granted, which found for the plaintiff, but not for so large an amount.

Although non-repair may be said to mean any defect that would be likely to be dangerous to the travelling public, the circumstances most certainly should be taken into consideration. In the case of *Stewart v. Woodstock and Huron Road Company*, the trial judge held that there is no such thing as an absolute right against the acts of God and the process of nature, but even in the case of snow and ice it is for a jury to say under the particular circumstances of the place, season, etc., if the non-removal is non-repair, see *W. C. Q. B. report 427*. If the case of *Caswell v. St. Mary's Plank Road Company* is still held good, and to my mind nothing could be more reasonable than to take into full consideration the natural cause or process, whether the persons liable to repair the road could reasonably and conveniently have done so, then the question of repair or non-repair is a matter of fact, which a judicial enquiry alone can establish.

It was held by *Hunt, C. Y.*, in the case of *Davenport v. Rackman, 37 N. Y.*, 573 law report. The streets and sidewalks are for all conditions of people, and all have the right in using them to assume that they are in good condition, and to regulate their conduct upon that assumption. A person may walk or drive in the darkness of the night, relying upon the belief that the corporation has performed its duty, and that the street or the walk is in a safe condition. He walks by faith justified by law, and if his faith is unfounded, and he suffers an injury, the party in fault must respond in damages.

Municipal corporations are, as it were, themselves the owners of highways, and on this

principal bound to keep them in repair. They have not only the duty thrown expressly upon them of keeping highways in repair, but have all necessary powers given them for enabling them to perform that duty. The corporation must at its peril answer for the consequence of the duty not being performed. The negligence of the officers or servants is no answer. (See *Colbeck, vs. Brantford, 21, W. C. Q. B.*, decisions 276.)

Nor is it any excuse that the alleged defect arose from necessary repairs of the highway, the travelling public having the right to assume that the roads are in a good and safe condition, are entitled to notice or warning to the contrary, when the roads are not safe. Neglect is the want of care, want of ordinary care is the true measure of liability. (See *Johnston v. Charleston, 16, American law reports, 721.*) A corporate body never can either take care, or neglect to take care, except through its servants. If such a body by its servants have means of knowledge that a highway is unfit for travel, and are negligently ignorant of its state. They are guilty of negligence. See *Adair v. Kingston, W.C.C.P.*, 126. Also *Sherwood v. Hamilton, 37, W.C.Q. B.*, reports 410.

It is no defence that proper overseers or commissioners were appointed, and given means and authority to keep the roads in good order. Such defence only admits further instances of neglect. See *Robinson in Colbeck v. Brantford, 21, W. C. Q. B.* reports 276.

In the case *Horton v. Ipswick, Massachusetts Law Report 486*, Mr. Justice Nelson, in delivering judgment, said, "The just rule of responsibility, and the one we think prescribed by the statutes, whether the obstruction be by snow or any other material, is removal or abatement necessary, so as to render the highway, street or sidewalks at all times safe and convenient, regard being had to its locality and use." Courts have held, and may again hold, that a pile of stones, a stick of timber, logs, a tent, a steam roller, pole, posts, holes or excavations, loose plank, projections or other inequalities of surface, any object upon or near the travelled way, which in its nature is calculated to frighten horses of ordinary gentleness, may be held under some circumstances to constitute a defect in the way itself. And we may add piles of brush, overhanging tree-tops, lumber piles, milk stands and cans, threshing and other engines set on the roadside, or any other material or substance, which may under some circumstances cause damage, would no doubt be held to be a defect in the highway itself.

Instances are numerous. The township of Bayham has been called upon to respond to a judgment for \$3,000, for allowing a milk stand on the highway. The township of Dereham was required to pay \$1,000 and costs for allowing an open ditch on the roadside to remain unprotected. The township of Euphemia was held for \$5,000 and costs for allowing a small channel, caused by water flowing across the road to exist without repair. The towns of Ingersoll and Woodstock have also had their experience with claims for damage or injury sustained. In view of the fact that our courts have largely held that negligence is evidence of liability, that ignorance cannot be excused, and that fitness for the discharge of the necessary duties are implied, when selections are made by the ratepayers of persons to fill the various offices. Although this remark is irrelevant to the subject, I will say that I am of opinion that our statute labor system is responsible for much that otherwise could be avoided. When roads in one municipality are fashioned after the ideas of seventy-five pathmasters, and neglected more or less by seventy-five overseers, it is really a wonder that so few accidents happen, and reflects great credit upon the travelling public for their care while using the public roads.

We may see in the cases quoted, and others that occur, that the chances of setting up a successful defence is very narrow. The conditions of our highways, are so far from meeting the requirements laid down, and the

tendency of residents generally is inclined towards making the highways a dumping ground for the refuse from neighboring farms, that it cannot be wondered at that courts hold strong and decided opinions respecting the maintenance of highways. The means of preserving and maintaining are placed at the command of municipal corporations. Public safety is the standard laid down; unceasing vigilance is the service demanded, and when municipalities fail to provide the safety or to render the service, the penalty is sure.

Again thanking you for your kind hearing, I will leave the question with you, believing that advanced ideas and improved modes will be the sure result of passing our convictions from mind to mind, until we acquire a fair knowledge of our duties and liabilities.

Dominion Franchise and Voters' Lists.

The clerk of the township of Turnberry writes that his experience in transmitting a copy of voters' list to the clerk of the Crown in Chancery, Ottawa, has been entirely different from that of the clerk of North Toronto, referred to in last issue. The following is a copy of reply received:

Ottawa, September 2, 1898.

John Burgess, Esq., Clerk Township of Turnberry, Bluevale, Huron:

DEAR SIR—I beg leave to acknowledge receipt of Voters' List for the Township of Turnberry.

Yours truly,

(Signed) SAMUEL E. ST. O. CHAPLEAU.

In transmitting the list Mr. Burgess followed the directions given in the August number of THE MUNICIPAL WORLD, and enclosed his account.

All clerks should forward copies of their lists when finally certified by the Judge, and establish a precedent which will insure their acceptance in future years.

The Ottawa authorities were probably not aware at first that the county judges, clerks of the peace and municipal clerks are equally custodians of the Ontario voters' lists and that extra printed copies (revised) can only be obtained from the municipal clerk.

Mr. Craig, clerk of Strathroy, writes urging united action on the part of all clerks, through their representatives in the House of Commons, to secure acceptance of the lists. He also refers to the practice of procuring copies of the lists for provincial elections, from clerks of the peace, and suggests that the 750 municipal clerks of the Province are entitled to more consideration.

"I hope you appreciate the fact, sir, that in marrying my daughter you marry a large-hearted, generous girl?" "I do, sir"—with emotion—"and I hope she inherits those qualities from her father."

Hubby—"And what did you think of the p'ay?" Wifey—"Oh, John, it was simply superb!—I was struck dumb—I—Hubby—"Ah, bravo! You must go again and take your mother."

ENGINEERING DEPARTMENT.

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

Wide Tires.

At a recent meeting of the London City Council, a petition was presented by the ratepayers of several streets lately macamized, asking that a by-law be passed providing for the use of tires at least four inches in width, upon all wagons, carts and vehicles used in conveying heavy loads of builders' material, coal, railway freight, etc., along macadamized streets. This by-law was not, however, to operate against wagons carrying farm produce.

Within the last few years a great improvement has been made on the streets of London. Richmond and Dundas streets, the principal business thoroughfares, have been paved with asphalt, and form possibly as good a sample of this class of work as there is in Ontario. About three years ago, a complete outfit of roadmaking machinery, including a rock crusher and a steam roller, was purchased, and the work of constructing macadam roads was commenced. A number of streets have thus been macadamized, and, with broad, well-made and nicely-kept boulevards, present a distinct improvement in the streets of the Forest City.

The request of the ratepayers with respect to wide tires is certainly along the right line, and should be granted by the council. It should not require the evidence of experts to convince the aldermen that a by-law providing for the use of tires proportioned in width to the weight of the load, would be in the interest of the city. It is impossible to construct a macadam roadway which will withstand the wear of narrow tires under heavy loads. The injury is not only occasioned by the sharp, cutting, vibrating, jolting wheel, but also by the bursting and distorting effect of the much greater pressure brought upon the square inch of road. This pressure of these excessively heavy loads is greater than can possibly be produced by the weight of the heaviest roller used in the construction of such streets. They not only tend to make ruts, but form a line of traffic, bringing the wear constantly on a small portion of the road, instead of allowing it to be distributed over the entire surface. These ruts or wheel tracks hold water, which in itself is more injurious than the traffic, and, when combined with it, take away from the road every chance of existence.

The effect of rolling, in the construction of streets, is now well understood, and any who have watched its operation must be convinced of the importance of bringing a large weight to bear upon the materials, but so distributed as to create a bond between the particles of stone. This weight, distributed as it is, is easily carried by the structure without showing

any signs of wear, distortion or any form of destruction. But undue contraction in the width of the rolls under the same weight, would increase the burden to a point where, owing to the narrowness of the bearing, the materials would be displaced and the road injured. Wide tires roll and preserve the roads, but narrow tires are road destroyers.

Many of the loads referred to are from three to five tons in weight and should not be permitted on any roadway, not even asphalt, except on tires of at least six inches in width. If a change is to be made, the proper widths should be adopted. By doing so an object lesson in the beneficial effect of wide tires would be set in western Ontario. The property of the ratepayers who have shown such a praiseworthy desire to advance the interests of the city by undertaking such an expensive outlay, should be protected.

On the other hand, such a by-law would be a benefit to those against whom it would operate, for, on the average street of London, wide tires would be of easier draft than would narrow. It is true that on some rough and rutted roadways, narrow tires draw more easily than do wide tires, but with the long train of improved streets to be found in our cities, the traffic is along these, to which the narrow tire is a menace. The users of such vehicles are the ones most largely benefitted by the improvement of streets, but, unfortunately, as a general thing they offer little assistance towards securing them, evidenced by their opposition to changing their vehicles so as to preserve, as much as possible, roads after they are constructed. It would be encouraging to see the users of such vehicles in London join in the request of the property owners to have such a by-law passed; and to see further, when the change is being made, that the width of tire specified is ample.

In this it might be well to consult the experience of European countries where this problem has been carefully studied, and where the cost of maintaining streets and roads has been reduced to a minimum by the use of tires ranging in width from four to ten inches according to the use for which the vehicle is intended; and where axles are of different lengths so as to more perfectly distribute the weight over the road.

In Ottawa a movement to this effect was made and the results were satisfactory to the ratepayers and more satisfactory to the vehicle owners. Other towns and cities in Ontario will watch with interest the action of the London council in this matter, and those which are now contemplating a change will undoubtedly be influenced thereby.

Three by-laws were last month passed by a popular vote of the citizens of Galt; one to abolish the ward system, another to erect a new fire hall at a cost of \$12,000, and a third to purchase the electric lighting plant and operate it under municipal control.

Cost and Profit.

There is a most important feature of roadmaking which must not be overlooked. The road must not merely be a good road with respect to actual construction, but it must be good in view of the service it will render and the cost. A road must be looked at in the same way as any other investment—with a view to the profits. It was in this respect that the Romans failed. Some of their roads are still in use, after nearly two thousand years of service. They were strong and durable, but built at such a prodigal expenditure as no nation could afford—a prodigality which became characteristic, and eventually resulted in the decay of the empire. If we are to receive the greatest benefit from good roads, we must carefully weigh the service they will render with the cost, keeping the balance as much in favor of the former as possible. In England, in France, in Germany, in some sections of Canada and the United States where population is concentrated and largely urban, the limit of expenditure on the best of telford and macadam roads can be reached. The greater part of this continent, however, is sparsely settled, and there is as great, perhaps greater, need of farm roads adapted to simple requirements and circumstances, and costing \$1,000 or less per mile, as there is for roads costing \$10,000 per mile. In the building of the cheaper class of roads there is need of the greatest skill, for if the expenditure available is small there is the more need to carefully apply it.

A Permanent Basis.

By proper attention and repairs the life of a broken stone pavement can be made continuous. The surface can be frequently rolled, improving it greatly. It can be scraped and swept as are other pavements. When it begins to lose shape the surface can be loosened up by means of teeth attached to the roller, a light coating of new metal applied, and then rolled down as well as when new. It is by such means as these that broken stone roadways can be made more economical and satisfactory than any other for streets generally. This ease of renewal and repair is a property peculiar to macadam, which renders it most suitable for general purposes—that is, for residence streets. While the cost in the first instance may nearly equal that of cedar block, yet at the termination of the period when cedar block is decayed and has to be torn up and renewed, the macadam, if properly treated, is still in good condition. It forms a permanent basis, and its perpetuation is merely a matter of repair to be met by the general funds. Except under excessive wear or where in business sections a high-grade pavement is necessary, broken stone pavements, by the aid of a steam roller, are beyond doubt the most serviceable, economical, and give the greatest satisfaction to the taxpayer.

The Economic Value of Good Roads.

The science of economics has many branches, some of which may be more prominent than that which pertains to common roads, but none are more worthy of careful consideration. There was a period belonging to the history of the Roman empire when the importance of roads was so fully recognized that the control of road construction belonged to the emperor. In later years we find an Emperor of France, the first Napoleon, whose power overshadowed the whole of Europe, devoting his attention to the construction of roads. These roads of France and Rome, it is true, were railways and military routes as well. And if the importance of the common road appears to have lessened in the minds of the people, it is only because attention has been diverted for a time to the construction of those magnificent lines of steel, which form a network over the continent from the Atlantic to the Pacific, and are an indelible record of the march of civilization and prosperity.

With respect to the actual monetary economy of roads it is difficult to arrive at exact conclusions. In different localities, where the extent of population, the average length of haul, the topography, products of the land and other circumstances vary, the financial returns from road improvement must also differ. Moreover, statistics of a reliable nature, on which to base conclusions, are difficult, if not impossible, to gather. We can only reach approximate results, which are, however, from their magnitude, very convincing.

The financial returns to the farmers have been represented in a number of ways, one of the chief of which is in cheaper haulage. This may be in the shape of larger loads, the result of easier traction. For example, from experiments conducted for the French Government we learn that to move a wagon and load weighing together one ton of 2,240 pounds at slow pace the traction force on a level Telford road surfaced with exceedingly hard stones was 46 pounds; on a level macadam roadway of smaller stones, 65 pounds; on a gravel road, 140 to 147 pounds; on a common earth road, 200 pounds. That is, nearly four times as much could be drawn on a perfect Telford road as on an earth road, provided the surfaces were level. If the load had to be lifted up an incline or lowered this ratio would vary.

The economy of good roads may from the above be expressed in a reduced number of horses, practical illustrations of which we have in England and Scotland, where it is rare to see a farm load drawn by more than one horse, so perfect are the roads. If the number of farm horses could be reduced by one-half or making every allowance for farm requirements, say, one-quarter, the saving would be enormous. Reports of the Bureau of Statistics show that in 1896 there were in

Ontario 434,384 working horses. This number does not include the unbroken horses nor breeding mares, but represents the number actually used for work. Estimating the cost of horse-keep at \$60 per year, which is a fair average, this would mean an annual saving of \$651,760—no inconsiderable amount to a population of about 2,000,000.

Another basis of estimating the loss may be that of more rapid haulage and travel, which would bring us, if we estimate time at a money value, to an enormous amount. It has been stated by a Canadian member of Parliament, who has used the road to a considerable extent, that he had lost one-half his life by being compelled to travel over bad roads. The statement may be overdrawn, but it contains a fund of truth from which startling conclusions may be deduced.

The saving in hauling may be estimated with respect to the extended period in which it may be carried on. The last report of the Provincial Road Commissioner places this at \$19,547,280 yearly. At three per cent. this is the interest on a capital of \$651,576,000. The result of an estimate on this basis shows that Ontario could afford to invest \$8,000 on every mile of road in the province. A large proportion of the road mileage included in this estimate is but very little travelled, and it is safe to say that one-third of this amount, or about \$200,000,000, which is approximately the sum invested in the steam railways of the province, would convert Ontario into one of the best-paved countries in the world.

Further estimates may be made with regard to the possibilities of long hauls, as in France, where, because of the excellence of the roads, teamsters can compete with the railways in drawing goods several hundred miles. There is an additional saving in the wear of wagons, harness and horseflesh, which, trifling in appearance, is in the aggregate no small amount.

A further division under which the financial returns to the farmer are to be considered is the increased value of farm property. This increase in the value of property arises, in the first instance, from the greater profits accruing as the result of the saving in the cost of transporting farm produce. There are two ways, at least, of rendering a business more profitable. One is by increasing the price obtainable for the article produced; the other is by decreasing the cost of production. Cheaper transportation by means of good roads, means, in effect, that the cost of production and the consequent increase of profit will guarantee a larger and readier investment in the farm.

The value of the farm is further enhanced by the increased opportunities that arise through good roads. The farmer is not impeded in any season of the year in the sale of his produce, and can in consequence reach the market when prices are highest. Perishable

produce, fruit, certain vegetables, milk, which, if it cannot be taken to the consumer in the town or city with the least possible delay is unsaleable or can be disposed of only at a reduced price. Good roads bring farm lands ten, twenty, forty miles away into available distance of a city market, whereas on the other hand one mile of really bad road may render otherwise fertile land useless. Distance with respect to the farmer and the market is not measured by the miles so much as by the time and labor it takes to transport his product.

Among other branches of agriculture which demand good roads, dairying may be referred to as a specific instance. Cheesemakers tell us that, in order to secure the best quality of cheese the milk should be transferred to the factory as quickly as possible, with the least possible amount of jolting, and that the cheese should be manufactured in large quantities. The effect of changing the road from bad to good in a dairying district is at once plain. The milk is carried over smooth roads expeditiously from the dairy to the factory with the least possible exposure to the sun and least amount of churning in transit. The milk can be drawn from a larger area, the cheese made in larger quantities, factories fewer but larger, and manufacturing expenses thereby reduced, while a more uniform quality of cheese is produced.

The value of farm land is further increased by the actual privileges which good roads bring. One of the great drawbacks of farm life is its isolation. Man is a social animal, and without the privilege of meeting his fellows he cannot attain his highest development. In spite of the healthful surroundings of farm life, its abundance of the best and purest of foods, statistics show that insane asylums contain a greater proportion of farmers' wives than of any other class of the community. The cause assigned is the monotony to which they have been subjected, the absence of all stimulant to thought and lively interest such as society creates. Why it should be the farmer's wife rather than the farmer, is, of course, to be attributed to the lesser strength of constitution which the woman possesses, the nature of her work, which is largely indoors, and further, the fact that the man has, in marketing his produce, more frequent journeys to the neighbor or town. Good roads bring the farmer nearer to the neighbor, to the town, the school, the church, the public meeting.

The value is increased by increasing the attractions of country life, and encouraging a greater liking for it. To-day the tide is from the country to the city. Were country life what it can be made by means of easy access and communication the tendency would be to draw the city folk to the country. In England a country house is as necessary to every man of means as is his town house. The beautiful country-side of England is its greatest charm; it is beloved by the people and

has done much to instil that patriotic affection which every Englishman and Scotchman has for the motherland.

To the townspeople good roads have a distinct economic value. Good roads have a vast influence on commerce, directly and indirectly. As commerce prospers so will the towns prosper. Agriculture is the basis of commerce in Ontario. The condition of the road is a matter of frequent comment in commercial reports, and their influence on the barometer of trade is most potent.

Then, too, just as the turning of the townspeople from the city to the country is of benefit to the country, so is it of benefit to the town that its inhabitants should not cluster into the least possible space. By means of good roads the business man can live in the country, and each day go into the city or town to transact his affairs. He and his family can thereby inhale a purer moral atmosphere as well as a purer air, largely oxygen and ozone. He can surround himself with better sanitary conditions, and live more nearly in accord with nature's laws.

While the returns from good roads cannot be reduced to dollars and cents with any degree of accuracy, the cost of road construction and repair is a matter of mathematical solution. We can tell to within a few dollars what certain work on a road will cost, but it is not possible to tell exactly what the profit on the investment will be. From what has been previously outlined, the profits are, however, plainly very great to the country folk, the townspeople and the state as a whole. Great Britain spends \$25,000,000 a year on roads, France almost \$20,000,000. These are both countries of good roads, both countries of the finest business instinct. The object would appear to be to provide good roads at any price.

The difficulty of arriving at exact conclusions with regard to the economic value of good roads, because of the absence of complete and reliable data, has been commented upon. There are additional impediments to our reaching a complete solution in the fact that the different benefits of good roads will combine, act and react upon one another so as to materially alter relative conditions. Ease of traction, longer hauls, more rapid travel, fewer horses, saving in wagons, harness and horseflesh; increased rural population, less congestion in the cities, increased land values, greater profits on the farm, better business and social facilities, will all unite toward the one end in enabling us to live well and more wisely. The people of the American continent have, to an abnormal extent, turned from their ideals to city life. The greatest ultimate benefit which good roads can confer is to bring us back from the towns which men have made, where brick walls, stone pavements and odors of filth have shut out our remembrance of field, forest, stream, sky and nature's God—this is the most desirable of economic results.

Cement-Concrete Walks.

Sidewalks will be required in our towns as long as the towns exist, and their construction in the most permanent manner possible is a part of the same principle which directs the erection of places of business of durable material. Planks used in sidewalks are subjected to an exceedingly severe test. They are lying close to the ground, always absorbing moisture on the under side, and are subjected to repeated changes of wet and dry. The average life of plank in this work is not more than five years until decay commences and repairs are demanded. These repairs increase annually and walks may be, and are, carried for ten or twelve years, by which time the cost of repairs has almost equalled the cost of renewal.

Cities, towns and villages are almost unanimously adopting artificial stone (cement-concrete) for sidewalks. Many of the smaller municipalities, in order to avail themselves of this class of pavement, are endeavoring to reduce the cost beyond a safe limit. It is of course advisable for every municipality to procure its work at as near actual value as possible, but a good walk, like any other article, cannot be expected for less than the actual cost. The character of the goods can always be made to suit the price and in this way specifications are prepared providing for shoddy sidewalks. Walks are built according to these specifications for a very low figure which yields the contractor as much profit as the genuine article. But for the purchaser it is a poor investment.

Artificial stone for sidewalks, properly constructed, is the most economical of materials and should be adopted by every municipality. In their construction certain materials are necessary and they must be used in certain proportions and quantities. Inferior materials, different proportions and less quantities may greatly lessen the cost and provide a fair imitation of artificial stone, but some towns have, from this cause, suffered a great loss. It is incumbent upon every municipality, when undertaking this work, to see that strength and durability are not sacrificed in the one desire to reduce the initial cost.

In cement-concrete, sand finish, the surface coat is composed of sand and cement, while with cement-concrete, granite finish (granolithic), granite, cement and sand are used. The sand finish is useful on residential streets or other streets subjected to moderate traffic, while granolithic forms a harder wearing surface for heavily travelled streets. A point sometimes overlooked in cement sidewalk construction is the necessity for perfect drainage, a matter of importance in all our paving work in this country where the action of frost is so severe.

The life of this class of work is indefinite. The first walks of this material in Toronto, were laid in one of the most

heavily travelled sections about thirteen years ago, and to all appearance are as good as new. Other cities have used cement-concrete for twenty years which is still in good condition. There appears to be no reason why perfectly built walks of this material should not last half a century.

Rock-Crushers.

Good roads and streets cannot be made perfectly and economically without the use of proper implements and machinery. In many municipalities gravel is scarce, and what is to be found is of very inferior quality, while stone for macadam can be easily and cheaply procured. In its natural condition the stone is useless for streets, but properly broken makes excellent material. For this work a rock-crusher is required. Municipalities in Ontario are realizing this, and many have purchased complete outfits and are doing excellent work.

The cost of these crushers depends largely upon the capacity of the machine. The smallest make is usually chosen on account of its cheapness and without regard to the amount of work it will have to perform. The smallest machines are intended for township work, where they have to be constantly moved about, and where the work at each point is not very great. With careful handling and not overcrowding, these machines, with necessary repairs, will answer for a number of years. But for city or town work, where a large quantity of material is required, it is a mistake to purchase a small crusher. The breaking of stones is a very severe test on machinery, owing to the varying character of the material; and ample capacity, so that the work can be done with perfect ease, is necessary. A crusher of ten cubic yards per hour, run only at three-quarters its capacity, is the most serviceable and economical machine for most towns and cities. The extra cost incurred will prove a profitable outlay when the expense of maintenance and operation is considered.

Chatham, Berlin, Kempville, Parry Sound and Brockville are keeping their machinery busy in the construction of macadam streets.

Macadam, for lightly travelled streets, is growing in favor in Toronto, where considerable mileage has been laid this year replacing cedar block.

A by-law was recently passed by the council of Cornwall raising \$35,000 to be spent in the purchase of road machinery and the improvement of streets.

At the last session of the Ontario Legislature a petition was presented from the Victoria county council praying that an act be passed providing for the use of wide tires on all vehicles, proportionate to the amount of load.

The Ward System.

A number of Ontario towns have, in accordance with recent legislation, passed by-laws abolishing the ward system of electing councillors. These are Lindsay, Owen Sound, Peterborough, Belleville, Chatham and Galt. Theoretically, and looked at apart from its practical working, there appears to be little that is objectionable in the ward system. It was framed on the principle that, while each alderman would be loyal to the interests of the municipality as a whole, it was wise also that the interests of each district of the city or town should be represented. Viewed, however, in the light of its practical workings—that is, as we find it, influenced by natural human selfishness, sectional jealousies and personal ambitions—the general trend of the ward system is pernicious.

Councillors, in the effort to make themselves "solid" in their own ward, forget the larger interests of the city or town as a whole. Each uses his influence to obtain appropriations for his own ward, irrespective of the wisdom for so doing or the claims of perhaps more important work in other wards. The system permits the councillor to make votes and popularity at the expense of the public good. Sectional jealousies, instead of being subdued, are created and recreated. The means of obtaining appropriations, too, frequently partake of the nature of vote-selling, in which Ald. Smith, of Ward 8, supports the efforts of Ald. Jones, of Ward 2, to secure an appropriation for work in Ward 2, and in exchange Ald. Jones, of Ward 2, votes for an appropriation which will further the popularity of Ald. Smith in Ward 8. The ward system is not favorable to the best town or city government.

Every year several hundreds or several thousands of dollars are divided among the wards, and this is again subdivided by the representative or under his influence, and is scattered over the streets in small jobs. Frequently work is commenced and never completed, merely for the sake of giving employment to ward heaters. For the same reason work is done which would be better if left undone. The ward system scatters money in small jobs and patchwork instead of concentrating the expenditure on finished and durable work.

It is by no means to be expected that the new system will be a panacea for all improper government, but it will wipe out the narrowing effect of ward boundaries. Experience has proven ward distinctions to be not merely useless and unnecessary, but injurious as well. Under the system which will operate in towns abolishing the ward system the number of councillors will be reduced to one-half, and these will be elected by the whole municipality. Ward lines broken away, each councillor will be answerable to the whole of the people, not a small section, for his conduct of office. Sectional favors, which

incur the disfavor of the mass of the citizens, will be avoided. While each councillor may expect most support from the section in which he lives, or in which his private interests lie, at the same time he will not be able to favor that particular district in violation of his responsibility to the whole of the municipality. The abolition of the ward system will broaden the field of municipal politics and lift it above many of the pettinesses which now exist.

Live Up to the Specifications.

Specification and contract for road may be all right, but the work of construction needs to be constantly watched in order to insure the literal carrying out of their provisions. Contractors, as a rule, do not appreciate the necessity for being precise in following out all details. They are neither engineers nor scientific road-builders, and a little variation in the size of the stone, the effect of light rolling or insufficient rolling, or the use of clay for binding purpose, does not seem to them to be of much moment. They know that they can finish up a job with a horse-roller and plenty of clay for binding and make the surface appear as fine as can be desired. There their concern ends.

Macadam is not perhaps an ideal road, but there is a vast difference between different sorts of road built under that name. If rightly constructed and judiciously maintained, thoroughly satisfactory results are assured; but if more or less crudely built, and then indifferently maintained or neglected, as is apt to be the case, it is an expensive luxury likely to cause disappointment. It is folly to suppose that any one can build a road. It requires special knowledge and experience to construct one properly and a rigid adherence to the terms of properly-drawn specifications.

Road Legislation in Vermont.

It is felt in Vermont that the good roads cause has received a set-back, but efforts are being made to revive it and secure favorable action from the next legislature. The state highway commission which existed for several years possessed little authority, but served a good purpose as a bureau of information. In 1894 their powers were enlarged, public meetings were held in each county, road officials and citizens were interested in the work, improved methods of maintenance were adopted, and the roads were kept in better condition without increase of expense. The legislature of 1896, however, abolished the commission, thus leaving the movement without a head and causing demoralization. In the fall, a sample road under government supervision is to be constructed at Vergennes, and it is hoped it will be followed by a revival of activity in highway improvement.

Health Test for Jurymen.

Everyone may not be called as juror in our courts. A certain standing of intelligence and character is essential to the men who are given that responsible and often arduous duty. In the neighboring State of New York, a health qualification is now suggested as requisite or desirable.

Two cases within the last two months are held to furnish ample proof of the need of some such precaution, the Thorn murder case in New York city and the Smith murder case in Rochester. The Thorn trial proceeded decently and in order for some time, when it came to a sudden and unlooked for end. The theory of the prosecution was made public in great measure, while nothing of the defence had been advanced. At this critical stage one of the jurors was taken sick and in a short time died. The case was of the utmost importance, a human life was in the balance, and the state could not afford to make a mistake. The eleven jurors were dismissed and the case started over again. This cost the county of New York a large sum of money, made a vexatious delay in the proceedings and probably cost the life of the juror victim. All this might have been saved by a proper medical examination. In the Smith case, after three weeks were consumed, one of the jurors, a man past 60 years of age, was taken sick with some form of stomach trouble. He did not die, but was unable to resume his duties as a juror, and the case was put over until fall. A large number of witnesses were called by the prosecution. The defence was not yet opened. These will have to be summoned again, and there is always the danger of some important witnesses on either side of the case dying in the interim. The crime for the trial of which the jury was summoned was committed nearly a year ago, and if Mr. Smith is innocent he will have to spend more than a year of his life in jail, several months of which might have been saved. If he is guilty, justice is being hampered in its ministrations, and several thousands of dollars unnecessarily incurred.

It developed, after it was too late to mend the matter, that the dead juror was hardly recovered from a severe illness of a similar nature when he entered the jury box. All this might have been learned by a few questions in time to avert the unfortunate circumstances. It requires a strong constitution, and particularly a healthy stomach, to endure the strain of long weeks in the jury box on a murder trial. The men are mostly called from some form of labor or business involving exercise of some nature. They are confined in a close court-room for eight or nine hours a day, and are then marched to their hotel, where they eat rich food and take little or no exercise. Every juror drawn, in a murder trial at least, should give a clean bill of health before his final acceptance.—*Exchange.*

LEGAL DEPARTMENT.

JAMES MORRISON GLENN, LL. B.,
of Osgoode Hall, Barrister-at-Law,
Editor.

LEGAL DECISIONS.

Frontage Assessments.

The Full Decision of Justice Meredith in the Case of the City of Chatham and Robertson.

The following is a copy of Justice Meredith's findings in the case of Robertson vs. the City :

Whatever may be said for or against the system, the Legislature certainly has, in the local improvement clauses of the Municipal Act, permitted a taxation, for local works or improvements, at an equal rate per foot of the frontage of all real property immediately benefitted thereby—see sec. 664, sec. 665, sub-sec. 1, and the proviso to sub-sec. 2, sec. 673, sub-secs. 4, 5, 6 and 7, sec. 674, especially sub-sec. 3, sec. 686, sub-secs. 1 and 2, and the form of by laws and of notices prescribed in these clauses—and the municipal council certainly intended to exercise that power in the assessment in question; these things are indisputed, and, it seems to me, are indisputable.

Any question whether the municipal council has validly exercised that general power in this instance does not arise upon this motion; but can be determined upon the pending motion to quash the by-law, or in other proceedings where that question can be raised. In this case the assessment was made by the council, appealed against by the respondent, and reduced by the county court judge, being treated throughout as a valid proceeding, the one question being:—Was the assessment of the respondent's lands excessive? So that the one question for consideration at present is:—Had the county court judge power to change the equal assessment, according to the frontage, to an unequal one, based upon his judgment of what is a just and equitable share of the cost of the work to be charged upon the respondent's land?

Prima facie there would seem to be no such power; because it would be destructive of the essential feature of this method of taxation. The two schemes, the one of assessment according to the proportion of benefit actually received by all of the land, as under the drainage legislation, and the other according to the frontage only, and distinctly referred to and brought in contact in the portions of the set to which I have referred, and in other parts of the local improvement clauses. The methods are very different, though the result may be often, if not always, the same. If, therefore, there be power to make such changes as the county court judge has made, that power ought plainly to appear in the enactment.

As giving such power they rely entirely upon sub-sec. 5, of sec. 671, which gives

"the same right of appeal" from the proposed assessment as it provided for in the municipal drainage act; but that cannot have been intended to give the court of revision or the county court judge power to change the whole system of assessment from one "by a frontage rate" to one "according to the proportion of benefit received," and the less to merely take off part of the frontage rate from one parcel of real property immediately benefitted, and distribute that part over the other parts, as was done in this case, so that the assessment cannot be said to be upon either system.

The same right means a right of the same character, and no doubt as ample as the differences in the schemes and in the subject matter of the proceedings will permit. The proviso to sub-sec. 6, of the same section, 671, was no doubt added to make this plainer, and to indicate just what power the county court judge should have, and it throughout points to alterations consistent with a frontage rate only, and finally enacts that such court "shall only interfere with and alter the assessment of the said lineal frontage so far as may be necessary to carry into effect any of the changes which are occasioned by his judgment." All this would be more apparent if the work were a sidewalk instead of a sewer, which may affect drainage. And, besides this, the power which was claimed for and exercised by the county court judge in this case is expressly given, not to him, nor to the court of revision, but to the municipal council, in section 673, subsection 6, consistently with the whole scheme of frontage taxation, and a provision which seems to me so effective an answer to the claim, that I shall now read it:

"Where the lands on either side of a street, lane or alley in a city, town or village, are, in the opinion of the council, unfit from any cause for building purposes, and the council deems it inequitable to assess the same for local improvements at so high a rate as the building lots fronting on said street, lane or alley, the council shall in all cases determine in what proportion the cost of such improvement shall be borne by the lands on each side of said street, lane or alley respectively."

It is, therefore, in my judgment, not within the power of the county court judge to change, as he intends doing, the equal rate per foot frontage of taxation of lands immediately benefitted by work; and an order may go prohibiting him from so doing. The applicant is entitled to costs of the motion.

In order that it may not be thought that any points made by the respondent's counsel have been overlooked, I may add there seems to me to be no force in the contention that the proviso to sub-sec. 6 of sec. 671, is not applicable to this case, because it does not appear that the assessment was made under any by-law; for this municipal council has adopted

the usual and convenient course, expressly permitted by the Act, of passing a general by-law applicable to all such works, and has postponed the passing of the particular by-law applicable to this work until after the completion thereof: see secs. 667 and 672. And, as I have already intimated, I would have reached the same conclusion if that proviso had not been added.

Nothing turns upon the assessment of lands not immediately benefitted, and therefore they have not been mentioned.

There is yet time to prevent the learned county judge from giving effect to his opinion; his memorandum shows, I think that he retains the matter pending the judgment of this court, which he desires to have for his guidance upon the question involved.—*Chatham Planet.*

Must Pay Its Taxes.

The Privy Council has refused to grant the Toronto Railway Company leave to appeal from the decision of the Ontario Appeal Court, which upheld the right of Toronto to assess rails, poles, etc.

The decision is one of the utmost importance to municipalities throughout the province. Last summer, it will be remembered, Judge McDougall, Judge McKibbin of Peel and Judge Dartnell of Ontario, sitting as a special court of Judges under the Assessment Act, decided that the city had no right to tax the rails, poles and wires of the street railway. The test cases taken affected the first and second wards, the total assessment involved in these wards being \$164,114, yielding \$2,720 in taxes. The city took the case to the court of appeal, and the Attorney General also submitted a special case to the same tribunal to determine the real effect of the provincial legislation on the question.

In the interval between the ruling of the county Judges and the hearing by the court of appeal the supreme court at Ottawa had decided that the mains of gas companies were taxable. Guided by this, as the cases were similar in essence, the court of appeal decided that rails, poles and wires on the streets were also assessable. The company at once gave notice of appeal to the Privy Council in England and to-day's judgment sets at rest for all time the question of the right to tax these portions of street railway plant. The judgment does not, however, effect the recently raised point that the material in question should be taxed, not as the plant of a going concern, but on its value as "scrap iron, etc." The city proposes to fight this case also to a finish and establish the right to make great corporations holding public franchises on the streets pay their fair share of the municipal expenses.

The judgment affects many of the big corporations throughout Ontario who have been watching the result of the test case.

In re Regina ex rel. Hall vs. Gowanlock.

Municipal Elections—Quo Warranto—Concurrent Motions in High and County Courts—Prohibition—Injunction—Collusion—R. S. O., c. 223, ss. 219, 227.

By section 219 of the Municipal Act, R. S. O., chap. 223, jurisdiction is given respectively to a Judge of the High Court, the senior or officiating Judge of the County Court, and the Master in Chambers to try the validity of a municipal election, and by section 227, when there are more motions than one all the motions shall be made returnable before the judge who is to try the first of them.

Two motions by different relators to try the validity of the same election were made returnable, the first of them before the Master in Chambers and the other before the County Judge who, notwithstanding objections, proceeded with the motion before him and decided that the proceedings before the Master in Chambers were collusive, when the County Judge was prohibited from further proceeding by an order made by a Judge of the High Court sitting in chambers;

He'd, that the County Court Judge having equal and concurrent jurisdiction, in respect of the matter, with the other named officials a Judge of the High Court sitting in chambers could not, under the circumstances, prohibit him from proceeding with the trial. Street J. dissenting.

It seems the County Court Judge who, without knowledge of the prior proceedings had granted a fiat for like proceedings, had jurisdiction on the return thereof to enquire whether such prior proceedings were collusive, and if so to disregard them.

Scottish Ontario and Manitoba Land Co. vs. City of Toronto—Fefoe vs. City of Toronto.

Municipal Corporations—Waterworks—Supply of Water—Statutory Obligation—Breach of Contract.

In actions of consumers of water against a municipal corporation for not providing a proper supply of pure water for the plaintiffs' elevators according to agreement, and for negligently and knowingly allowing the water supplied by them to become impregnated with sand, which greatly damaged the elevator.

Held that there was no right of action in the plaintiffs by reason of any statutory obligation on the part of the defendants. That, on the evidence, there was no contract between the plaintiffs and the defendants by which the latter were bound to supply the former with water free from sand.

The relation was rather that of licensor and licensee than one founded upon contract.

Town of Cornwall and Cornwall Waterworks Company.

Waterworks Companies—Municipal Corporation Arbitration to Determine Value—Notice to Mortgagees—Value of Works—Interest.

The omission to serve notice on the mortgagees of a waterworks company, of arbitration proceedings under R. S. O. (188), chapter 164, to determine the amount to be paid by a municipality for such works and property, the mortgagees not being parties thereto, and in which the award made was less than the amount of their claim, does not entitle the company to have such award referred back, and the mortgagees made parties, as their rights could not be affected thereby.

In such an arbitration the arbitrators are simply to value the existing property of the company at the sum it would cost to erect the works and purchase the property, allowing for wear and tear, and perhaps for outlay of a necessary experimental character, but they are not to make any allowance for future profits or for the taking away from the company the right to supply water at a profit.

Interest is allowable on outlay during the construction of the works, but not on the cost of construction after completion, and while the annual revenue of the company is less than the annual expenditure.

Humberstone vs. York Township

Four years ago the township of York started a law-suit against Mr. Thomas Humberstone, ex-reeve of the Township, to recover \$1,100 of money alleged to have been misappropriated during Mr. Humberstone's regime. The township kept the wheels of law in motion for four years, which undoubtedly cost Mr. Humberstone a lot of money, and the township's share of this suit is estimated at about \$6,000, or one mill on the dollar of the total assessment. The case terminated by the township having to pay Mr. Humberstone \$500. Never before was a settlement offered to Mr. Humberstone, although he instructed his solicitor from the first to accept any reasonable offer of compromise. As already intimated, the township offered Mr. Humberstone \$500 in full of all his claims, which was accepted and the law suit brought to a termination.—*Leader and Recorder.*

To Improve Roads in Louisiana.

The new constitution of Louisiana allows the police juries "to set aside at least one mill per annum of the taxes levied by them, and so impose a per capita tax of not more than one dollar per annum upon each able-bodied male inhabitant . . . and to levy an annual license of not less than twenty-five cents nor more than one dollar per annum upon each vehicle, including bicycles, kept and used for locomotion" for the purpose of "constructing, maintaining and repairing the public roads and bridges of their parishes."

Municipal Franchises—Mortgaging the Future.

The streets and alleys are the heritage of citizens and should never be given away.

Mayors and councils should remember that in granting public franchises running for long periods of time, they are not merely acting for the immediate present, but are mortgaging the estate of our children's children.

Every proposed franchise should be rigidly examined, and the rights of the people carefully guarded. In franchises depending upon the volume and profit of their business, the remuneration to the city should be based upon a percentage of the gross receipts. The grant of right of way, as a street railway, for example, is a partnership. The city gives the ground; the capitalist puts in the roadbed, track, rolling stock and buildings. Yet we fail to find any recognition of the rights of the city as a partner in the management and transaction of the business. As a consideration for the right of way, the value of abutting property similarly located should be obtained, and the city should be entitled to a proper rental, say the same rate of interest upon the gross valuation of this right of way as is paid to bondholders for the money borrowed or raised to produce and construct the remainder of the plant.

The same argument should cover water, gas, electric light, power, steam heating and telephone companies. The city authorities and not the corporation attorneys should prepare the franchise bill based upon an application. An annual rental equal to 5 per cent. of the value of the right of way should be one of the fixed conditions of the franchise. Sealed bids for the proposed franchise should then be asked for, and the city should state what percentage of the gross annual receipts of the company would be paid to the city. The sale should be subject to the ratification or rejection of the people at a special election. The rental should be paid to the city in equal quarter-yearly instalments, and the books of the corporation examined by a city committee without notice to the corporation.

Opposition to the New System.

In some towns in Maine there is complaint about the new statute which provides that each town shall have a road commissioner who is not a selectman. Those who oppose it say that it merely adds a new expense and that the roads are not improved. Its friends assert that it has not been in operation long enough to show good results, and that the roads soon will be improved, the expense of maintenance reduced, and that men who are not subject to frequent political changes can be depended on to do the best work. The matter is likely to come up before the next session of the legislature.

The Public School.

By W. Atkin, Esq., Inspector of Public Schools,
County of Elgin.

V.

Under the provisions of the Public School Act, all school property is placed under the care and control of the public school trustees, and therefore the character and condition of school accommodation depends upon the opinions of the trustees as to the requirements of the school. If they do not provide suitable accommodation to the satisfaction of the ratepayers, they will not be re-elected, so that primarily the school accommodation is up to the standard of the enterprise and spirit of progress prevalent in the section.

The School Act requires trustees to take possession of all school property which has been acquired or given for public school purposes, and to hold it under the terms on which it was acquired, and to dispose by sale or otherwise of any school site or property no longer required, to convey it under their corporate seal, and to apply the proceeds thereof to lawful school purposes. They are to provide accommodation for at least two-thirds of the children, resident in the section, between the ages of five and sixteen, and to enable them to do so the Act authorizes and requires them to purchase or rent school sites or premises to build, repair, furnish and keep in proper condition the school houses, furniture, fences and all other school property, to keep the well, closets and premises generally in a proper sanitary condition, and to procure registers and all apparatus required by regulation and as much more as they think desirable. The regulations approved by the Education department give in detail the requirements of school sites, school houses and furnishings as follows :

SCHOOL SITES.

The site shall admit of easy drainage, and shall be accessible by the best highways in the section. Its area shall be not less than half an acre, and if the school population of the section exceeds seventy-five, the area shall be not less than one acre. The grounds shall be levelled and drained, enclosed by a neat and substantial fence, and planted with shade trees. The house shall be placed at least thirty feet from the public highway.

There shall be a well or other means of procuring water, so placed and guarded as to be secure against pollution from surface drainage, or in any other way. The closets for the sexes shall be under different roofs. They shall be separated by a high close board fence, their entrances screened from observation, and locked after school hours. They shall be cleansed and disinfected when necessary, and approached by proper walks from the school house, so as to be accessible

with comfort at all seasons of the year. Every school shall be provided with a woodshed.

SCHOOL HOUSES.

Where the average attendance for three successive years, exceeds fifty pupils a school house with two rooms shall be provided. An additional room and teacher shall be required for each additional fifty pupils.

Every school house shall afford separate entrances, with covered porches and suitable cloak rooms for boys and girls.

Every school room shall contain a floor area of at least twelve square feet, and a cubic content of 250 feet for each pupil in average attendance.

A uniform temperature throughout the room of at least sixty-seven degrees shall be maintained and provision made for a complete change of air three times every hour. The window sashes shall be adjusted by weights and pulleys, and provided with suitable blinds. Light where possible shall be admitted from the left of the pupil.

SCHOOL FURNITURE.

Every school house shall be seated with either single or double desks, single preferred. The desks shall be fastened to the floor in rows facing the teacher's platform, with suitable aisles between the rows, and with passages at least three feet wide between the outside rows and the walls.

There shall be a blackboard at least four feet wide, extending across the whole room in the rear of the teacher's desk, with its lower edge not more than two and a-half feet above the floor or platform, and when possible there should be an additional blackboard on each side of the room. At the lower edge of each blackboard there should be a trough at least five inches wide, for holding crayons and brushes.

Every school shall have at least one globe not less than nine inches in diameter, properly mounted, a map of Canada, a map of Ontario, a map of the World, and of each of the continents, a standard dictionary, a gazetteer, a suitable supply of crayons and brushes, an eight-day clock, shelving for baskets, hooks for caps and cloaks, and two chairs in addition to the teacher's chair.

TRUSTEES' DUTIES.

The trustees shall appoint one of their number, or some suitable person to keep the school house and premises and all fences, outhouses, walks, windows, desks, maps, blackboards and stoves in proper repair. They shall also provide for whitewashing walls and ceilings, if plaster, or for washing if finished in wood, every year during the summer holidays, and shall employ a caretaker whose duty it shall be to sweep the floors daily and wash them at least quarterly, and to make

fires one hour before the opening of school, from November the first to May the first.

The following circular was issued to public school inspectors during the present year :

1. In order to secure greater attention to the requirements of the School Act and Regulations with regard to school houses and their equipment, and also to the improvement of the school premises, the Education Department proposes to issue a diploma annually to every public and separate school that complies fully with the conditions of Regulations 1 to 9, inclusive (Public School Act, 1896), respecting public schools. The diploma will be beautifully lithographed and suitable for framing, and trustees are requested to have it framed and hung up in the school room.

2. In order to determine whether any public or separate school is entitled to a diploma the inspector shall consider the following: (a) *site*—healthfulness of situation, area, grading, drainage; (b) *fences, gates, walls, woodsheds*; (c) *closets*—position, size, construction, screens, approaches and walks, cleanliness, regularity of disinfection; (d) *water supply*—abundance, convenience, purity; (e) *school yard*—tidiness, shade trees, flower beds; (f) *school house*—state of repair, air space, floor space, cloak rooms, porches; (g) *lighting*—position and size of windows, movability of sashes, blinds; (h) *heating and ventilation*—flues for constant circulation of air when too cold to open windows, screen on stove, if any, thermometer; (i) *furniture*—desks and seats for pupils and teacher, sanitary construction and suitability of size, means of preserving globes, maps, etc.; (j) *equipment*—sufficiency and quality of blackboard, brushes, pointers, chalk, maps and charts, globe, dictionary, clock; (k) *cleanliness and adornment*—porches, floors, walls, ledges, windows, ceiling, furniture, pictures, tablets, plants and other adornments; (l) *special*—encyclopedia, library, bell in belfry, lunch room, gymnasium or play room, etc.

3. The inspector shall make the examination for granting a diploma at one of his regular visits, and where possible in the presence of the trustees and teacher. He shall report to the Minister of Education on or before the 1st of August each year such schools as are in his opinion entitled to a diploma.

4. Inspectors are requested to notify the trustees of their intention to report upon the matters referred to in this circular, and to assist in enforcing the regulations of the department already quoted. The school room and grounds of every public and separate school should be such object lessons of neatness, taste and cleanliness as would exert a permanent influence upon the habits and character of all who come in contact with them day by day.

Added \$1,200 to Its Value.

In a paper read before the Mansfield, O., Lyceum, by Mr. G. A. Glugston, he tells of a farmer who was bitterly opposed to improving the pike before his farm. When the work was decided upon he endeavored to sell his eighty acres for \$2,500, intending to move west, but no one wanted a farm on the then mud road. He paid his first instalment, and before the second one was due had sold enough wood and timber, which he could not sell before, to pay one-third of his assessment, and he had refused an offer of \$4,000 for his farm. This rise in value of \$1,500, less his assessment, showed a net profit to him of \$1,200 brought by a good road.

How Paris Municipality Fights Tuberculosis.

By EDWARD CONNER.

(Concluded from September issue.)

Respecting domiciliary measures, the municipality proposes to distribute written instructions to supply spitting boxes, to disinfect premises, and to obtain supplies of disinfectants at the local sanitary offices and the mayoralties, to inculcate the fact that tuberculosis is curable, and spreads by expectorated matters; that the spitting boxes ought and must be washed out daily in cold water, and all contaminated linen scalded for at least five minutes. However, in the eyes of the poor, these are theoretical, though excellent measures. The poor have no fire, often no fire-place, and those whom misery has brought low will care but little for reading instruction. The plan of Doctor Seailles is better; have "inspection nurses" attached to the dispensaries, who will visit every second day the invalids, see that the medicaments prescribed have duly been taken, and that the doctor's instructions followed; that hygienic measures are not neglected, while not allowing the poor to feel that they are abandoned. Control this service of inspection nurses, or *infirmiers surveillants*, by means of fortnightly reports. The experiment is at present being tried in a quarter of the city (a slum) where misery chronically exists—the seventeenth ward, or *arrondissement*, which has a population of 180,000, and where the deaths from tuberculosis in 1891 amounted to 378; 526 in 1892, and 564 in 1893.

Doctor Brisenstein asserts that physicians in charge of the relief dispensaries can cite cases where whole families have become extinct from tuberculosis. On one fact all the doctors in charge of the dispensaries are agreed, that among the medicaments supplied, the most necessary is sterilised milk. The latter is to be consumed on the spot, in the dispensary even. Then the spectacle would be rarer of children—indifferent at play, or in their occupations—in a pestilential *milieu* and doomed to certain death within a not distant time. Doctor Vildermen proposes to sell to the necessitous and the indigent, the sterilised milk at five sous the $1\frac{3}{4}$ pint, or *litre*, being a reduction of 50 per cent. on current prices, and to supply them gratuitously with an apparatus to sterilise the milk themselves. But the poor have no fires. The municipality of Paris is urged to accord a subsidy of no less than 200,000 francs to a company of dairymen to supply genuine milk—and why not sterilized in advance?

The plan of Doctor Seailles is, however, more practical. He would distribute medicated milk as a fortifying aliment for the loss of strength, and the absence of effective nutrition are the great evils to be combated. All persons who lose one-third of their weight are in danger of immediate death. To-day, observes Dr. Seailles, physicians have nothing to prescribe but cod-liver oil and glycerine. He advocates the milk treatment, and urges one quart daily

of genuine milk as a powerful recuperative adjunct. The next point is to see that the tuberculous patient takes that quantity every day. The doctor would prescribe one pint of medicated milk, either iodurated, glycerined, phosphated, etc., by the chemist, that would prevent the milk from being consumed by the non-invalidated; also recommends the preparation of meat powder, lentils, pea and oatmeal. It is the progressive inanition, the wasting away, which constitute the grave dangers that threaten the diseased. Hence, make sure to supply the equivalent of the loss by furnishing medicaments in packets at the pharmacies. To cure the tuberculous we must nourish him; to do so we must place at his disposal those medicaments which he cannot buy, while the inspection nurses would see that professional and hygienic measures were executed faithfully. The municipal council proposes to expend six millions of francs to fight the plague. It will, if necessary, strike a special "tuberculosis tax." One and a-half centime on the assessed property of the city would yield that sum. The municipality could also claim a larger divide of the tax levied on the bettings at the race courses in the suburbs. Small hospitals would be erected having 2,000 beds, to isolate patients, where all modern medical appliances would be introduced. That organization would supersede the cumbersome and disparted plans of relief now in operation, and while presenting few dangers would, in minimizing the disease, reduce the cost of combating the insidious enemy.

Errors in Municipal Acts Corrected.

At the last session of the Legislature an Act was passed to correct certain clerical and typographical errors in the Revised Statutes of Ontario, 1897. The following corrections were made in the Municipal Act:

SECTION.	MANNER IN WHICH AMENDED.
Sec. 290, line 6.	By substituting "Sections 537 and 538" for "Section 537." [See s. 537 (1a)].
Sec. 375, line 8.	By substituting "or neighboring" for "neighboring or."
Sec. 539, clause 3, line 11.	By substituting "four" for "five." [See s. 384 (8)].
Sec. 542, clause 15, lines 6 and 7.	By substituting "The Act for the prevention of Accidents by Fire in Hotels and other like Buildings" for "The Liquor License Act."
Sec. 545, clause 3, lines 6 and 7.	By striking out "and the Ditches and Watercourses Act."
Sec. 554, line 4.	By inserting "townships" after "towns."
Sec. 583, clause 15, line 4.	By substituting "clauses 2 and 14" for "clause 14."
Sec. 583, clause 16, line 2.	By inserting after the word "but" the following, "in cities having a population of 100,000 or over"
Sec. 700, line 5.	By substituting "municipality" for "city." [See 57 V., c. 50, s. 17]
Sec. 637, clause 3.	By striking out "or" at beginning of 2nd line and inserting "or" between the words "bridges" and "other," in the same line.
Sec. 158.	Assessment Act— By substituting the figures "173" for the figures "170" in 8th line.

Flood Protection Works.

MUNICIPAL ACT AMENDMENTS AT AUGUST SESSION OF THE LEGISLATURE.

1. In the case of any river, stream or creek flowing through or in the neighborhood of a municipality, the municipal corporation thereof, for the purpose of preventing damage to property within the municipality by floods arising from the overflowing or damming back of such river, stream or creek, may acquire by purchase, lease or otherwise land in such municipality or in any adjoining or neighboring municipality, and may construct such works thereon or perform such work in respect thereof as they may deem necessary, and may also for the purpose aforesaid deepen, widen, strengthen or otherwise improve such river, stream or creek upon the land so acquired, or remove therefrom islands, rocks or other natural obstructions to the free flow of the water in such river, stream or creek; and may expend such moneys for all such purposes as may lawfully be appropriated therefor by the municipality, or may make such contracts in respect thereof as in the opinion of the council may be necessary for the purposes aforesaid; and the council of any municipality may from time to time pass by-laws for any or all of the said purposes, in the manner provided by the Municipal Act as to the passing of by-laws.

2. In case other lands than those so acquired are injuriously affected by any works undertaken under this section the owners or occupiers, or other persons interested in such lands shall be entitled to compensation, and sections 437 to 447 of the Municipal Act shall apply thereto.

3. For the purpose of obtaining better access to any lands which have been heretofore or may hereafter be set apart as a public park for the benefit, advantage and enjoyment of the people of the province, the minister having the control and management of the said parks and other places shall have all the powers with regard to the taking of land which are conferred on the Commissioner of Public Works under the Act respecting the Public Works of Ontario, but in cases in which it becomes necessary to determine the value of any land by arbitration the county judge of county in which the lands taken are situated shall act instead of the official arbitrators named in the said Act, and while so acting he shall have all the powers which are conferred upon the said official arbitrators.

A certain minister lost his manuscript one Sabbath morning, so he spoke out thus: "I am very sorry to have to inform you that I have—er—somehow or other mislaid my sermon for this morning. I must—er—therefore, trust to Providence for inspiration. To-night I will come better prepared."

QUESTION DRAWER.

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

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

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

Drainage Act Proceedings.

380.—G. L.—We have taken proceedings in our township to have a drain deepened, widened and extended. Said drain was constructed some twelve years ago; four townships interested in said drain; engineer has made examination and served our council with four full reports, plans, specifications and estimates. Estimate over \$3,000. The same were accepted by council, and I was instructed to serve on the reeve of each of the other townships one copy of engineer's report, plans specifications, assessments and estimates, which I have done. I claim according to section 61 of the Drainage Act that is all we are required to serve. Our solicitor claims that it is necessary to serve each of the other townships with a printed copy of our by-law. Please let me know if by-law must be served?

We agree with you. The 61st section does not require a copy of your by-law to be served, and there is no other section which requires a copy of the by-law passed by the initiating municipality to be served upon the other municipalities. The report shows the amount which each municipality has to contribute, and the contributing municipalities must pass a by-law to raise their respective shares in the same manner as the initiating municipality, unless they appeal and succeed in their appeal and are relieved from doing so by the decision of the referee or by Court of Appeal in case of an appeal from the referee.

Maintenance Mill Bridge.

381.—R. F.—Perhaps thirty years ago a man bought a saw mill with the understanding that he should maintain the bridge through which the water flowed from the mill, across a public highway. There being at that time and now another bridge across same road to allow the water to pass from the waste gate to the pond. But for say ten years all the water except in case of floods has run under the first mentioned bridge, the water course having changed. It is said that the council for the township did spend a small amount in repairing said first mentioned bridge. The question is, the bridge being unsafe, is it the duty of the township to repair it or the private individual who owns the mill?

The council must keep the road in a reasonably fit condition for public travel. If an injury should happen, the alleged understanding that the owner of the mill was to maintain the bridge would not be any defence to the township. The law as to natural watercourses, where the

water flows through a well-defined channel, is that the owners of the land through which it passes are entitled to have the water flow through it. One owner has no right to stop it up or divert it as against another. We cannot, therefore, see why the council cannot say to the owner of the mill, "We will maintain the bridge over the natural course and close up the other channel, and in that way save the expense of one bridge." The mill-owner cannot acquire a right of flowage by prescription across the highway.

Road Opening.

382.—J. M.—Enclosed is a copy of by-law passed nearly fourteen years ago. The road on this by-law was built four years ago by a grant from government. The parties owning land at time of by-law offered road free and council had it surveyed and established, but owner sold land and council did not build road until four years ago.

1. Can owner of land now make council pay for road and fencing? They have notified council that they have appointed arbitrator and wished council to appoint one for township.

2. Can council avoid paying for road and fencing as the former offered land free for sake of getting road as it would greatly benefit him by getting road?

3. What would you advise in the matter as the present owners want to make something out of council, and know the road is a benefit to them?

(Copy.)

BY-LAW No. 264.

Passed November 8th, 1884.

Whereas it is expedient and necessary to establish a new line of road in the Township of Bedford commencing at a post planted, and marked K on lot number two in the sixteenth concession running in a northerly direction on a line of blazed trees and pickets on lots two three, four, five, six and seven in the sixteenth concession to the travelled road at a post planted and marked K on the traveled road,

And it is hereby enacted by the authority of the Municipal Council of the corporation of the township of Bedford, that the said line of road be established and remain open for the use of the public. Said road to be forty feet wide, twenty feet on each side of the line.

ROBERT COOKE, JOHN ATCHESON,
Township Clerk. Reeve.

We would advise a settlement with the present owners, if possible. It would be in the interest of private owners also. If it can be clearly shown that the owners of all the lands, when the by-law was passed, wanted the road and offered their land for that purpose a case of dedication may be made out, and in that case the present owners would not be entitled to compensation. But the council may not be able to do this. It may be contended and proved that the offer was made upon the condition that the road would be opened up and made fit for travel and use for those who were giving their lands for that purpose, but that, though the by-law was passed, nothing more was done. Another question which will have to be considered is whether the action of the council really amounts to anything in view of section 630 of cap. 223, R. S. O., 1897, which provides that no civil engineer except the civil engineer of a city or town shall lay out a road or street more than 100 feet nor less than 66 feet in width, except

where an existing road or street is widened or unless with the permission of the council of the county, etc.

Drainage Act Notices.

383.—H. M.—Certain parties petition a municipal council for a drain under the Drainage Act, 1894. Council appointed an engineer to examine and make an assessment of the lands to be benefitted and those liable for outlet, etc., and report. The engineer has assessed the township, a portion of it, lying west for outlet, and the one lying east for benefit and outlet. Under section 9, subsection 7, chap. 226, R. S. O., will clerk of initiating municipality have to notify all parties assessed in the three townships?

Under section 61 of cap. 22, the council of the municipality which initiates the work must serve the heads of the other municipalities affected with a copy of the report, plans, specifications, assessments and estimates of the engineer or surveyor. If the other municipalities do not appeal the report, plans, etc., to the drainage referee in the manner provided by the Act, it then becomes the duty of each municipality to raise by by-law its own proportion upon the lands within its own limits, and each municipality must, within four months from the service of such report, etc., pay over its own share to the treasurer of the initiating municipality. Each municipality must hold a court of revision for the purpose of hearing any appeals which may be made. See sections 62 and 63 of the Act.

Service of Tax Notices—School Tax on Exempted Property.

384.—B. W. H.—1. Is it legal to deliver tax notices to ratepayers through the post office, and could a ratepayer successfully resist payment on the plea that he had not been properly notified?

2. A manufacturing plant is exempt from municipal taxation, but is assessed by order of the council for \$750.00 for school purposes, and supposing the council gives the following order to the collector, "Instructed by the council not to collect", can the Public School Board order the collection of such taxes, or what method should be adopted to collect under such circumstances.

1. There is no authority for delivering tax notices through the post office. Section 134 of the Assessment Act, cap. 224, R. S. O., 1897, provides very clearly the procedure to be observed by the collector. In cities and towns he shall call at least once on the person taxed or at his usual residence or domicile or place of business if within the municipality, and shall demand payment of the taxes or he shall leave a written notice or cause the same to be left with the person taxed or at his place of residence or business, or upon the premises in respect of which the taxes are payable. In other municipalities he is required to proceed in the manner first above provided, unless there is a by-law authorizing him to leave a written or printed notice as provided by subsection 3 of the same section. There is no excuse for a collector neglecting to follow the directions of an Act which lays down his duties as clearly as this Act does. We would advise that a proper demand be made in each case, otherwise the

municipality may get into trouble and expense.

2. The council has no such power as it supposes or claims to have in this case. The collector ought to collect those taxes and pay them over. The school board can compel the council to account for these taxes. See section 411 of cap. 223, R. S. O., 1897, and section 73 of cap. 292, of the same statute.

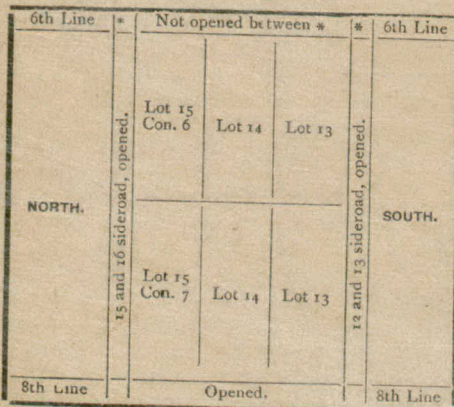
Union School Section Part of Incorporated Town.

385.—T. S.—Since the town of S got incorporated (year 1893) the council of McK township has been levying on a portion of the ratepayers to support the school in town. Can they legally do so, there being no record of a union school section being formed, or would the fact of them levying to support said school since 1893 make it a legally formed school section? Trustees of school in town send in their requisition every year.

See section 49 (1) of chapter 292, R. S. O., 1897, which provides, "In case a portion of the territory comprising one or more school sections becomes incorporated as an urban municipality the boundaries of such school section or sections shall continue in force and shall be deemed a union school section, etc." By reason of this section of the School Act this school section is a union school section.

Opening a Road.

386.—J. M. D.—A and B living on lot 14, concession 6, have applied to our council to have the blind line between the 6th and 7th concessions opened for road allowance. You will see by the accompanying diagram that the 6th line that fronts their property is not opened and is impossible to open. Will you kindly inform me the proper and legal proceedings the council will have to take to open the said blind line in place of road not opened?



Section 632 of chapter 223, R. S. O., 1897, provides the legal proceedings which are necessary to be taken in this case. You will find an article on the opening or stopping up of roads in the September number of THE WORLD. If all parties interested or affected are willing to consent to the establishment of this road conveyances by all parties of the lands required for the road, and a by law declaring these lands (setting them forth by metes and bounds) to be a public highway will be sufficient.

Notice of Engineers Report Drainage Act.

387.—CLERK.—A petition is presented to municipal council under Drainage Act, 1894, to

have a creek cleaned out. An engineer is appointed and assesses for outlet liability the township on both sides of the initiating municipality. When engineer files his report with clerk of municipality, will the clerk have to notify all parties assessed in all municipalities or only in his own?

Only those in his own municipality.

Opening Roads in Towns.

388.—SUBSCRIBER.—1. When we were incorporated as a town we took in some parts of lots and concessions of the township we are in. This land has never been surveyed and subdivided into lots as yet. Can the town go on and open up a legal road on a sideline between two lots following the sideline as run by the government survey?

2. If so can the street be made any width or is sixty-six feet wide for a road or street fixed by statute?

1. You will find the procedure in section 632, cap. 223, R. S. O., 1897.

2. The councils of cities and towns are not now limited in their powers to any particular width. See section 630 of the same Act.

Arrears of Taxes in Districts.

389.—J.—In enquiry number 376, September, question 2, you say if taxes could not be made the treasurer ought to have furnished the county treasurer with a statement of these unpaid taxes, etc. I beg to say that we have no county treasurer. This is a district (District of Nipissing) so there is no return to county treasurer to be made. You will kindly give your opinion in that case?

Section 53 of cap. 225, R. S. O., 1897, provides that arrears of taxes due to any municipality in any of the said districts (which includes the Nipissing District) shall be collected and managed in the same way as like arrears due to municipalities in counties; and the treasurer and reeve of such municipality shall perform the like duties in the collection and management of arrears of taxes as in counties are performed by the treasurers and wardens thereof, etc. A reference to this section and sections to which we referred you before will perhaps enable you to understand what remedy, if any, you have. You did not in your question furnish any information in regard to the arrears of taxes in existence when A bought the land. You did not even state for what year or years they were in arrears, nor did you say anything in regard to the steps, if any, which were taken to collect them, and why they were not collected.

Voting for Mayor and Councillors in Towns of 5,000 and Under.

390.—F. J. C.—The council of towns having 5,000 or less population shall consist after the next municipal elections of one mayor and six councillors to be elected by a general vote. Section 71a, Municipal Amendment Act, 1898. This being the case, I would like answers to the following questions:

1. Can a voter give all his six votes to one candidate for the council.

2. Can a voter give more than one vote to any one candidate?

3. If a voter gives more than one vote to any one candidate, and only one vote to any other candidate, would such a ballot be considered bad as to the candidate or candidates who received only one vote?

4. Should such a ballot paper be rejected in toto, or only as relates to candidates who had received two or more votes?

5. Are the names of all candidates for councillors to be printed on one and the same ballot paper?

6. Are the names of all candidates for mayor to be printed on one and the same ballot paper and separate from the ballot papers containing the name of candidates for councillors?

7. Would you give a sample ballot paper for councillors and for mayor in some issue of THE WORLD for the guidance of municipal clerks?

1. No.

2. No.

3. There is no provision for giving two votes to one candidate, and we do not see how a voter could so mark his ballot to effect his intention to do so, except by making two crosses, but a ballot so marked would not be bad. It would be counted as one vote for that candidate, and the voter would lose one vote.

4. No, not if marked as above, but if a ballot is so marked that it is bad, it must be rejected in toto.

5. Yes.

6. On same ballot paper.

7.

FOR MAYOR	
FOR COUNCILLORS	

Grouping Tax Rates.

391.—J. R. W.—Is it lawful for a council to group the county, general and township rates together, and so save a number of calculations? I see several townships in this neighborhood are doing so.

No. See Sec. 129, Chap. 223, R. S. O., 1897.

Tenant's Sons Statute Labor.

392.—E. K.—1. Is a tenant liable to perform an extra day's road work, his father owning the farm and his son working it and assessed as tenant?

2. If he had two sons would they be liable, the farm being assessed for \$5,000?

1. The son being a tenant, and assessed as such, an extra day cannot be imposed.

2. No, assuming that they are both tenants and assessed as such. If they were not tenants, and were entered on the assessment roll as farmer's sons, each would be liable to a day's statute labor in the same manner as if they had not been assessed at all. See Sec. 106, Chap. 223, R. S. O., 1897.

Increasing Statute Labor.

393.—J. M.—Has the council of a rural municipality the power to increase the statute labor one day on each ratepayer over and above what their assessment calls for?

The council has power to increase or reduce the number of days statute labor, but it must be done upon the basis mentioned in Sec. 102, Chap. 223, R. S. O., 1897. An arbitrary increase of one day without regard to the amount of

the assessment would not be valid under this section.

Renewal of Treasurer's Bond.

394.—J. M.—1. Is it necessary for the council of the town to require the treasurer to renew the security every year?

2. If not renewed, would such security be liable for any loss?

1. No, provided the bond is properly worded. If the sureties have, by the bond, undertaken to be responsible for any loss, so long the treasurer continues in office, such bond need not be renewed.

2. Yes, provided the bond is worded as above indicated.

Reeve's Absence—Illegal Resolution—Signing Minutes.

395.—CLERK—At a regular meeting of the council reeve was absent. One of the councillors was appointed chairman. The other three councillors purchased a piece of land for a road from the chairman, and passed a resolution accordingly. The council also passed a by-law empowering the reeve to sign an order on the treasurer in favor of the chairman in payment of the piece of land bought. At next meeting of the council, when the minutes of above meeting were read,

1. Must reeve sign said minutes?

2. Must reeve sign an order on treasurer in accordance with the by-law?

Section 83 of the Municipal Act, chapter 223, R. S. O., 1897, provides, "In case a member of the council of any municipality, either in his own name, or in the name of another, etc., enters into a contract of any kind, or makes a purchase or sale in which the municipality is a party interested, the contract, purchase or sale shall be held void in any action thereon against the municipality."

1. We do not think so.

2. In the face of the section above he ought not to sign such an order. You do not state the reason given by the reeve for his refusal, if he has refused, to sign either the minutes or the order.

Taxes—Personal Property Sold.

396.—J. M. D.—1. A was assessed for goods in a store. Sold goods to B and removed out of the country. Goods are still assessed to A. Can the taxes be collected off B?

2. C was assessed for personal property, and a dog. Sold property to D, and gave the dog to E. C is still assessed for property, and dog, and has removed out of the province. Can the dog tax be collected from E? The court of revision had no knowledge of the above before confirming the roll.

1. No.

2. No.

Qualification of Councillor.

397.—T. C.—Can a man qualify for municipal council in rural municipalities who is assessed for \$650 leasehold, and \$300 of personal property, in all \$950?

2. Does personal property qualify

1. No, unless it is a municipality in one of the northern districts. See clause (d), of section 76, chapter 223, R. S. O., 1897, and sub-section (5) of the same section provides, the term "leasehold" in this section shall not include a term less than a tenancy for a year, or from year to year.

2. No.

Election School Trustees in Wards.

398.—D. E. S.—Our town has a population of over 5,000. The High and Public School Boards are united in a Board of Education. In your answers in THE MUNICIPAL WORLD you take it for granted that wards are abolished, yet we have to elect three public school trustees next year. Shall it be necessary to observe the wards in this election, electing one trustee for each of the three old wards?

We did not intend to say that wards were abolished by the Act of 1893, but that in certain municipalities that was the effect of it, so far as the election of councillors was concerned. The Act does not say that wards shall be abolished, but that councillors shall be elected by general vote. We agree with the opinion which you appear to have, that the election of school trustees must be conducted in the same manner as formerly, having regard to the wards into which the municipality has been divided.

Final Revision of Assessment Roll.

399.—A. A. W.—An appeal from the decision of the court of revision on the assessment roll was filed with the clerk, and the 27th day of July was set by the judge to hear the appeal, and the court duly advertised. On the 21st of July the clerk received a written notice of the withdrawal of the appeal, in consequence of which the court was not held. On what date would the roll be considered as finally revised? The roll was returned to me by the assessor on April 30, 1898. The last day for appeals to county judge would be July 6, 1898.

The legislature does not appear to have provided, expressly at all events, for a case of this kind. If there had been no appeal to the judge the roll would have become finally revised immediately upon the expiry of the time allowed for lodging an appeal. An appeal was, however, entered in this case, and until that appeal was disposed of the roll could not be said to be finally revised. We cannot find any provision for the withdrawing of an appeal, and the safest course would have been to have had the judge attend and finally dispose of the appeal. That course was not, however, taken. Under the circumstances we would advise you to regard the date of the withdrawal or notice of abandonment of the appeal as the date when the roll became finally revised. It could not be regarded as finally revised at any earlier date, and there is no later date which could be fixed upon because the judge never did anything.

Appointment of Collector a Necessity.

400.—E. D. M.—Re question No. 364, the council of our township are desirous of having the treasurer receive the taxes, but are not sure that it would be according to statute.

1. Can municipal councils in townships make all taxes payable at the treasurer's office, and thus practically do away with the collector?

2. Must not a collector be appointed, and must he not make a demand on the ratepayers for the taxes? Must he not make his returns as provided by the statutes? See R. S. O., chapter 223, section 295; chapter 224, section 134-144.

3. Does not section 60, R. S. O., 1897, chapter 224, refer to a time subsequent to the demand being made as provided by chapter 224, section 134?

4. If a by-law passed under section 60, chapter 224, makes provision for the payment of taxes at the office of the treasurer, must not

the treasurer receive the taxes for the collector, and the collector make his return of the roll in the way provided by section 144, chapter 244?

1. No.

2. Yes.

3. Yes.

4. We do not think that the treasurer receives the taxes for the collector, but the latter will be entitled to credit for all taxes paid to the treasurer, but will have to account for the balance only.

Deputy-Reeves.

401.—J. T. E.—Are first and second deputy-reeves to be elected next January the same as they have been in the past?

See article on deputy-reeves in present issue.

Deputy-Reeves.

402.—J. G.—The township of L is not divided into wards. Will you kindly inform me how is the election of members of the township council of 1899 to be carried on? There appears to be a diversity of opinion, some thinking that candidates should be nominated for the position of 1st, 2nd, 3rd and 4th deputy-reeves, and some that all those nominated should run, and the four candidates obtaining the highest number of votes elected.

See article on deputy-reeves in present issue.

Bridging Approach to Gate.

403.—M. R.—Can a farmer compel council to cover ditch made in front of gateway; said ditch was made by council.

No.

Deputy-Reeves.

404.—G. A. A.—You say in your answer in last WORLD, No. 348, that it will be necessary to elect deputy-reeves so far as townships at least are concerned. I cannot see how this can be. In view of amendment of 1898, section 75, R. S. O., would read as follows: "The Council of every township shall consist of a reeve, who shall be the head thereof, and four councillors, who shall be elected by general vote." Where does the deputy-reeve come in?

See the article on deputy-reeves in the present issue. Section 100 and 101 of chapter 223, R. S. O., 1897, have not been altered so as to conform to the amendment made by the Act of 1898, and induced what we admit was an error in stating that deputy-reeves would still have to be elected. We have considered the question fully, and have set forth our reasons for holding that there is no provision for their election as the law now stands.

Wards Abolished.

405.—W. F. H.—1. Will the Act passed by Legislation 1897, abolishing the ward system, apply to a town with 4,800 population, which has special legislation passed for it?

2. If so, does it require a by-law to be voted on by the people to bring it into effect?

We think you must intend the Act of 1898, and not the Act of 1897. The Act of 1898 does not, however, abolish the ward system. So far as the election of the councillors is concerned, it is to be by general vote without reference to any division into wards. Section 2 of the Act of 1898 provides as follows: "The Municipal Act is hereby amended by adding

thereto the following section: 71a (1) The council of every town having a population of not more than 5,000 by the last Canadian census shall consist of a mayor, who shall be the head thereof, and of six councillors, to be elected by a general vote; and subsection (4) provides "This section shall apply to towns and cities above mentioned, notwithstanding anything contained in any Act of incorporation or other Act, but shall not affect the councils elected for the present year."

Collectors' Duties—Extension of Time for Return of Roll.

406—SUBSCRIBER—1. Taking into consideration sections 144, 145, 147, 148 and 225, of chapter 224, Assessment Act, R. S. O., 1898, has a municipal council the power to give the collector longer than the 1st of February to collect taxes from ratepayers who have on the assessed properties plenty of goods which he could distrain? The council and not the collector not desiring to be lenient with the ratepayers by giving them longer time to pay their taxes.

2. Is it not the duty of the treasurer to insist on the collector paying over to him all taxes that could have been collected by the 1st day of February, that being the date the council appointed for him to return his roll to the treasurer?

3. Would an amendment of the act not be necessary to give councils said power?

1. It is the duty of the collector to collect the taxes and return his roll not later than the 14th of December, unless the council appoints a later date for the return, but the council cannot fix a date later than the 1st of February. If the collector fails to collect the taxes by the time appointed then the council may authorize the collector or some other person to continue the collection of the unpaid taxes, but that is very different from appointing a day later than the 1st of February. It may, from the failure or omission of the collector to collect the taxes, become necessary for the council to act under section 145, but they should not act under that section until the necessity to do so arrives. A departure from this course may lead to trouble.

2. The duty of the collector to pay over to the treasurer is laid down in subsections 2 and 3 of section 144.

3. Yes.

Publications Received.

Voters' List, Town of Strathroy, F. J. Craig, Clerk.

The above includes, on an extra sheet, a list of names showing the alterations made by the County Judge.

Voters' List Town of Sandwich. C. H. Ashdown, Clerk.

Voters' List, Village of Grand Valley. Wm. McIntyre, Clerk.

Voters' List, Township of Gwillimbury. Zachariah Evans, Clerk.

Voters' List, Townships of Denbigh, Abinger and Ashby. Paul Stein, Clerk.

Auditors' Report, 1897, Townships of Denbigh, Abinger and Ashby.

Voters' list, Township of Bromley. Patrick Hart, Clerk.

Voters' List, Township of Athol. Wm. Moore, Clerk.

Voters' List, Township of Euphemia. D. M. Smith, Clerk.

Voters' List, Townships of Belmont and Methuen. Porter Pesson, Clerk.

Voters' List, Township of Tyendinaga. A. B. Randall, Clerk.

Voters' List, Township of Sheffield. James Aylsworth, Clerk.

Voters' List, Township of Melancthon. James Brown, Clerk.

Proceedings of County Council of Renfrew, June Session, 1898.

Proceedings of County Council of Wellington, June Session, 1898.

Proceedings of County of Oxford, June Session, 1898.

Auditors' Report, 1897, Township of East Zorra.

By-Laws, Township of Windham, as Revised 1894. Robert Green, Clerk.

Deputy-Reeves.

We have had a number of enquiries lately from subscribers to THE WORLD as to whether deputy-reeves are to be elected for next year, and we have therefore considered the question of sufficient importance to refer to the law on the subject at length.

Section 72 of chapter 223, R. S. O. 1897, provides "The council of every village shall consist of one reeve, who shall be the head thereof, and four councillors; and if the village had, on the last revised Voters' List, the names of 500 persons entitled to vote at municipal elections, then of a reeve, deputy-reeve and three councillors, and for every additional 500 names on such last revised Voters' List, there shall be elected an additional deputy-reeve instead of a councillor."

Section 73 provides "The council of every township shall consist of a reeve, who shall be the head thereof, and four councillors, one councillor being elected for each ward where the township is divided into wards, and the reeve to be elected by a general vote; but if the township had, on the last revised Voters' List, the names of 500 persons entitled to vote at municipal elections, then the council shall consist of a reeve, deputy-reeve and three councillors, and for every 500 additional names on such last revised Voters' List, there shall be elected an additional deputy-reeve instead of a councillor." At the time when the reeves and deputy-reeves of a county constituted the county council these provisions were necessary to fix the basis of the representation of the various municipalities in the county council, but now that the members of the county councils comprise members who do not represent the local municipalities at all, the necessity for electing deputy-reeves would appear to have ceased. By section 4 of the Municipal Amendment Act, 1898, section 72 was amended by striking out all the words after the word "councillors," in the second line thereof, and substituting therefor the words "who shall be elected by general vote," so that the section now stands thus: "The council of every village shall consist of one reeve, who shall be the head thereof, and four councillors, who shall be elected by a general vote." Section 73 was also by the same act amended by striking out all the words after the word "councillors," in the second line thereof, and substituting therefor the words "who shall be elected by a general vote;" so that section

73 now stands thus: "The council of every township shall consist of a reeve, who shall be the head thereof, and four councillors, who shall be elected by a general vote." Section 100 of chapter 223 provides, "Except in the case of deputy-reeves and councillors in townships divided into wards, the election in townships and villages, of reeves, deputy-reeves and councillors shall be by general vote, and the voting shall take place at the place where the last meeting of the council was held, or at such other place or places as may from time to time be fixed by by-law." The concluding part of sec. 101 is as follows: "And where the township is divided into wards, and is entitled to a deputy-reeve or deputy-reeves, the councillors shall at their first meeting, elect from among themselves such deputy-reeve or deputy-reeves." These two sections are the same as sections 93 and 94 of the consolidated Municipal Act of 1892. Whether the Legislature had some reason for not changing these two sections, so as to harmonize with the change effected by the amendments of sections 72 and 73, or it was an oversight we cannot say. How can it now be determined whether a municipality is entitled to any deputy-reeve, or if so, to how many? The old basis provided by sections 72 and 73, has been stricken off the statute book, does not exist and, therefore, can not now be taken as a basis. In the index to the statute of 1898, we find at page 339, Deputy reeves—

Certain elections for 1898 not invalidated by non-election of 61
Town, village and township councils, how composed 54, 55

Upon looking at pages 54 and 55 of the Act of 1898 we find nothing in regard to the election of deputy-reeves, but on page 61 we find (chapter 24) an act intitled "An Act relating to certain municipal elections in 1898," which provides as follows: "1. No municipal elections heretofore held for the present year in any municipality shall be deemed invalid or illegal by reason of the non-election of a deputy-reeve or deputy-reeves, provided that the number of members nominated and elected to the council was the number prescribed by the Municipal Act; but the candidate who obtained the highest number of votes at such election shall be the first deputy-reeve, and the candidate who obtained the next highest number of votes shall be the second deputy-reeve for the present year, and so on to the number of deputy-reeves to which the municipality is entitled under The Municipal Act, and such deputy-reeves shall perform the same duties and be subject to the same liabilities, and may exercise the same powers as deputy-reeves duly elected under the provisions of the Municipal Act. The acts of 1898 did not receive the assent of the Lieutenant-Governor until the 17th day of January, 1898, and, therefore, did not become law until that date. When the elections for the year 1898 were held the law as it then stood required the election of deputy-reeves, but as chapter 24 appears to have been passed to validate the elections in some municipalities where deputy-reeves had not been elected it must be assumed that in some places the officers having the conduct of the elections neglected to have deputy-reeves elected. There would have been no necessity for this act if that were not the fact. This act, it will be seen, is confined to validating those elections where no deputy-reeves had been elected as the law required at the time when the elections were held, and it has no application to future elections. After the best consideration which we have been able to give to this question we are of the opinion that there is no provision for the election of deputy-reeves as the law now stands.

Bystander—Should you say that picture was taken from life?

Critic—I don't know, but the world would not suffer if the artist was.—*Somerville Journal*.