

The Municipal World

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Calendar for March and April, 1907

LEGAL, EDUCATIONAL, MUNICIPAL AND OTHER APPOINTMENTS.

- MARCH 1.** Auditors' reports on the accounts of High School Boards, and the Boards of cities, towns and villages should be mailed to Education Department.
Inspector's Annual Reports to the Department due. Public Schools Act, s. 87 (5).
Financial Statement of Teachers' Association to the Department due.
Separate school supporters to notify municipal clerks. Separate Schools Act, section 42 (1).
5. Make return of deaths by contagious diseases during February. R. S. O., chapter 44, section 11.
28. High schools (second term) and public and separate schools close (High Schools Act, section 45; Public Schools Act, section 96; Separate Schools Act, section 81).
29. Good Friday.
31. Last day for councils of cities, towns, villages and townships to pass by-laws limiting number of shop licenses therein for ensuing year. Liquor License Act, section 32.
Night schools close (1906-1907).
- APRIL 1** Easter Monday.
Clerks of counties, cities and towns separated from counties to make return of population to Education Department.—P. S. Act, section 73.
Last day for Free Library Board to report estimates to the council.—P. L. Act, section 12.
Last day for petitions for tavern and shop licenses to be presented.—Liquor License Act, sections 11 and 31.
Last day for removal of snow fences erected by councils of townships, cities, towns or villages.—Snow Fences Act, section 3.
From this date no person compelled to remain on market to sell after 9 a. m.—Section 579 (6) Consolidated Municipal Act, 1903.
Last day for Boards of Park Management to report their estimates to the council.—Public Parks Act, section 17.
2. Annual meeting of the Ontario Educational Association at Toronto.
8. High Schools (third term) and Public and Separate schools open after Easter holidays.—High Schools Act, section 45; Public Schools Act, section 96; Separate Schools Act, section 81.
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The Municipal World

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ST. THOMAS, ONTARIO, MARCH 1, 1907.

CIVIC EDUCATION.

Dr. R. A. DUFF, of Glasgow University, recently delivered an instructive address in that city on "The Governing of a City as a Science and an Art." After sketching the great and rapid growth of municipal activity, which he described as one of the most striking features of the past generation, Dr. DUFF said that few impartial observers would deny that, taken as a whole, modern civic enterprise had been wise in conception and beneficent in operation. What was still more important was that this increase of municipal activity had been attended by a considerable extension of public interest and public spirit. This involved civic education, not only for the working man, but also for the propertied classes; for civic patriotism, and the want of it, was not a monopoly of any social grade. Hardly less important, but much less noticed, was the question of the education of the men who govern. Why should they not raise the standard in this sphere of service as well as in others by requiring from those who would enter it proof of some knowledge and understanding of social conditions, of the history and present position of their municipal enterprises, of the functions which local government would discharge, and of the directions in which advance was possible and desirable?

There were not a few signs, said Dr. DUFF, that ere long their whole system of local administration would need to be reconstituted, and the success or failure of that reconstruction would depend upon the type of men whom they had willing and able to fill the new offices. In many ways their present machinery was antiquated, overburdened and ill-adapted to the work required of it. Owing to accidental circumstances in the origin or development of the various departments of local government, the organs of civic life had become widely separated. Not only were the boards that dealt with the poor, with education, with juvenile delinquents quite independent of one another and of the many voluntary agencies working for the same end, but they were quite independent of the municipal council. In government by departments or compartments there was much waste and loss, and a better-considered and simplified correlation and unification of the various functions of civic rule was one of the pressing questions of the time.

THE LEGISLATURE AND MUNICIPAL LAW

The Municipal Act is not receiving as much attention as usual from the members of the Legislature. The closing days of the session will no doubt be prolific in this respect. Among the more important bills before the House are:

No. 77 MR. CARNEGIE to amend Section 740 of The Municipal Act and authorize an application to the county Judge to determine the proportion of the township rate payable to the trustees of a police village.

No. 79 MR. CLAPP, re settlement of disputes as to county boundary lines.

No. 81 MR. MUNRO, re filing declaration of property qualification by candidates in cities of over 30,000 population and providing for council filling vacancy occurring after 1st of July.

No. 82 MR. CAMERON, re petition to township council for establishment of a highway in a police village.

No. 90 MR. HOYLE, to repeal section 618 and substitute new sections providing for the settlement by the county Judge, of disputes between counties and local municipalities as to liability for construction or maintenance of bridges.

No. 93 MR. CLAPP, for the appointment of trustees to take charge of a fire engine and appliances for fire protection when purchased by a township council.

Nos. 105 and 108 MR. CLARK, Bruce, to enable councils to appoint the clerk or treasurer as assessor or collector and authorize the mailing of tax notices in townships.

No. 121 MR. CRAIG, to amend section 617a and determine in what towns bridges over 300 feet in length may be maintained by a county council. Bridges in towns do not come within the present Act.

No. 117 MR. MCNAUGHT, to amend The Assessment Act and to reduce the business tax on manufacturers from 60 to 50%. And by providing that a shareholder owning ten per cent of the paid up capital stock of a corporation shall not be subject to assessment in respect to any income derived from the business of such corporation. This is an amendment necessary to place owners of commercial corporations in the same position as private businesses as far as the payment of the business tax is concerned.

No. 85 MR. BOWYER, to abolish the poll tax in cities, towns and villages.

No. 116 MR. HENDRIE, refers to the powers of the Railway and Municipal Board in reference to public utilities operated by a municipal corporation by providing for a report as to whether or not the rates charged are sufficient to meet debenture debt and interest created in respect thereof.

This Bill also provides for substituting the board for arbitrators that may now be appointed under the authority of The Municipal Act or Municipal Arbitration Act. This would not appear to be advisable until the board has completed the other municipal duties referred to them.

The announcement that the Revised Statutes will not be ready until 1908 means that a more extensive revision than usual may be expected. This will affect the introduction of legislation during the present session, as many questions will be referred direct to the Statute Revision Commissioners for their consideration; if approved they may include amendments and additions in the Statutes to be passed *en bloc* by the Legislature.

The supply of copies of The Consolidated Municipal Act 1903 which was issued by the king's printer in separate form, is exhausted. A new edition will not be available until the Revised Statutes are issued. This will be a disappointment to many of our readers who would like to procure a copy of this Act to assist them to a better understanding of the law relating to their duties.

Civil Liability of Municipal Corporations

Amendment Proposed to Section 606.

The executive of the Ontario Municipal Association waited upon the Honorable Mr HANNA, Chairman of the Municipal Committee, and other members of the government on Wednesday the 20th February, and submitted for their consideration the proposed amendments to The Municipal Laws as passed at the last meeting of the association.

The most important change asked for is that relating to section 606, which imposes a civil liability on municipal corporations for damages sustained through accidents caused by defective highways. The municipalities of the province generally favor the repeal of the section, and the general opinion is that something should be done to modify the present state of affairs.

At the request of the Provincial Secretary, the Executive drafted an amendment to section 606 in the following form :

“Insert after sub-section 1 of section 606 the following proviso :

Provided that the corporation shall not be civilly responsible for such damages unless actual notice of the default causing such damages has been given in writing to the mayor, warden, reeve or other head of the corporation or to the clerk thereof before such damages were sustained.”

This would leave section 606 as it is, and limit the liability of municipal corporations. City Solicitor McINTYRE, of Kingston, who has taken an active interest in the matter, on behalf of the executive has submitted the following memo in reference to the amendment submitted, which will reduce within reasonable limit the liability of the municipalities.

In the charters of some cities of the United States there is such a provision and in the law of the State of Maine there is a requirement of twenty-four hours actual notice to the commissioners of the county or the municipal officers, highway surveyors or road commissioners of the town etc.

Such an amendment limiting municipal liability for non-repair, may be advocated on such reasonable grounds as these :

(1) It is conceded that municipal corporations should be held liable for mis-feasance that is, non-repair with intent being the only rational basis of liability for crimes or torts, public or private wrongs.

(2) It is fair to concede that municipal corporations should be held liable for non-feasance, coupled with intent since non-feasance coupled with intent is equivalent to misfeasance.

(3) The ingredient of intent is important because intent implies and presupposes knowledge.

Up to this point the friends of municipalities will be quite prepared to go, provided any liability by statute is to be retained. The hardship to municipalities has arisen in imputing to them a knowledge that they did not possess and this has been done by evolving the doctrine of constructive notice. Once bring home to a municipal corporation a real knowledge of the non-repair, rendering the highway unsafe, and making that real knowledge the basis of liability and you take away this hardship based on a legal figment, for you have placed non-feasance and mis-feasance in precisely the same category. From this it follows that as no one complains of liability for mis-feasance, no one could justly complain of a liability for non-feasance coupled with a real knowledge.

How this real knowledge may be brought home is the

next question. The draft provides that it may be done by actual notice, in writing, to those persons to whom notice must be given, under sub-section 3 of section 606, to preserve the right of action after the injury has been sustained. Other modes of giving actual notice might be suggested but that is a detail once it is adopted as a principle that to impose liability for non-feasance there must be a real knowledge arising from actual notice.

This proposed amendment has many advantages to recommend it :

(1) It does not repeal section 606.

(2) It leaves unimpaired the liability of municipal corporations for non-feasance once a real knowledge of the non-repair is established.

(3) It insures that municipal corporations shall be liable not for trifling, obscure, unobserved instances of non-repair, but only such non-repair as will attract attention and probably induce persons to notify the corporation.

(4) It enlists the co-operation of the whole people to advise the municipal authorities of defects in the highways. To ask such co-operation is not unreasonable since a municipal corporation is defined by the act to be “the inhabitants” of the municipality, so that in helping the corporation, the inhabitants are only helping themselves.

CUDDAHEE v. TOWNSHIP OF MARA.

Ditches and Watercourses Act—Award—Reconsideration—Construction of Ditch—Charge for Engineer's Services—Letting Work—Breach of Contract—Beletting.

By virtue of sec. 36 of The Ditches and Watercourses Act, the township engineer, on the reconsideration of an award, may make any award which might have been made in the first instance.

In accordance with the provisions of sub-sec. 2 of sec. 4 of the same act, the council by by-law fixed the charges to be made by the engineer for his services at the rate of \$5 a day, and under section 29 the engineer certified to the clerk that he was entitled to \$45 for fees and charges for his services :

Held, that his certificate established *prima facie* the validity of his claim for \$45, and the onus was on the plaintiff, objecting to the award, to shew its incorrectness which she had not done.

Held, also, that under sub-section 4 of section 28 work under an award not performed as contracted for, may be relet.

Judgment of county court of Ontario revived.

McGREGOR v. THE MUNICIPAL CORPORATION OF THE VILLAGE OF WATFORD et al.

Highway—Dedication—Plan—Registration Before Incorporation—R. S. O., 1887, Section 152, Sub-Section 62.

A plan showing the *locus in quo* as a street was made and filed before, but practically contemporaneously with, the locality being set apart as an incorporated village, the former being on June 3rd, 1873, the latter on June 25th, 1873. The lots were first sold under the plan in 1876. Subsequent legislation, which was retroactive, declared that allowances for roads laid out in cities, towns and villages, fronting upon which lots had been sold, should be public highways :

Held, that the road in question was a public highway and subject to the jurisdiction of the municipality.

House of Refuge—Northumberland and Durham

The House of Refuge building at Cobourg, opened the 10th of January is in part one of the oldest public buildings in the united counties, having been built over sixty years ago, in the Ionic Order of Architecture.

The main or public entrance is from the south, under the main pediment through the portico, and having a two storey verandah the full length of the front, which affords a beautiful view of the city and lake, and an airing ground for those who cannot take advantage of the lawn and flower garden to the south and east, and orchard to the west. On entering the board and visitors' rooms to the left, and those of the superintendent to the right, comprising a living and dining room, connected with private hall and stairs to the sleeping rooms above. Proceeding from the entrance vestibule you enter the broad airy hall extending the full length of the main building and back through the east wing, a building of about 35 by 60 feet; this is cut off with doors through which may be entered the womens' quarters to the east, and those of the men to the west, with separate stairs at either end of the halls connecting the three flats of the buildings, the men occupying the west half and the major portion of the main building, north of the main halls and the dormitory of the top flat. Each flat has a day room and small dining room with lift, the rooms or wards contain from two to ten beds, making accommodation in all for about 95 persons. Ample lavatory accommodation with porcelain fittings is provided, also a smoking room for men. The second floor of the east wing is cut off by an open air passage from the rest of the house, and is provided with a lift to the hospital, kitchen or pantry, a nurse's room and four for patients, two for each sex, ten or twelve beds in all, with the necessary lavatory accommodation. In the basement which is built about three feet in the ground, is situated the large kitchen in the centre and front of the main building, with the pantry, store-rooms and cold storage just off it, and the main dining rooms for men and women on either side, and the heating and ventilating apparatus to the rear, the fuel storage under the west wing, and laundry, pump room, dairy store room and cellarage under the east wing. The lighting is by electricity, the heating by direct steam, and the ventilation on the exhaust principle from every room and apartment in the building.

A Popular Official.

Col. N. F. MACNACHTAN, clerk and treasurer of the united counties of Northumberland and Durham was surprised by the outgoing county council, in January, when they presented him with a handsome fur coat and the following address:

To Mr. N. F. MACNACHTAN;

The fiat of the law, declaring that the county council system, which has pertained for the past ten years, is to change with the rising of the present session, we feel that more than usual interest attaches itself to our meeting, and to its closing moments. The closing of each of the four terms, sending the members back to the people, resulted in changes in the personnel of the council, but many have continued throughout. Two years ago more changes than usual were made, but the family feeling was sustained, and now that we have arrived at this particular stage, it seems to be intensified.

The look backward discovers much that causes pleasure and satisfaction but that which gives most is the pleasant relation that has existed between the members and yourself as clerk and treasurer.

The past term has been one of more than usual importance because of the renewed agitation and resultant

decision to erect a gaol and county house of refuge, the undertaking of which you have long recommended.

You have placed your experience at our service and given your council willingly and generously to us whether as individual members, as committees or as a council in session, making what would otherwise have been difficult problems easily solvable and lightening our duties very much.

Your social relations with us have also been such as to make attendance at sessions very enjoyable, and we shall remember them as among the most pleasurable occasions of our lives.

As a mark of our esteem for you, and appreciation of your sterling qualities as a man, and as a friend, we present you with this token, hoping that your life will be spared long to enjoy it, and that the blessings of our Heavenly Father will rest upon you and your household.

We wish you a happy and prosperous New Year.

Signed on behalf of the members,

EDWARD WEIR, Warden.

Cobourg, Jan'y 11th, 1907.

The clerk very feelingly replied. He said your kindness to me, the words spoken were more than the gift. Words are hard to put together at a time like this. We are at the parting of the ways, but the latch string of his office was always on the outside. He thanked them for the kind words about his family, and appreciated them very much. He would always have a kindly remembrance of the pleasant associations with the members of the council.

The town clerk of Gravenhurst, Mr. W. H. CROSS, is also treasurer, receiver of taxes, electric light monies and license fees, caretaker of the town hall and instructor of the town band. Salary \$800.

* * *

At the municipal elections in January in the township of North Monaghan, Peterboro county, the electors were asked to vote upon two partial exemption by-laws. The Beniton Carpet Co. of Canada to have a fixed assessment at \$10,000 for ten years and the Peterboro Sandstone Brick Co., Limited, to have a fixed assessment at \$3,000, also for ten years. These companies are now both going concerns and the by-laws were both carried with little or no opposition. The Beniton Carpet Co. have already established buildings and a plant costing about \$100,000, and the Brick Co. have spent about \$50,000.

* * *

In all earthly contrivances there is a tendency to change; and it has been noticed that as we increase in population there is an increasing propensity to impose more upon the federal government, and to take from the powers of the local governments. This all wise citizens ought to resist; for as we increase in population it is necessary that we shall even add to the number of objects over which the people shall determine and rule in their local governments; for thus only can their political harmony be continued. It is in this direction that wise citizens will strive to guard against future dangers.—*Nordhoff.*

By-Laws Before the People

The usual large number of by-laws respecting public works and improvements were voted on at the municipal elections last month. Some which should have carried were defeated; others which should have been defeated were carried. While the results on the whole were satisfactory, it is regrettable that narrow views so frequently prevail. Were Municipal Improvement Associations more commonly organized throughout the Province, the ratepayers would be in a position to use greater discrimination in casting their votes. Among the by-laws voted on were the following:

Toronto—A by-law to raise \$100,000 for a bridge over the railway tracks at the foot of Yonge street; a by-law for a trunk sewer to divert the sewage of the city from the Bay, and a by-law to extend Exhibition Buildings, were all defeated.

Hamilton—The six by-laws voted on were: Hydro-electric power by-law, sewers extension in annex, electric pumps for waterworks, Isolation Hospital, east end fire station, and Home for Incurables. They were all carried with the exception of the by-law to place electric pumps at the Beach pumping station, which meant an expenditure of \$50,000. In passing the other four money by-laws the ratepayers voted for the expenditure of \$255,000.

London—By-laws to extend the waterworks at a cost of \$575,000, and for an expenditure of \$75,000 on an Isolation Hospital, were defeated.

Woodstock—By-law to establish Parks and Trees Commission, and one to raise \$16,500 for surface draining, were carried.

St. Catharines—Votes were favorable to an extension of the waterworks at a cost of \$6,000; also to return to the ward system of electing aldermen.

Brantford—A by-law to expend \$40,000 on sewer extension was approved.

Stratford—Three money by-laws were defeated. One to provide a market shelter at a cost of \$10,000; one for \$16,000 for a main sewer in the southern part of the city, and the third to put \$3,600 into a Board of Works building.

Ottawa—The Board of Control plebiscite was carried, and the by-law to create the city into a federal district was defeated.

Peterborough—A by-law carried to provide \$21,000 additional to \$40,000 now in hands of Board of Education to erect a new Collegiate Institute.

Lindsay—A by-law to provide filtration for the town water supply was defeated.

Campbellford—A by-law to raise \$12,000 for concrete walks was defeated.

Windsor—By-laws to expend \$12,500 on the electric light plant, and to suspend macadam paving for five years, were defeated.

Southampton—A by-law to raise \$5,000 for waterworks extension carried.

Streetsville—A by-law to expend \$15,000 on electric light plant carried.

Thorold—To raise \$80,000 for waterworks carried.

Bolton—To raise \$2,500 by issue of debentures for concrete sidewalks carried.

Napanee—Sewer extension by-laws, \$5,000 and \$2,250, carried.

Waterloo—Sewer farm improvements, \$23,000, carried.

Listowel—Construction of concrete bridge, \$14,500, carried.

Harriston—To add wing to public school carried.

Renfrew—Sewer extension by-law, \$6,000, carried.

Niagara Falls—To elect aldermen by general vote, carried.

East Toronto—A by-law proposing annexation to Toronto, carried.

Tweed—A by-law to construct concrete sidewalks carried.

Morrisburg—A by-law to extend and improve the electric power plant at a cost of \$20,000 was defeated.

Barrie—A by-law to grant a railway franchise to FREDERICK NICHOLS carried, but the majority, 43, is considered by Mr. NICHOLS too small to be acted upon.

Cornwall and Omemee—By-laws providing for the election of councillors for a two-year term were defeated.

Paris—A by-law to raise \$12,000 for school purposes was defeated.

Barrie—A by-law to expend \$12,000 on a new park was defeated.

Commissions.

By-laws affecting the management of municipal services, by placing them under boards of commissions, instead of leaving them to the control of the council, were more numerous than usual. By-laws taking this step were carried as follows:

Guelph—To place the waterworks and gas and electric light services under commissions. These were carried by large majorities. The street railway is already under a board of commissioners.

Dunnville—A waterworks commission.

Almonte—An electric lighting commission.

Picton—A by-law to do away with the electric light and waterworks commissions, and put these services under the town council, was defeated.

Mount Forest—A by-law to abolish the water and light commission was defeated.

Waterloo—A by-law to create a sewer commission carried.

Woodstock—A by-law to create a park commission carried.

Bowmanville—A by-law to create a waterworks commission carried.

Morrisburg—A by-law to provide for a water, light and power commission was defeated.

Concessions to Manufacturers.

Windsor—Passed an industrial by-law intended to enable the council to arrange with manufacturers seeking locations.

Whitby—Carried the Ontario Car Works by-law.

Wingham—Will loan the Wingham Carriage Co. \$5,000.

Deseronto—Only six voted against the by-law submitted granting the Deseronto Furniture Company a loan of \$10,000.

Welland—A by-law granting fixed assessment and other concessions to the Robertson Machinery Co. was carried.

Goderich—Decided to aid the Rogers Manufacturing Company, the Furniture Company, and Carriage Company.

Amherstburg—Defeated a by-law to grant aid in establishing a canning factory, the required number of favorable votes not being polled.

Orangeville—Ratified a loan of \$15,000 to the Hurdall Novelty Manufacturing Company.

Cayuga—Only three voted nay and 134 yea on the by-law submitted in Cayuga to give the Window Glass Manufacturing Company 14 acres of land and tax exemption.

Barrie—The by-law to aid in re-building the Dymont Foundry at Barrie was defeated.

Stouffville—A bonus by-law was carried.

Guelph—Carried a by-law to loan \$5,000 to MORLOCK BROS.

Listowel—Carried the G. T. R. station and COLEMAN by-laws.

THE WARD SYSTEM.

A resolution favoring a return to the ward system was passed by the Waterloo county council. The resolution reads as follows :

"That, whereas we believe that some of our rural municipalities would prefer to elect their council by the ward system, instead of by general vote; and whereas The Municipal Act does not give to rural municipalities the option of selecting their system of voting as it does cities and towns. Therefore be it resolved that this council petition the Government to so amend The Municipal Act, that rural municipalities shall have the same privileges that are accorded cities and towns, and that the warden and clerk sign a memorial to the Legislature and that GEO. PATTINSON, Esq., M. L. A., Preston, and Dr. LACKNER, Esq., M. L. A., Berlin, be asked to support the request."

This new legislation, if granted by the Ontario Parliament, will place the townships and villages on the same basis as towns (if the elections so decide) in electing their councillors.

In the smaller townships and villages there might appear to be no objection to a return to the ward system if the ratepayers so decide. We fail to see any advantage in townships where one or more deputy reeves are elected by general vote.

The present constitution of county councils must be considered. Previous to 1896 the ward system was in force in nearly all of the townships and in some county councils the majority of the members were ward representatives. This was a most objectionable feature. At that time the objections offered to the ward system resulted in its abolition; these have not been removed. The introduction of a proper business system in townships favors the election of members of councils by general vote.

POST ELECTION RESOLUTIONS.

In nearly every local municipality, this year, there was an election, consequently there were defeated candidates, for everybody who ran for office was not elected. Some of these defeated candidates are now said to be posting up a set of resolutions something like this :

Resolved, That I shall never run again.

Resolved, That I have lost my faith in man's word.

Resolved, That my wife felt worse about it than I did.

Resolved, That I will get even if it takes me ten years.

Resolved, That the public has poor judgment.

Resolved, That I'll just wait and see what a botch "they" make of it.—*Peoples Press.*

The Waterloo county council has adopted the principle of not placing a member on more than one committee; this facilitates business by enabling all to attend at the same time.

OLD STONE AND GRAVEL ROADS.

Hundreds of miles of road have been ruined, and thousands of dollars have been thrown away by improper methods of repairing and constructing old stone and gravel roads. Throughout the Province there is a great extent of road originally macadamized by toll road companies and by municipal corporations, and which have been kept in repair by the annual application of new coatings of metal. The constant tendency of all such roads is to become flat in the centre, with high square shoulders, no matter how great the original crown may have been. Dust and fine material from the centre of the road is constantly becoming washed to the sides, where there grows up a high shoulder of earth and sod. Many of these old roads have become not only flat but are actually higher at the sides than they are at the centre, making the roadway almost a drain. This is especially the case on hills where rushes of water fill the wheel tracks instead of being turned to the sides of the road by a high crown.

With the advent of the grading machine, a common practice has been to cut off the square shoulders at the side and draw them to the centre of the roadway in order to raise the crown of the road. In the light of all that, for many years, has been said and written regarding road making, such a practice can only be criticized as the height of folly and stupidity. Mud should be scraped off a road, not drawn on it. The only proper way of crowning these old roads is to cut off the shoulders, and instead of drawing them to the centre, throw them outward, across the ditch if necessary.

To draw the earth and sod from the side of the road to the centre is merely to create in the centre of the road a bed of mud that, with the first wet season of spring or fall, will become a perfect slough. The hard road-bed underneath prevents even ordinary drainage. The earth on top of it absorbs and holds the water until it becomes a fluid slush.

To attempt to improve these old roads by crowning them with earth and sod from the sides and to place over this a coating of gravel or stone, is also a serious blunder. The process just described goes on, with the exception that the new metal settles until it reaches the old hard road-bed, while the slush and mud oozes up through it. When such a method is followed, ruts and mud quickly appear, and the new gravel or stone placed on the road is very soon lost, and the durability is, in any event, seriously impaired.

With these old stone and gravel roads, the earth and sod which has accumulated to form shoulders, should always be turned outward. If drawn to the centre, whatever method is followed, it will simply become mud. Mud should be scraped off the road, not drawn upon it. Where roads have been treated in this way by drawing mud to the centre, no time should be lost in scraping it off, as the longer it remains, the more serious will the injury be to the road. On a large proportion of these old stone and gravel roads throughout the country, more can be done to improve their condition, by cutting off the square shoulders, thereby giving the road a proper crown, than can be accomplished by several years' application of new material. New material may be required on these old roads to bring them to a proper standard, but it should not be supplied until the road has been shaped and crowned by cutting away the square shoulders at the sides, which prevent proper surface drainage.

The new gaol at Cobourg, about completed, is one of the most modern structures of the kind in Canada.

County Houses of Refuge

The annual report of DR. BRUCE SMITH, Provincial Inspector of Prisons and Public Charities, contains the following interesting reference to his first inspection of the County Houses of Refuge.

At the last session of the Legislature an Act respecting County Houses of Refuge was passed. One of the sections of this Act directs that "It shall be the duty of the Inspector of Public Charities of Ontario to visit and inspect every House of Refuge at least once a year, call for and inspect all books and papers relating thereto, and to examine into the sanitary condition of such houses. He shall report in writing to the Lieutenant-Governor in Council with respect to the management of each such House of Refuge and shall make such recommendations and suggestions in relation thereto and to the methods of keeping the books and accounts of such institutions as he may deem best, and a copy of such report shall be forthwith sent to the county clerk of the county in which the institution upon which such report is made is situated, or when any such Home of Refuge is under the direction or control of two or more counties, then to the clerk of each of such counties. In accordance with the terms of this Act, visits of inspection have been made to each of the County Houses of Refuge and reports of such visits made to the Government and the county clerks of the different counties. There are now 24 County Houses of Refuge in Ontario and four more under construction in the counties of Hastings, Peterborough, Northumberland and Durham and Prescott and Russell. These, when completed, will leave only very few counties in the province which have not complied with the statutory requirement. The visits of inspection have, I trust, proved helpful to the management of these institutions. The conditions prevailing in these Houses of Refuge vary greatly. In some counties the management is much better than in others. Some Houses were found neat, clean and everything in good order: In others there was a lamentable lack of any system in management and discipline. The inmates in some of the institutions were found apparently well looked after and when sick properly nursed and nourished. In others the unfortunate inmates seemed to be left very much to take care of themselves, and the sick were, I fear, greatly neglected. In some of the Houses the grossest indifference could only account for the conditions existing. No institution supported by public funds should be maintained in an unsanitary condition. In several Houses the beds were found unclean and not free from vermin. In many the bathing facilities were quite inadequate and the inmates left altogether too much to themselves to see that their persons were kept clean. All these conditions could be remedied if sufficient help was employed. Too often the whole desire is to see not how well but how cheaply the institution can be conducted. In some of the Houses the average weekly cost for the maintenance of the inmates is less than one dollar, while in others where a greater effort is made by providing a sufficient staff to conduct the institution properly the cost for maintenance is about two dollars per week. When proper help is employed there is no difficulty in conducting these houses as they should be. Those in charge of the Houses of Refuge in most counties are honestly endeavoring to do their best, but they are often hindered in their efforts by the determination of the county council to have the House conducted at the lowest possible cost. For example, during one week I visited two Houses of Refuge—one had 86 inmates and two domestics employed—the other had 101 inmates and seven domestics. Needless to say in one dirt and neglect were everywhere apparent, while in the other, from basement to attic, everything was found in an orderly condition, with a capable nurse looking after the sick and administering to their needs. One of the results of the year's inspection has been to make it seem most desirable that there should be a uniform system for the whole province in the management of these Houses, that each county should be compelled to provide suitable attendants in accordance with the number of inmates—the same as is now done in institutions distinctly under provincial control.

The following House of Industry statistics are included in the report :

COUNTY	APPROXIMATE VALUE			No. of Acres	RECEIPTS			Expenditures	Average Number of Inmates	Average Weekly Cost Per Inmate
	Buildings	Contents	Land		Municipal Treasurers	Sale of Products	Other Sources			
Brant	\$ 30,000	3,000	5,000	45	\$4,785	\$ 665	\$ 51	\$5,468	55	1.00
Bruce	20,000	1,800	3,500	61	3,440	234	249	3,924	53	1.16
Elgin	21,700	3,000	8,000	100	4,770	543	73	5,388	55	1.30
Essex	50,000	4,000	6,000	50	436	1,101	3,142	4,172	40	1.20
Grey	22,500	2,000	3,000	54½	3,140	375	250	3,765	40	1.10
Huron	25,000	3,000	3,500	47½	5,207	560	159	5,926	85	.96
Kent	35,000	2,000	6,000	58	1,325	549	2,895	4,771	42	1.12
Lambton	12,000	3,300	6,000	60	1,262	192		7,538	41	1.56
Lanark	26,000	3,000	6,500	78	3,687	1,193	3,901	6,234	53	1.50
Leeds and Grenville	25,000	2,000	4,000	100	2,949	275	1,289	5,624	59.8	1.49
Lincoln	20,000	1,200	6,400	70	2,704	1,566	934	5,205	47	1.10
Middlesex	20,000	2,000	5,000	63	6,448	683	2,030	9,162	80	1.58
Norfolk	16,000	2,000	4,000	98	2,570	308	122	2,570	48	1.21
Ontario	23,000	2,000	3,500	48		1,076	326		43	1.11
Oxford	20,500	1,500	5,500	100	4,394	630	79	5,104	57	1.10
Peel	12,000	1,500	5,500	48	1,234	666		2,212	25	1.10
Perth	21,000	2,000	3,000	53	5,934	377		6,312	57	1.92
Prescott and Russell			2,000	100						
Prince Edward	25,000	2,500	4,500	45	1,289	62	400	1,355	6	1.59
Simcoe	33,226	2,400	7,000	100	8,559	1,056	1,324	9,628	73	.81
Victoria	34,357	2,722	7,383	70	3,789	767	403	4,959	47	2.04
Waterloo	33,000	2,000	11,200	140		1,842	800		86	1.10
Welland	8,000	350	3,600	60	2,230	571	1,708	4,509	56	.87
Wellington	35,000	4,000	2,900	58	5,150	286	321	5,110	63	1.32
York	33,700	4,350	5,000	50	7,555	451	43	8,016	79	1.54

a. Including expenses, \$4,496.

b. Water mains, electric lines, etc., constructed by county, cost in addition \$5,207.

HIS EXPRESSED OPINION.

History of the ballot does not afford a better joke than the last election in Sydenham, as was revealed in the recount of ballots cast at the municipal elections this year. Usually there are some electors who do not think enough of the candidates to vote for either. But it is a rare instance where the individual uses the ballot to express his opinion otherwise than by the regulation cross. One old voter, in number three, supplied the instance. When counting the ballots, his hand was shown by writing after CAMPBELL's name, "No tam good." The explosion that follows nearly wrecked the court house and the gravity of Judge HATTON's countenance vanished when under and opposite the name of McDONALD were the words, "No tam better." The joke was worth the recount, and the laugh took a lot of tension off the situation and the ballot was a better revelation of the voter's mind than the regulation mark could possibly have been.

The same recount brought to notice an unusual irregularity at the polling sub-division in south Sydenham where a deputy returning officer re-opened the poll on the morning following polling day, to permit a voter to deposit a ballot which he could not secure the previous day owing to the supply having been exhausted.—*Owen Sound Times.*

WHAT CONSTITUTES DEDICATION OF HIGHWAY

In the Court of Appeal, Toronto, the case of Maccomb v. Town of Welland, was recently heard. It was an appeal by plaintiffs from judgment of Anglin, J., (7 of W. R. 876), after the trial at Welland, dismissing with costs an action for a declaration that the portion of the River road leading from Port Robinson to Welland along the bank of the Chippawa Creek or Welland River, lying between Burgar Street and Dorothy Street, in the Town of Welland, is not a highway, but the private property of plaintiffs. Plaintiffs own the lands which lie along the eastern boundary of this portion of the River road, and maintain that their respective properties extend to the water's edge of the river, and include the strip of land in question.

Defendants allege that this portion of the River road is a highway. The trial judge held that there had been a user by the public of the strip of land in question for 53 years since the grant to plaintiffs' predecessors, which, upon the admissions, vested the title in such lands in plaintiffs. Even if this user for the first twenty years should not be taken into account, because of a special clause in a by-law of 1855, there had been since the right to close up this portion of the River road became absolute, in 1873 or 1874, 32 or 33 years of uninterrupted user before the bringing of this action, sufficient, upon the authority of *Mytton v. Duck*, 26 U. C. R., 61, to establish conclusively a dedication. Appeal allowed with costs and judgment for plaintiffs as prayed with cost.

CHAS. DONALDSON, clerk Township of Tudor : "We could not get along without THE MUNICIPAL WORLD."

J. HILL, Township of Wainfleet : "I deem THE WORLD a valuable assistance in municipal work."

W. CLARK, clerk of Township of York : "Your highly appreciated publication, THE MUNICIPAL WORLD, is becoming more popular as it grows older and larger."

A. J. HUGHES, clerk Township of East Gwillimbury : "THE WORLD is considered by our council to be a very valuable aid in municipal work."

A LOCAL OPTION DECISION.

Re Bell and The Municipal Corporation of the Township of Elma was an appeal from a judgment of ANGLIN, J., refusing to quash a local option by-law passed by the corporation of the Township of Elma.

It appeared that the day before the taking of the poll the township clerk, who had been appointed deputy returning officer at one of the polling sub-divisions, was taken ill, and was unable in consequence to attend to any of his duties. He requested one JOHN MORRISON to act in his place as such deputy returning officer, and he did so and took the votes without any other authority than such request. He also requested one JAMES DONALDSON to finally sum up the votes cast for and against the by-law, and he in so doing only obtained possession of five out of eight of the ballot boxes containing the returns of the deputy returning officers, and relied on a memorandum in writing from the township clerk as the result from the other three ballot boxes and polling sub-divisions.

It also appeared that the township council did not by the by-law fix a time and place for the final summing up of the votes by the township clerk, and that no one attended with JAMES DONALDSON when he summed up the votes for the township clerk.

The appeal was argued on the 22nd and 23rd of October, 1906, before a Divisional Court composed of FALCONBRIDGE, C.J.K.B., BRITTON and MABEE, JJ.

At the close of the argument the judgment of the Court was delivered by FALCONBRIDGE, C. J., :—Holding that the requisits of sections 341 and 342, which were positive directions of the statutes, had not been complied with ; that the curative section 204 did not apply, as an essential part of the by-law, which was more than an irregularity, had been omitted, and the by-law must be quashed with costs.

JAMES HONOR, clerk Township of Malden : "We find THE MUNICIPAL WORLD a valuable and reliable guide in all municipal matters."

* * *

W. P. BENDER, clerk of Township of Olden : "I beg to state that I find THE WORLD of great assistance to me in my municipal work."

* * *

A. J. REID, clerk Village of Ayr : "THE MUNICIPAL WORLD continues to give what every municipal officer requires."

* * *

S. T. ANDERSON, clerk of Township of Tilbury West : "The information given in your WORLD is of more benefit than the statutes."

* * *

Mr. P. A. MALCOLMSON, Barrister, formerly clerk of the village of Lucknow, has been appointed clerk of the county of Bruce, to succeed Mr. W. S. GOULD who has resigned. Mr. J. E. AGNEW has been appointed to succeed Mr. MALCOLMSON as clerk of the village of Lucknow.

The town council of a small German town had met to inspect a new site for a cemetery. They assembled at a chapel, and, as it was a warm day, one of the members of the council suggested they should leave their coats in the building. "Some one could stay behind to look after them," suggested one of the councillors. "There is no need of that," said another. "If we are all going out to the cemetery together what need is there for one of us to stay behind and watch our coats?"

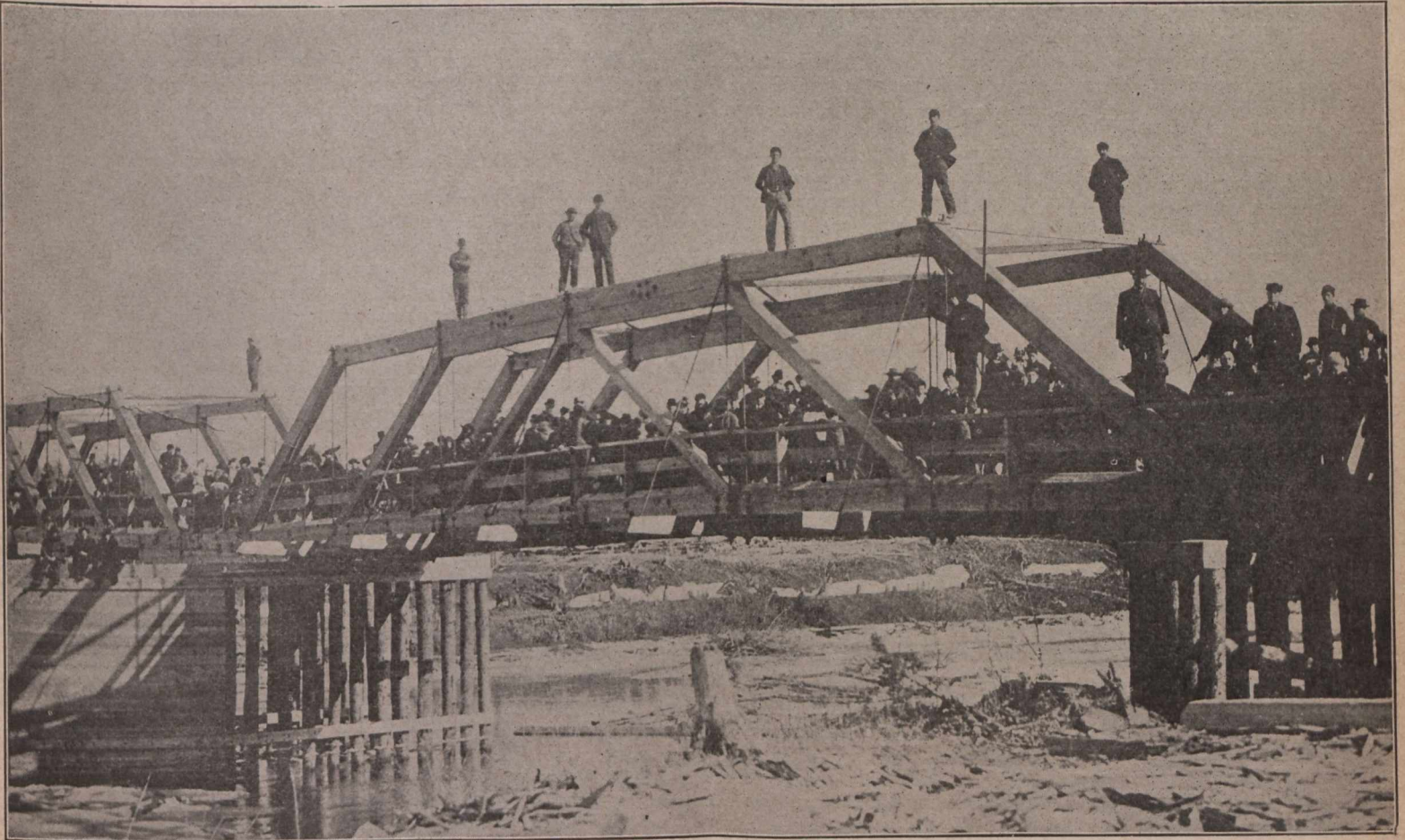
Engineering Department

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

CONCRETE BRIDGES

It is evident to all who have studied the present outlook in respect to the construction of bridges, that the use of timber for this purpose is fast becoming a practice of the past. Timber is perishable and is constantly in need of repairs, while accidents from collapse are all too frequent. The present day demand is more for permanent structures, which will render better service with a greater measure

of safety. Concrete arches must invariably have a secure foundation. Wherever, from natural causes, this cannot be obtained within a reasonable cost, it is evident that a type of bridge where unequal settlement will not result in serious injury should be selected, as is the case with steel bridges on concrete abutments. But wherever there is a secure foundation of rock, hard pan, firm clay or unyielding sand or gravel, we have one of the first favorable circumstances



A BRIDGE CELEBRATION

of safety. In the evolution of steel and concrete for bridge purposes, not only do these materials offer a much more durable substitute for timber, but in a term of years they are also a more economical.

For long spans approaching one hundred feet or over, it is evident that, for the present at least, steel with concrete abutments and piers will afford the most acceptable designs. For shorter spans, concrete arches, or concrete abutments and concrete flooring, have much to recommend their use. While a span of one hundred feet has been suggested, this length must not in any sense be considered as absolute. There are situations where secure foundations cannot be had, in which concrete arches are wholly out of place. There are also occasions where arches, of spans exceeding one hundred feet, would be in every sense the most desirable.

to the construction of a concrete arch.

It is further to be desired that there be suitable gravel, or stone and sand, convenient to the site of a concrete bridge, from which to construct it. Where material for concrete has to be hauled long distances, it is evident that the cost will be largely increased and that the use of a steel super-structure is thereby rendered more desirable.

Concrete bridges are largely dependent upon the cement used, and while in the great majority of cases Canadian Portland Cement Works are now turning out a reliable product, yet there is always an element of uncertainty in the use of cement if precautions cannot be taken to properly test the cement before use. It is also desirable in the construction of concrete bridges that the work of mixing the material and putting it in place, be supervised by skilled and experienced men.

The proper design of a concrete arch is a matter of first importance. In the construction of arches throughout the Province at the present time there is too great a tendency to overlook this factor. While concrete arches from first to last should be constructed under the guidance of a civil engineer, yet in the matter of design this is essential. The use of an excessive amount of material in the making of an arch in excessive proportions will not always overcome defects in design. Nor can an arch suitable for one location be safely copied for use in another. Concrete arches should always be designed for each situation by an expert in this work. As with steel bridges, if a design for a concrete bridge is submitted by a contractor, it should be accompanied by a stress sheet and schedules showing the method of design—which in the case of concrete arches should be in accordance with the elastic theory. These plans, stress sheet and calculations should be submitted to a competent engineer, to be checked over and approved by him.

Concrete bridges are frequently referred to as "steel-concrete," from the fact that steel is used in their construction. Concrete has very great compressive strength, but is weak in tensile strength. Steel is, therefore, used in concrete arches at points subjected to tensile stress, and in this way the durability of the arch is increased, and the cost is lessened owing to the smaller amount of concrete required. Steel used in this way is fully protected from rust, and arches constructed in accordance with these principles, will it is believed last for hundreds, if not thousands of years. While our own experience with Portland cement does not fully warrant this assertion, yet arches built by the Romans two thousand years ago, in which an inferior kind of cement was used, are still standing.

RURAL MAIL DELIVERY

The importance and necessity of an efficient mail service has insensibly grown upon the world. It is one of the most prominent factors of present day civilization. The postal facilities of Canada have in most respects, kept pace, or are in advance of those of many other countries, in a manner of which Canadians are justly proud. The rural delivery of the United States service has, from time to time, been investigated by Canadian officials, but as yet has not been favorably regarded for adoption here under existing conditions. A recent report of the State Engineer of New York gives the following information furnished by the Postal Department, as to how a rural delivery is obtained, and other details.

A petition for such service must be made on the forms furnished by the Department, which are supplied on application to the Fourth Assistant Postmaster General.

Requests for two or more routes should not be included in one petition, a separate petition for each route desired being required.

Each petition for a route of twenty-four or more miles in length, should be signed by at least one hundred persons who are heads of families, and for routes less than twenty-four miles a proportionate number of such persons should sign.

Petitions for rural mail service, when properly signed and prepared, and endorsed by the Representative in Congress or the United States Senator, should be forwarded to the Fourth Assistant Postmaster General, Washington, D. C.

Conditions Necessary to Establishment

The purpose of rural delivery service is to carry the mail daily, on a fixed line of travel, to people who would otherwise have to go a mile or more to the post-office to receive their mail. It is required that the roads

transversed by a rural route shall be in good condition, unobstructed by gates, that there must be no unbridged creeks or streams not fordable at all ordinary seasons of the year; and that each route being twenty-four or more miles in length, as a rule, shall serve not less than one hundred families. Routes less than twenty-four miles long are established where they cannot be made the standard length, and a proportionate number of families is required on such routes. A route should be so arranged that the carrier will not be required to retrace or travel over the same road twice the same day.

It is the policy of the Department not to establish rural delivery on roads already transversed by a star route on which "box delivery and collection" service is given, unless it is feasible to supersede the service given by the star route, by the rural delivery service.

Distributing Postoffice

Wherever practicable it is desirable to establish the service from postoffices located on or near a railroad and having good railway mail service; and the service is established from postoffices having star route service only when it is not possible to reach the territory intended to be served as well from an office on a railroad.

How the Service is Established.

When a petition for rural mail service is filed and accepted it is referred to a rural agent for investigation. Petitions are investigated as far as practical, in their order of filing. The agent visits the locality indicated for the purpose of knowing just what the conditions are and whether they are such as required by the Department. It is his duty to report the facts as he finds them, and if such report is favorable to the establishment of the service, and is approved by the Department, action looking to the establishment of the route is taken within a reasonable time.

In laying out a route the agent is expected to carefully plan the same with a view to as little change in the future as possible, taking into account the routes already established or which will need eventually to be established in order that all the available territory in that particular locality may be served to the best advantage. For this reason it is not always practicable to lay out a route exactly as petitioned for. It may also be necessary to deviate from the roads referred to in the petition for other reasons, such as unfit and private roads and gates maintained on public roads.

What the Patrons Must Do.

Persons desiring the benefits of service on a rural delivery route are required to furnish, at their own cost, boxes for the reception of mail to be delivered or collected by the carrier.

More than one family may use the same box, provided written notice of such agreement is filed with the postmaster at the initial postoffice.

Each box must be erected by the roadside so that the carrier can easily have access to it without dismounting from his vehicle.

All boxes must comply with certain specifications fixed by the Postmaster General as to size, shape and workmanship, and be made of galvanized sheet iron or sheet steel and be approved by the Department.

Each box must be equipped with some kind of signal by which the carrier may know there is mail in the box for collection and the patron may know that mail has been delivered by the carrier. A list of approved boxes with information as to where they may be obtained, will be furnished on application to the Fourth Assistant Postmaster General.

Postmasters and carriers are prohibited from assisting

in the sale of any particular box, or acting directly or indirectly as agents for any box manufacturer or agent, but postmasters are permitted to order, for present or prospective patrons, any approved box selected by the patron upon the patron's request, but must not receive any compensation or profit for such accommodation.

Such boxes are by law afforded the same protection from injury and depredation as any other regulation mail box, and are regarded as United States mail boxes and should be used for no other purpose.

Persons neglecting or refusing to comply with these conditions will be regarded as not desiring rural delivery and the carrier will be directed not to serve them.

Patrons are expected to afford the carriers every facility in the performance of their duties, by keeping the roads open after heavy snowfalls, and by using their influence with the proper authorities, to maintain them in good repair.

What the Carrier Does

Rural carriers are required to deliver to the box of a patron all mail addressed to his family, and collect all mail deposited in the box for dispatch. Registered matter and pension letters which must be delivered in person to the addressee, and special-delivery letters, the carrier is required to deliver in person at the patron's door, if within one mile of the route.

They are required to carry sufficient supply of stamps, stamped envelopes, postal cards and news-paper wrappers. They are empowered to receive matter for registration, giving proper receipt for same. Also to accept money for the purchase of money orders, for which receipt must be given to the patron.

Rural carriers may carry packages of merchandise for hire from a patron, on request of the patron, provided the same are not mailable. They are not permitted to receive orders or solicit business for any person, firm or corporation.

Rates of Postage

The establishment of rural delivery at any post-office does not change in any particular the rate of postage on any class of mail matter received or delivered from that office' except that the one cent rate on drop letters does not apply when such letters are collected or delivered by rural carriers. Drop letters so collected or delivered must be prepaid at the rate of two cents for each ounce or fraction thereof.

Rural Delivery Service Regulations

When the Roads are Bad.

1. The department looks to patrons and road officials to see that highways covered by rural routes are maintained in such condition that they can be traveled at all seasons. Indifference and neglect in this matter will be considered a sufficient cause for the withdrawal of rural service from a community.

2. A rural carrier is not expected to seriously imperil his life or his animals, nor to endanger the U. S. mails or his equipment, in an attempt to serve his route under extraordinary conditions of weather.

3. At such times the carrier must report at the post-office at the regular hour and make reasonable effort to serve the route. If some portions of the same are found to be absolutely impassable, carrier is allowed to deviate from the official route to such extent as may be necessary to reach all patrons by other roads, provided only a partial service could be given were no deviation made.

4. When the roads covered by a rural route are temporarily impassable for wheeled vehicles, owing to storms or floods, in order that a regular and complete service of the route may be maintained, trips may, at the discretion of the initial postmaster, be made by carrier on

horseback; but all mail matter, official equipment, and supplies must be as fully protected as when the regular conveyance is used.

5. Each day the carrier does not completely cover his entire route the fact should be reported to the postmaster of the initial office with a definite statement as to what portion was not served, stating reasons therefor, and the postmaster should make a complete report to the department.

6. Postmasters must keep a strict account of the number of days carriers entirely fail to perform service, and report such failures to the paying postmasters at the end of the month.

7. For all days when service on a route is totally suspended, no pay will be allowed the carrier.

8. The cause of total suspension of service on a route for one or more days must be entered on the carrier's trip report (Form 5502) under the head of "Remarks". Explanation should be made for those days when only a partial service of routes is given, the cause being specified. These entries should be properly and correctly made on the trip reports before postmasters certify to their correctness.

STREET PAVING

The paving of city and town streets is not a matter of serious difficulty if it is to be solved, as some municipalities have done in the past, by merely scraping mud to the centre in the summer, in order that there may be more mud in the fall and spring. Fortunately that stage is rapidly passing away, and for some years there has been steady progress in this important department of municipal management. At the present time municipalities from the smallest to the largest are turning to street improvement as a work which they can no longer afford to neglect. The question of materials has thus received much study and attention, but is urgently demanding increased consideration. Numerous materials have been used under varying circumstances of traffic and climate and the results carefully observed. No one material has been found to serve all conditions. All have merits and all have defects.

An ideal pavement, even for one set of ordinary conditions has not yet entered the field. We can only select the material for a given climate and street with the knowledge that, while it will possess certain merits, it will also have defects.

Macadam has been largely used as a standard material for the most limited conditions of traffic. For light driving, on residence streets, in suburban districts, with proper care, it can be made exceedingly useful. It requires much attention to keep it in repair, and under heavy traffic the cost of maintenance renders it an expensive pavement. But for streets not subjected to excessive use, the ease with which it can be re-surfaced and kept in good condition by the use of steam rollers and other modern roadmaking implements, has rendered it deservedly popular.

A step in advance has been made by the use of tar macadam and macadam cemented together with prepared forms of bitumen. Some of these pavements are showing excellent results under moderate traffic; but in occasional instances it has not been successful. The care required in laying tar-macadam in the climate of Canada, has rendered its durability somewhat uncertain.

For the heavy traffic of business thoroughfares where noise would be objectionable, sheet asphalt has been largely used, both rock asphalt and Trinidad, having been employed. It is inclined to be a dusty pavement in hot, dry weather and wet weather, with winter conditions, is

exceedingly destructive. As yet, however, it is the only pavement acceptable to certain conditions of the larger cities where appearance, noiselessness and ease of cleaning are essential.

Vitrified brick pavements have shown great durability under traffic not sufficiently heavy to demand granite setts. It is however, noisy, and for this reason has not proven wholly acceptable for residential streets, nor for business streets where quiet is a necessity.

Asphalt blocks have recently been competing with vitrified brick and sheet asphalt and possess many attractive features. They are less noisy than vitrified brick, and in this respect are midway between the latter and sheet asphalt. They do not require an expensive plant to lay and repair nor do they require skilled labor as does sheet asphalt and in this respect they are on a par with vitrified brick. A pavement of asphalt blocks is clean and sanitary and finds a place where neither sheet asphalt nor vitrified brick would be suitable.

Sheet asphalt, vitrified brick and asphalt block are the materials which, with tar and plain macadam, have entered into most general use in Canada for ordinary conditions. The wooden pavements so commonly employed in Europe have not as yet found an acceptable place in Canada, in spite of the immense timber areas of this country, for the reason that Canadian woods heretofore used for street paving purposes have not been wholly successful. Cedar was largely employed some years ago but was discarded from causes not wholly due to the suitability of cedar for this work. Cedar block pavements were carelessly laid, were retained in use too long, and deteriorated in such a manner as to create an antagonism to all wooden pavements.

The cedar blocks were cut from the round log in lengths of about five inches, and these, with the bark on, were placed on end in the roadway. A concrete foundation was very rarely provided, the usual bed being a layer of gravel or sand. The voids between the blocks were filled with sand. Owing to the durable nature of cedar, pavements of this description give excellent service for eight years, and if renewed at the end of that period would have made an economical pavement. But very frequently the blocks were left in the streets for fifteen, and in cases for even twenty years, becoming so decayed and worn as to be a menace to traffic. An indiscriminating public has therefore condemned all wooden pavements to such a degree that municipal officials have not dared to urge their use. The present scarcity of cedar and its increasing value now place it beyond consideration as an economical paving material.

Arrangements have recently been completed for the testing of Jack Pine (*Pinus Banksiana*) for paving blocks on a section of street in the city of Toronto. The *Banksiana* Pine is a tree not, to the present time, regarded as of commercial value. Vast quantities of it grow throughout Canada from the southern boundaries to Alaska. The tree is one which is not accurately known to foresters. It has been much confused with other similar species, and in consequence many inaccurate statements have been made regarding it.

The tree is one which varies greatly in size and appearance, according to the conditions under which it grows. It takes root largely on sandy, barren areas, and trees of considerable size cover immense "Jack Pine Plains." Many rocky islands and hills, affording foothold in only narrow crevices, are covered with a dense growth of small trees, some of which, of only a few inches diameter, are 100 years old. In more favorable situations, however, trees 18 inches in diameter are common, and it frequently grows to twice this size and a height of 70 or 80 feet. The wood is heavy, hard,

tough and strong, especially where the growth has not been rapid, and contains a considerable quantity of resin.

Owing to its hardness and consequent difficulty of working, it has been very little used for lumber, but with the advancing value of timber, logs of the larger size are now frequently found at the saw-mills. Its principal use heretofore has been for fuel and railway ties. Its qualities are such as to make it of much value for street paving. The blocks should be about three inches thick, four inches deep, and eight inches wide. These should be placed on a concrete foundation with a filler of asphaltic cement. The progress of the experiment will be observed with interest, as its success will open up a wide field for the use of a timber hitherto of little value, and will create an additional valuable asset for the Dominion of Canada.

NO EXCUSE

Good roads are essentially a business proposition. They represent an investment which will bring handsome returns by increased property values, and facilities for transacting farm business at a greater profit. When a loan company is asked to advance money on a farm property the class of roads leading to the farm is one of the prominent considerations in appraising its value. A farm with good highways leading to it will sell more readily than will one which has to be reached over neglected and badly constructed roads.

On this question there is no better authority than Mr. BYRON E. WALKER, Manager of the Canadian Bank of Commerce for many years, and its recently elected president, in his address to the shareholders at the annual meeting in January last he said :

"Trade in the wholesale centres and in the towns throughout Ontario and Quebec has naturally been particularly good, farmers have paid their obligations of all kinds quite satisfactorily, and failures in business has been very few indeed. The unfavorable features are the continued scarcity of farm and all other kinds of labor, the natural loss of young farmers by emigration to the western Provinces and, if one may say so without offence, the very bad roads in some parts of Ontario. Our counties and townships in the older parts of the Province are, as municipalities go, almost all comparatively rich, and there is no obvious excuse for roads which in the spring and autumn, for many week together, are of very little use."

Barrie and Collingwood both have committees of council to take charge of a special department called the "industrial and advertising committee," and this committee is expected to be on the lookout for new industries and to advertise the town and its advantages. Parry Sound has real need of something of the kind, or the appointment of a person who will have the work in charge. Bracebridge has a man engaged at a salary of \$150 per year for the purpose of advertising the town and securing new industries.

* * *

The establishment of a municipal employment bureau is under consideration in various cities. A Woodstock alderman recommends that a book be kept in the city clerk's office by the city clerk. In it the unemployed in the city will have the opportunity of registering their names, addresses and occupations. The plan would serve this purpose at least : It would at once show whether or not, as some claim, the unemployed do not want work and make no attempt to secure it.

QUESTION DRAWER

Subscribers are entitled to answers to all Questions submitted if they pertain to Municipal Matters. It is 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 will be published unless One Dollar is enclosed with request for private reply.

Proceedings at School Meetings.

132—C. J. P.—1. Is there any law bearing on the point to force a man to be chairman at a ratepayers' meeting when he is proposed three times, also trustee, secretary-treasurer and collector of taxes, and auditor, if so, where is it found and how does it read?

2. When there is a secretary-treasurer appointed by trustee^s can the ratepayers appoint a secretary for the meeting?

3. Can a man, who is working for a ratepayer, who is a British subject and who has a vote for the Dominion House, also the Ontario House, vote in a school meeting? He is not assessed.

4. Can a ratepayer who is a United States citizen be auditor when auditor issues a warrant for a British subject's things to be sold, or in other words, can a United States citizen issue a warrant to distain the goods owned by a British subject?

5. Can a contract for wood, let by the trustees and accepted by them, be brought up in an annual meeting the auditor's report has been read and accepted, or anything else that is in the auditor's report, is it not out of order?

6. If a chairman allows anything to come up at a school meeting that is out of order what can be done and where can the law on the subject be found?

1. We do not know of any way of compelling a ratepayer to act as chairman of a school meeting, if he refuses to do so. We do not think a ratepayer can be compelled to act as school trustee. If he accepts the office, however, and refuses to perform its duties, he will render himself liable to the penalty mentioned in section 109 of The Public Schools Act, 1901. Ratepayers appointed as collector of school taxes and school auditor respectively cannot be compelled to act as such, but may be held liable to a fine at the common law for refusing to accept office.

2. The secretary-treasurer of a board of school trustees is not ex-officio secretary of a meeting of the ratepayers of the section. The ratepayers at the meeting may appoint any other person they choose to act as secretary of any of their meetings.

3. No, he is not a ratepayer who is a public school supporter of the section. (See section 13 of the above Act).

4. We see no reason why an alien may not be appointed to act in this capacity.

5. If the ratepayers desire to discuss the contract under the circumstances mentioned, we know of nothing to prevent their doing so.

6. The chairman should confine the business of the meeting to that which may be properly brought before it, but if he allows anything else to come up for discussion we do not think that he is liable to any punishment.

Money By-Law—Agreement with Manufacturers—Voting on by Electors.

133—A. M.—At the municipal elections in January 1906 the ratepayers of this municipality voted and carried a by-law granting a loan of \$10,000, without interest, repayable in ten years, to a manufacturing company, upon certain conditions contained in an agreement entered into between the council and the company (this agreement was not published with the by-law in the newspaper)?

Some of the conditions of the agreement were that the company

would erect a plant with at least \$20,000.00, and execute a first mortgage to the town to secure said loan; this they agreed to have made for us on or before August 1, 1906, and also to employ a certain number of hands. Not being ready to comply with their agreement as to the date, August 1st, they asked for further time until November 1st. Nothing has been done as yet, the conditions of the agreement have not been fulfilled excepting that a building of concrete has been erected, and a few other changes.

Should they ask for further time and give reasonable assurance that on a certain day, say July 1, 1907, they would be in a position to have the buildings and plant in place; would the council be able to grant them the loan as the original agreement has not been complied with, or could a ratepayer successfully ask for an injunction from the court, restraining the council from paying the loan?

Would it be better for the council to require another vote of the ratepayers?

Should the agreement have been published in the local newspaper?

We cannot answer this question without seeing a copy of the by-law as finally passed and the agreement.

Registration of By-Law Closing Road.

134—D. McN.—The township council took proceedings as provided in The Municipal Act closing an established road and passed the necessary by-law which was confirmed by the county council.

The council sold the road to an adjoining owner who refuses to accept deed and pay for same unless the by-law is registered, is it necessary to register by-laws in such cases?

We do not think that it is necessary to register a by-law of this nature. Section 633 of The Consolidated Municipal Act, 1903, applies only to by-laws providing for the opening of roads upon any private property.

Voting Powers of Reeve.

135—S. L. C.—I want you to let me know through your paper, which we take, if the reeve has not to give his casting vote on questions brought before the board in the township interest?

Now we have a clerk and we want to discharge him and employ another and we have two applications, and two of the councillors are for one and two for the other, and the reeve is in favor of the old one and says he is not obliged to give the casting vote in this case and not any unless he likes. Now I would like to know what his position is in this case and what is the council's position and in what way we would proceed when the reeve acts so? We are a new council, unless myself, and would like to be posted? The reeve says there will have to be three votes for each of the applicants to carry the motion in his favor.

We agree with the reeve's idea of this matter. Section 269 of The Consolidated Municipal Act, 1904, provides that "when a council consists of only five members (as is the case in this instance) the concurrent votes of at least three not disqualified to vote on the question shall be necessary to carry any resolution or other measure," and section 274 provides that "the head of the council, etc., except in cases where he is disqualified to vote by reason of interest or otherwise, *may vote with the other members* on all questions; and, except where otherwise expressly provided for by this Act, any question on which there is an equality of votes shall be deemed to be negatived."

Construction of Cement Walks in Unincorporated Village.

136—J. McF.—An unincorporated village situated in the corner of two townships and along side of a third wants to build cement sidewalks. If they build them on the local improvement plan would the ratepayers of the different townships be obliged to vote on a by-law to go security for the debentures, or would a majority of the councillors be sufficient to guarantee the debentures the same as a municipal drain or what would be the best way for them to have it built?

The council of each township in which part of the unincorporated village is located, may pass by-laws for the construction of cement sidewalks in that part only of the village located within its limits, as provided in section 664 and followidg sections of The Consolidated Municipal Act, 1903. It is not necessary that by-laws for this purpose should receive the assent of the electors before they are finally passed by the council.

Expenditure of Unperformed Statute Labor Commutation.

137—B. L. P.—In the case of money collected for unperformed statute labor it is customary to enter a note on road list stating that the pathmaster can expend a certain amount of money which is due this division and issue an order on the treasurer for the amount. Is it legal for the pathmaster to perform this work himself and issue an order on himself for the amount?

We do not think that the pursuing by the pathmaster of the course suggested is illegal, but for appearance sake, and to ward off suspicion, it would be better if he caused the work to be performed by some other person, and issue the order on the treasurer in his favor.

Refund of School Levy—Preparation of Assessment Roll.

138—X. Y. Z.—In accordance with The Public Schools Act of 1906 our council levied the general rate upon the property of the public school supporters of the whole township, section 70, sub-section 2. Since the Deputy Minister has stated that it was not the intention of the Department that the rate should be levied on parts of a township connected to a town for public school purposes the ratepayer in our township, in a union section with a town, are asking the council to refund the general school tax paid by them.

1. Has the council power to refund the same?
2. If it has power should the other sections be charged with the same?
3. Should the clerk place every name found on the assessment roll as entitled to vote on the voters' list if he knows some to be on the roll who are not entitled to be there, placed therein in error by the assessor?
4. The assessor places a farmer's son on the roll as age 20. If the son is otherwise entitled to be on the voters' list should the clerk place the name on the list?

1. We cannot agree with the opinion of the Deputy Minister. The intention of the Department cannot be considered. The school law as passed by the Legislature must govern. The original section 70 of The Public Schools Act, 1901, contained the following clause at the end of sub-section 2: "This section shall not apply to union sections formed between townships and urban municipalities." This section was repealed by section 39 chapter 53 of The Ontario Statutes, 1906, and there is nothing in the substituted section or elsewhere to indicate that the substituted section should not apply to unions with urban municipalities, as well as to other union school sections. We therefore think that the clerk followed the letter of the law as it now exists, in making this levy, and that the council has no authority to refund their proportionate shares to the public school supporters in the portion of the township united to the urban municipality for school purposes.

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

3. The clerk should take the last revised assessment roll as his guide, and not his personal knowledge of the facts. All persons who appear by the last revised assessment roll to be entitled to be placed on the voters' list, should be entered by the clerk therein, in such part as

their respective qualifications warrant. Any errors or omissions that may thus result should be left to the County Judge for correction, on appeal to him for the purpose.

4. No. If a farmer's son is not of the full age of 21 years, and the last revised assessment roll shows this to be the case, the clerk should not enter his name in the voters' list.

To Whom School Money Should be Paid in Union School Sections.

139—Subscriber—We have five union schools in our township. In three of these the schoolhouses are in our township; in one of these three, there are three other townships in the union besides our own. The payment of teachers' salaries is the contention. One party holds that each municipality pays direct to the treasurer of the school board upon its order as required according to the terms of arbitration or otherwise. The other party claims that the municipality in which the schoolhouse is situated must pay direct to the treasurer of such school section the full amount required, as per order, and collect the proportionate share from the other municipalities concerned.

Which is the correct method? Please give section in the Act.

Section 49 of The Public Schools Act, 1901, governs this matter. It provides in part, that "the amount collected from the several ratepayers in each part of the union section shall be paid by the respective collectors to the treasurer of the municipality, in which part of the union section is situate, and *the treasurer shall pay over the same without any charge or deduction to the trustees entitled thereto.*"

Preliminaries to Issuance of Burial Permits.

140—S. S.—In your reply to questions 74 and 77 in February MUNICIPAL WORLD I would infer than you say a Division Registrar may issue a burial permit without having received particulars of death for registration. The burial permit is a certificate that the particulars of the death of so and so have been registered. Please explain how I can certify that a thing has been done that has not been done? This, as the Registrar General has said, to me would defeat the object sought to be attained by the Act.

Section 22 of chapter 44, R. S. O., 1897, requires the persons therein mentioned to register particulars of deaths with the Registrar of the Division in which the death takes place. Section 23 requires the medical practitioner in attendance to send to the Division Registrar a certificate as to the cause of death. Sub-sections 2 and 3 of section 24 provide for the granting of a certificate of registration of the particulars of a death by the Division Registrar with whom they are registered, and sub-section 1 of the latter section prohibits the removal of the body or the engaging in its burial unless a certificate of registration has been previously obtained. Nowhere in the Act or elsewhere have we been able to find that the delivery to the Division Registrar by the medical attendant of the certificate of the cause of death is a condition precedent to the granting by the former of a certificate of registration and the words "burial permit" do not appear anywhere in any of the sections quoted or elsewhere in the Act.

Assessment of Branch of Bank—Of Income Derived from Foreign Sources.

141—X. Y. Z.—1. We have in our village a branch chartered bank. How should they be assessed?

2. If a man has money invested in the United States and derives an income from the same; is he liable to assessment on such income?

1. The bank should be assessed as owner or tenant of the premises, as the case may be, and their actual value placed opposite the name of the bank in the proper column of the roll. The bank is also liable to the business assessment mentioned in clause (c) of sub-section 1 of section 10 of The Assessment Act, 1904, calculated on the assessed value of the premises used and occupied in carrying on its business.

2. Yes, unless the person is a householder or head of a family and is not in receipt of an income from all sources exceeding the sum of \$300. (See section 11 of the above Act, and section 1 of chapter 36 of The Ontario Statutes, 1906).

Limitation of Damages to be Paid for Sheep Killed by Dogs— Height of Line Fences—Fencing of School Grounds.

142—F. O. W.—1. Can a municipal council by by-law fix a price for the payment of each sheep killed by dogs?

2. Can a council by resolution compel parties having sheep killed by dogs to provide a witness to prove that sheep were killed before he can get pay for sheep?

3. Do the statutes provide that a line fence, to be a lawful fence, must be of any certain height or style?

4. Is a school section compelled to fence its own school site?

5. If school sites join three different parcels of land can section remove any of the present fence surrounding school site if they replace the same with as good or better fence?

1. No. Section 18 of chapter 271, R. S. O., 1897, requires the council to pay the owner of the sheep killed two-thirds of the damage sustained by him—that is, two-thirds of the actual value of the sheep killed, as ordinary sheep, sheep of a specially valuable breed, sheep kept for breeding purposes, etc.

2. The council should require the claimant to prove to its satisfaction, in whatever way it thinks sufficient, that the sheep were actually killed by dogs, and that the value placed on them by the claimant is correct.

3. No, but councils of townships, etc., may pass by-laws under the authority of sub-section 2 of section 545 of The Consolidated Municipal Act, 1903, "for settling the height and description of lawful fences."

4. Yes. Sub-section 2 of section 37 of The Public Schools Act, 1901, provides that "any wall or fence deemed necessary by the trustees or required by the regulations of the Education Department for the enclosure of the school premises shall be erected and maintained by the board of trustees at the expense of the school section."

5. Yes.

Names of Municipalities Owning Electric Lighting Plants.

143—F. L.—Our corporation is agitating for the taking over of the electric lighting plant now held by private parties on which a report is asked for next Monday night. Would I be asking too much of you to mail me a list of places handling their electric lighting plant under municipal ownership in Ontario?

Alexandria, Amherstburg, Aylmer, Barrie, Beeton, Bracebridge, Brockville, Campbellford, Chatham, Collingwood, E. Toronto, Ft. William, Goderich, Huntsville, Kincardine, Markham, Mitchell, Newmarket, Niagara Falls, N. Toronto, Orillia, Paris, Parry Sound, Picton, Prescott, St. Marys, Sudbury, St. Thomas, Thessalon, Toronto Junction, Windsor, Woodstock.

Councillors May Legally Subscribe for The Municipal World.

144—G. L. J.—Is it legal to supply THE MUNICIPAL WORLD to the members of the council at the expense of the municipality?

We have many times, during the past sixteen years, answered this question in these columns in the affirmative. In this instance we think we cannot do better than republish our reply to clause 1 of question number 116 in our issue for February last (1906). It is as follows:

We do not think this criticism fair or in any way justifiable. THE MUNICIPAL WORLD cannot by any argument be placed on the same plane with the ordinary newspaper. Our object in publishing it is solely to convey to municipal councils and their officers useful information in municipal matters, and to aid them in every way in the proper and regular performance of their duties. In this endeavor, from approving comments and the favorable manner in which our journal has been received for the past sixteen years, we venture to believe that we have

attained at least a fair measure of success. It is not illegal for the council to subscribe for THE MUNICIPAL WORLD and pay the subscription price out of the municipal funds, and this opinion is borne out by the language used in section 34 of chapter 22 of The Ontario Statutes, 1904.

Rights of Non-Resident Public School Supporter

145—H. M.—Mr A. lives in school section No. 1 and asks the council to be changed to S. S. No. 2. All parties are notified. Council meets and agrees to remove 25 acres from S. S. No. 1 to S. S. No. 2, balance of 75 acres to remain in S. S. No. 1. Mr. A's buildings are all on part belonging to No. 1.

Can he, after by-law is passed and after December 25th, send his children to school section No. 2, or is he a non-resident? Has the council power to change 25 acres when he asked for all his property to be changed and parties were notified to that effect?

A. is a non-resident, and has no right to send his children to this school unless he comes within section 59 of The Public Schools Act. We see no objection to the detaching of part of A.'s land from school section No. 1 and attaching it to school section No. 2 under the circumstances stated.

Grocer not Required to Have Butcher's License to Sell Sausage.

146—A. W.—In an incorporated village where they have a butcher's license, does it bar any grocer from selling fresh pork sausages? A butcher's license calls for the selling of fresh meats.

We do not think so. The fact that a grocer handles with his other stock sausages, cured meats, etc., does not make it necessary that he should pay the license fee required of those carrying on business as butchers in the municipality.

Assessment of Orange Halls.

147—W. J. D.—The assessor of the township of M. in 1906 assessed all the Orange Halls in the municipality, claiming that under The Assessment Act said Halls were not exempt from assessment. The officers of some of the lodges appealed against the assessment at Court of Revision and council sustained the assessment.

1. Are Orange Halls owned by the Orange Association assessable or are they exempt?

2. Is a hall leased to and used by the Orange Association assessable or is it exempt?

3. If said halls are assessable, in whose name should they be assessed, the association's or the master's?

4. A. lives in township of R., is assessed for Orange Hall which is situate in township of M. A. claims he should be on voters' list of township of M. and should be entitled to vote thereon. Is he right?

1. We are of the opinion that the assessor and the Court of Revision were right, and that halls of lodges owned by the Orange organization are properly assessable. If the Orange organization is a registered friendly society its subordinate lodges are now exempt from business assessment by section 6 of chapter 36 of The Ontario Statutes, 1906.

2. We are of opinion that it is assessable.

3. In the name of the actual owner or lessee, whether it be the local subordinate lodge or the central organization.

4. If A. appears by the last revised assessment roll of the township of M. to be the owner of the hall, he should be placed in part 2 of the voters' list of M., being a non-resident. If no objection is made to his voting when he applies for a ballot, he may vote, but if his vote is objected to he could not legally take the oath prescribed by section 112 of The Consolidated Municipal Act, 1903.

Township Cannot Pass By-Law Licenseing Cigarettes Sellers.

148—W. B.—Our township council has been presented with a petition from the ratepayers of the municipality requesting the council to pass a by-law fixing a license on shop-keepers selling

cigarettes. The above-mentioned shops are principally grocery stores. Has the council power to pass a by-law granting a license for the sale of cigarettes?

A TOWNSHIP council does not possess this power. Sub-sections 28 and 29 of section 583 of The Consolidated Municipal Act, 1903, applies only to the council of cities, towns and villages. Section 1 of chapter 261, R. S. O., 1897, subjects vendors of cigarettes to a penalty of not less than \$10 nor more than \$50 in the event of a sale to a minor under the age of eighteen years under the circumstances mentioned in this section, and in sections 2 and 3 of the Act.

Council Cannot Pass By-Law Excluding Minors from Pool Rooms—Nor Impose More than 5% on Taxes Not Paid by a Certain Date.

149—T. I. T.—1. Under By-law No. 555 a by-law for licensing, regulating and governing of persons who for hire or gain, keep or have billiard, pool or bagatelle tables in the town of M; there is a clause restricting the frequenters of billiard or pool parlors. I have reference particularly to one clause, namely: the excluding of all persons under the age of twenty-one years, penalty not to exceed \$50.00 for each offence.

2. The following clause is contained in our by-law for levying rates, "An addition of 5% shall be charged on all taxes, rates and assessments remaining unpaid after December 14, 1906, and a further addition of 5% shall be charged on all taxes, rates and assessments remaining unpaid after May 1, 1907."

Kindly advise me if our town council are within their rights in these two instances?

1. We are of opinion that the council had no authority to enact this clause in their by-law. Section 1 of chapter 247, R. S. O., 1897, provides for the exclusion of boys under 16 years of age from billiard or pool rooms, under the circumstances therein provided, and no municipal by-law can override the provisions of this section.

2. We are of opinion that this provision is also beyond the power of the council to enact. Sub-section 2 of section 102 of The Assessment Act, 1904, provides amongst other things that the council may by by-law "impose an additional percentage charge for non-payment of such taxes or any class of taxes or of any instalment thereof by a day or days named in such by-law; provided that no greater percentage charge than five per cent. shall be imposed on any instalment of taxes or on the aggregate amount of taxes." The provision of the by-law quoted is manifestly in contravention of the provision of the statute, as, in the result, it would mean the imposition of a larger percentage charge than five per cent. on taxes remaining unpaid on the 1st May next.

Responsibility for Damages Resulting from Non-Operation of Pumps.

150—P. M. M.—Who would be held responsible for any damages to lands and crops in a pumping system when the commissioner of same refuses or neglects to keep in repair, and pump when necessary and properly drain the land?

Assuming that the drainage works have been constructed under the provisions of The Municipal Drainage Act (R. S. O., 1897, chapter 226), it is the duty of the municipality to see that the drainage works are kept in a proper state of repair, and to operate the pumps or cause them to be operated in such a way as to carry out the intention of the original scheme. If the municipality neglects or refuses to do its duty in this regard, it may be compelled to perform it by mandamus obtained under the authority of section 73 of the above Act.

Disposition of Surplus Above Cost of Drainage Work.

151—G. H. M.—On a certain municipal drain in my township \$1,514.75 was raised by debentures covering a period of five years bearing interest at 5%. It was found that this amount exceeded the actual cost of the drain by \$500.51. It was decided by the council that this \$500.51 should be refunded (to those assessed on the drain)

in five equal annual payments, each man's rebate being proportioned according to his assessment.

1. The five debentures raising the money for this drain are not in equal annual payments, therefore in dividing the rebate should it be divided into five equal annual payments or should it be proportioned according to the annual payment received?

2. One year's portion of the total rebate has been paid. Would the remaining part of the rebate be a liability for the year 1906. If so how should it be treated?

1. Sub-section 3 of section 6 of The Municipal Drainage Act (R. S. O., 1897, chapter 226), prescribes the course to be pursued in a case of this kind. The latter part of this sub-section provides that "every such surplus until wholly paid out shall be applied by the council of the municipality *pro rata* according to the assessment in payment of the rates imposed by it for the work in each and every year after the completion of the work."

2. Such part of this surplus as remains unpaid from time to time is a liability of the municipality to the rate-payers to whom it is payable until it is fully satisfied.

Levy and Collection of Drainage Assessment—Duties of Collector

152—COLLECTOR—1. Has a township council authority to collect the total assessment for drainage work under The Municipal Drainage Act, in one payment or must they spread the payments over a number of years?

2. Is a drainage tax different from ordinary taxes as to levying by distress, if so, how?

3. Can a collector return as uncollectable the taxes of a resident owner while said owner has sufficient chattels, not exempt from seizure, to satisfy the claim and cost?

1. The council can exercise its discretion as to this. If the amount is so large that the levy and collection in one year would prove burdensome to the owners assessed for the construction of the drainage works, its payment should be extended over a term of years, not more than twenty years.

2. No. Drainage rates are to be "assessed, levied and collected in the same manner and at the same time as other taxes are levied and collected." (See clause 3 of the form of by-law appended to The Municipal Drainage Act, Schedule B).

3. No. A collector would not be properly discharging his duties if he pursued this course.

Assessment of Income—Taking School Census—Assessment of Doctor's Income.

153—J. T.—1. A farmer owns a farm and is assessed therefor. He also has an income of \$600 from money lent on mortgages or in bank deposit. Should he be assessed for \$600 or only \$300?

2. A householder has an income of \$400, should he be assessed for \$400 or \$100?

3. A person, not a householder, has an income of \$400, he being only assessed M. F., how is he to be assessed?

4. Is an assessor required to take the names of all children between the ages of 8 and 14 in a township where no truant officer is appointed?

5. Is a doctor's professional income subject to the same exemption as personal earnings?

1. For \$600. The latter part of paragraph 19 of section 5 of The Assessment Act, 1904 (as amended by section 1 of chapter 36 of The Ontario Statutes, 1906), exempts "the income of any person derived from any investment or from moneys on deposit in any bank or other financial institution or loaned upon mortgages, promissory notes or other securities, where such income does not exceed \$300 and where such person is a householder or head of a family within the meaning of this paragraph, and is not in receipt of income from all sources exceeding the said sum of \$300." When this income exceeds \$300, or if it does not exceed \$300, and

the recipient is not a householder or head of a family, the whole of the income is assessable.

2. For \$400, for the reasons given in our reply to question number one.

3. He should be assessed for his income of \$400, unless it is derived from personal earnings, or from any pension, gratuity or retiring allowance in respect of personal services. In the latter case, the whole of the \$400 is exempt, as provided in the clause referred to in our reply to question number one.

4. Whether a truant officer has been appointed or not, an assessor should perform the duty required of him in this regard by section 29 of The Assessment Act, 1904.

5. A doctor's professional income is derived from personal earnings and that part of it in excess of the business assessment to which the physician is liable under clause (f) of sub-section 1 of section 10 of the above Act, is assessable less the exemption mentioned in paragraph 19 of section 5.

Minimum Business Assessment.

154—F. J. S.—Please advise me if there is any change in The Assessment Act regarding business assessment. There was an act introduced before parliament to make the minimum \$100.00 instead of \$250.00, has this amendment come in force? If so, when?

By reason of the enactment of section 4 of chapter 36 of The Ontario Statutes, 1906, sub-section 3 of section 10 of The Assessment Act, 1904, now reads as follows: "Where the amount of the assessment of any person assessable under this section would, under the foregoing provisions be less than \$250, he shall be assessed for the sum of \$100.

Mode of Assessing for Income.

155—E. S. H.—What letter or letters should an assessor put in column four, opposite a name, when the individual is an income voter, or I should say, is entitled to vote on income, but is unmarried and boards with a farmer?

It is not necessary that the assessor should place any letter or letters in column 4 opposite the name of a person assessable for income. He should, however, place in column 20 of the assessment roll opposite his name the amount of the income for which he is taxable.

Proper Method of Assessing Owners and Tenants.

156—A. H.—1. Does it matter which name, owner or tenant, is put first on the assessment roll, so that both being in brackets shall be entitled to vote, having enough for both and shall disqualify both from voting when taxes are not paid by December 14th, according to law?

2. Where several parties occupying shops and offices as tenants having the whole property assessed to owner in one sum under bracket, can these tenants qualify as voters in proportion to the relative proportion of property so occupied? And would such proportionate value entitle the tenant to be councillor same as other tenants having dwellings?

1. No.

2. We do not think that an assessment of this kind will qualify the tenants either as voters or candidates for membership in the municipal council, and it has been so judicially decided in the case of Regina ex rel. Hill v. Dowswell, reported on page 34 of the issue of THE MUNICIPAL WORLD for March, 1900. The value of the portion of the premises occupied by him should be placed in the proper column of the assessment roll opposite the name of each tenant, so that, in preparing the voters' list, the clerk can ascertain whether he is entitled to be placed on the list as a municipal voter, and to enable the presiding Judge, in case the validity of an election is called in question, to find out whether the tenant whose election is complained of possesses the necessary qualification according to the last revised assessment roll of the municipality.

Compulsory Opening of Statutory Road Allowances.

157—A. J.—There is in our township vacant or blind headlines by mistake or other intentions in the original survey. The Ontario Legislature in 1906 passed a bill to set right the error, permitting the highways to be opened. A., B. and C. own land, non-resident, on the first two lots, A. and B., and C. has a public road at one end of their land and a private road for themselves along this blind headline. Can A., B. and C. compel the council of the municipality to open this blind headline and make a public road of it at the expense of the municipality; if so, would they have to clear it through, the distance being two miles?

This headline has never been opened up or used in any way for a public road, and I do not think it to the general interest of the township, it would be handy for a few.

We have read over the Act referred to, which is chapter 79 of The Ontario Statutes, 1906. The provisions of the statute do not compel the council to open all or any of the allowances thereby reserved. We are therefore of opinion that the council is in the same position as regards these road allowances as in the case of any other original road allowance in the municipality. It is discretionary with the council as to whether it opens any of the road allowances mentioned in the Act, or any portion of any of them. It should not do so, unless of opinion that it would be in the interest of the general public, and not solely for the benefit of two or three private owners.

Reeve's Voting Powers.

158—J. McC.—Can a reeve sit at council and vote on all questions concerning the corporation? Previous council contained six councillors and mayor or seven in all, now with reeve makes eight, and not workable in some cases?

Sub-section 2 of section 1 of chapter 35 of The Ontario Statutes, 1906, enacts that the provisions of that sub-section shall not apply to towns. Therefore the number of councillors elected in towns is not to be reduced by the number of deputy-reeves to be elected therein. Sub-section 3 provides that the reeve and deputy-reeves shall be members of the council of the municipality in which they are elected. We are therefore of opinion that Reeves and deputy-reeves in towns have the same voting and other powers as other members of the council.

Married Woman has No Right to Vote.

159—TOM—A. is married woman, owns property. Her name is on the voters' list. Can they both vote at municipal election?

The husband can vote if his property is rated at a sufficient amount, as provided in section 87 of The Consolidated Municipal Act, 1903, and he possesses the other qualifications as a municipal voter mentioned in the Act. His wife, however, has no right to vote, as section 86 of the Act provides that only men, or UNMARRIED women, or widows, possessing the property and other qualifications mentioned in the Act, are entitled to vote at municipal elections.

Collection of Statute Labor Commutation—Extending Time for Returning Collector's Roll—Appointment of Members of Local Board of Health.

160—I. H.—1. Has the township council power to carry unperformed statute labor from the year 1906 to 1907?

2. If so, have they power to seize for same as they would for taxes?

3. What would be the legal procedure to collect same?

4. Has the township council legal power to grant extension of time from one year into another for return of collector's roll?

5. Is the township council compelled by law to appoint members of board of health at their first meeting?

1. Yes. The latter part of sub-section 1 of section 15 of chapter 25 of The Ontario Statutes, 1904, provides that "the clerk shall enter the commutation for statute labor against the land in the collector's roll of the current or following year, and the same shall be collected by the collector.

2. Yes.

3. The same as in collecting any other taxes.

4. The statute prescribes no limit to this extension. Sub-section 1 of section 111 of The Assessment Act, 1904, provides that "in case the collector fails or omits to collect the taxes or any portion thereof by the day appointed, or to be appointed, as in section 109 mentioned, the council may, by resolution, authorize the collector or some other person in his stead, to continue the levy and collection of the unpaid taxes in the manner and with the powers provided by law for the general levy and collection of taxes."

5. Yes, it is so provided by section 49 of chapter 248, R. S. O., 1897 (The Public Health Act). This section further provides that "if, for any reason, appointments are not made at the proper dates, the same shall be made as soon as may be thereafter."

Collection of Business Tax.

161—G.—A man doing business in rented premises closes his shop for several weeks and stays out of the municipality where he is assessed for business tax. The landlord paid the property tax. The collector had to return the roll, business tax unpaid. Can the corporation now sue the defaulter in the Division Court for the recovery of the business tax? See section 90 of the Assessment Act.

Under the authority of sub-section 8 of section 10 of The Assessment Act, 1904, the business tax was not a charge on the land occupied and used for the purpose of carrying on the business in respect of which the tax was imposed, and the owner of the premises cannot be held liable for the amount. The owner of the business may, however, be proceeded against for the amount of the business tax as a debt due to the municipality by an ordinary action at law, as provided in section 90 of the Act.

Collection of Electric Light Charges.

162—C. A. R.—We have a by-law which compels the use of meters for the use of electric light. I may just mention that the town owns its own plant and installs its own meters at a monthly rental of twenty-five cents. We have had a case where a meter stopped, or nearly so, in January, only registering some eight cents worth of electricity. An account has been sent in by the collector for the same amount of light as was consumed in January 1906, just one year ago. Can this be done? Or must they take the reading of the meter for January 1907?

We do not see how the consumer can be compelled to pay for any more electricity than the meter shows he used. The fact that his account for electricity was a certain sum in January, 1906, is not evidence to show that it was that sum also in January, 1907. To recover the price of any more electricity than the meter shows was consumed, the town authorities would have to show what amount of electricity was actually used and should be paid for.

Income Assessment.

163—D. C.—The exemptions from the Assessment Act as amended in 1906 and published in the MUNICIPAL WORLD of June 1906, seems to exempt money deposited in bank when the interest does not amount to \$300 as the Act only allows the interest to be taxed.

1. What I want to know is, can a person be assessed for money deposited in bank when he has other personal earnings that might amount to \$300, or is the deposit in bank exempted until it reaches \$300 of interest?

2. Does the Act of 1906 take effect on the assessment of 1906 as townships in rural districts had the work all completed and the Court of Revision over before the statutes reached the clerks; the June number of THE MUNICIPAL WORLD was the first information?

3. Providing a person was earning from another trade or calling so that he could still be adding to his bank account would he be exempt until the interest on deposit alone reached \$300?

4. The Amendments of 1906; If the person is a householder or head of a family, within the meaning of this paragraph, and is not in receipt of income, from all sources, exceeding the sum of \$300, how would those who are neither householders or head of families be placed; having deposit in bank, but not enough to make \$300 interest and still having income from another calling?

1. Moneys DEPOSITED in a bank are not income, but form part of the owner's PERSONAL estate. The Assessment Act, 1904, makes no provision for the assessment of personal property of any kind. The INTEREST on moneys so deposited forms part of the owner's income, and the recipient of the income is exempt from assessment therefor if it does not exceed \$300, and if he is a householder or head of a family within the meaning of paragraph 19 of section 5 of the Act, and he is not in receipt of an income from all sources exceeding the sum of \$300. If he does receive an income of more than \$300, or less than \$300, and is not a householder or head of a family, he is assessable for the whole amount of the income he receives. Income derived from *personal earnings*, etc., is exempt from assessment to the extent of \$1,000 if the recipient is a resident of a city or town of 5,000 population or over, or \$700 if he is a resident of any other municipality, and is a householder or head of a family as mentioned in paragraph 19. If he is not a householder or head of a family his income from personal earnings, etc., is exempt to the amount of \$600, if a resident of a city or town of 5,000 population or over, and \$400 if a resident of any other municipality.

2. If the assessment was completed before the 14th day of May, 1906, which was the day on which The Assessment Amendment Act for 1906 received the Royal assent and came into force, it would not be affected by the provisions of the Act.

3. Our reply to question number one will be a sufficient answer to this.

4. A person who is not a householder or head of a family within the meaning of paragraph 19 of section 5 of the Act, is not exempt from assessment for any part of his income derived from moneys deposited in a bank. He is exempt from assessment for \$600 of his income derived from personal earnings, etc., if a resident of a city or town of 5,000 population or over, or \$400 if a resident of any other municipality.

Dismissal of Engineer—Reconsideration of Drainage Award—Duties of Pathmaster, Etc.

164—A. C. A.—1. If a township council desires to dismiss its engineer and appoint another, what is the legal way to go about doing it? Can a township have two engineers appointed in order to give a choice to parties desiring them on drain work?

2. Some thirty years ago an award for an open drain was made, running out to nothing in the middle of swamp, which dumped the water to the injury of parties a hundred yards up from the end. Now these parties want the drain carried down into the creek, and the whole drain, or at any rate, the part all below the swamp changed to a tile drain. The objection raised to doing so is that the first award drain calls for an open drain and that it cannot be changed to a tile drain, or even a part of it, so as to relieve parties of water dumped by extending the drain further down and putting in tile in the extension, and as part or the whole of the first award open drain is that contention will be taken. Must the first award remain unchanged and must those parties suffer for all time to come. If not, how shall they proceed to get change made?

3. If there is any obstruction on the roadway such as trees, fences, or snow-drifts, is it road commissioner's duty to have it removed or the pathmaster's of the road division?

1. The council should pass a by-law revoking the appointment of the engineer, give him notice of the pass-

ing of the by-law, and by by-law appoint another engineer to act in his stead under the authority of sub-section 1 of section 4 of The Ditches and Watercourses Act (R. S. O., 1897, chapter 285). The sub-section quoted provides that "every municipal council shall name and appoint by by-law *one person* to be the engineer, etc." This precludes the appointment of two engineers in the same township to carry out the provisions of the Act.

2. Any owner, party to the original award, may take proceedings, as provided in section 36 of the above Act to have the award reconsidered and a new one made. The engineer, in making the new award, is not bound to cause the drain to be constructed the same length and dimensions as in the original award, or otherwise follow its provisions. He should use his discretion and provide for the construction of such a drain—open or tiled—as will properly and effectually drain the locality.

3. There is no special duty cast upon either road commissioners or pathmasters to keep the highways in the municipality free of obstructions, but the council should take care that the roads are kept reasonably safe for public travel in order to protect the municipality against liability for accidents.

Election of School Trustees.

165—X. Y. Z.—Four new members were needed and were elected for school board.

Do the four draw lots to see which member shall retire at the end of one year? Does section 61 and sub-section 6 apply in this case?

Since this municipality is a town, if the trustees have, by resolution, passed under the authority of sub-section 6 of section 61 of The Public Schools Act, 1901, limited the number of trustees constituting the public school board to six to be elected by the general vote of the ratepayers of the municipality, unless the election referred to was the first held after the passing of the above resolution, which we do not gather was the case, the provisions of sub-section 6 of section 61 as to the determining by lot of the trustees who shall retire at the end of the year, do not apply. An election of three trustees to fill the places of those retiring in regular rotation should have been held in the ordinary way. If it was necessary to elect another trustee to fill a vacancy on the board, a separate election should have been held for this purpose, and "the person thereupon elected shall hold his seat for the remainder of the term for which his predecessor was elected," as provided in the latter part of sub-section 1 of section 62 of the Act.

Liability for Accident on Hill.

166—J. W.—Mr. R. was driving down a hill with a load of logs he put a lock on his sleigh before starting down. After going some distance the lock came undone, there being a crook in the road just there, (although the road is wide enough for two teams abreast at this particular point) the neckyoke broke letting both horses, load and driver go over a steep bank, killing one horse, but no injury to the other three; being no railing there, although the council had ordered the commissioner to put one there. Will the council be liable for the price of the horse killed or not?

It is difficult to give an opinion on a question of this kind, so much depends upon the circumstances of each particular case. In order to succeed against the municipality, the claimant must show that the highway was out of repair at the time when, and at the place where the accident, resulting in damages, happened—that this non-repair was due to negligence on the part of the municipal corporation, and that the damage was sustained by reason of the non-repair. There must be direct evidence of the neglect of some duty on the part of the corporation which is sued. In this instance, however, from the statement of facts, it would appear that the council considered the point in the highway where the

accident occurred dangerous without a railing, and ordered one to be erected there. Since the railing had not been erected when the accident happened, we think the safest course for the council to pursue is to settle as favorably as possible with the owner of the horse killed.

Ratepayers Outside of Three Mile Limit Must Pay School Taxes.

167—T. P. N.—Kindly inform me if a ratepayer owning property over three miles from a school is obliged by law to pay the general school tax and requisition?

We assume that the ratepayer owns property in some school section and is a public school supporter in the municipality. If this is so, since this is an organized township, sub-section 3 of section 25 of The Public Schools Act, 1901, has no application, and the fact that the ratepayer's property is located more than three miles from the school, does not absolve him from payment of school taxes.

Drain Should be Constructed Under The Ditches and Water-Courses Act.

168—C. W. C.—A. lives in 4th concession; B. lives in 3rd concession; water ran from A's property into and through B's property by natural watercourse. The bank in B's property has slid in and caused the water to back up on A's property.

1. Can A. make B. open the watercourse?
2. Can A. open the watercourse, if so, at whose expense, A's or B's?

3. State proper course to take to open ditch?

1, 2 and 3. We think this is a case where proceedings should be instituted for the construction of a drain under The Ditches and Watercourses Act (R. S. O., 1897, chapter 285) whereby the rights and liabilities of all parties interested can be equitably adjusted.

Liability of Lessee for Statute Labor.

169—G. M.—A person rents land at E. from railway company paying them yearly for the use of the land; they pay the taxes on land. This person has erected a summer cottage on the land. Can this person be made to do statute labor? The council have assessed him \$150 for the cottage and levied 56 cents taxes and \$2.00 statute labor; will this person have to pay the \$2.00 statute labor?

Yes.

Business Assessment of Tailor—Of Laundryman—Income Assessment.

170—A. G.—A tailor employs two or three hands the year round. He does not carry a stock but makes up all goods that may be brought to him, either from the stores or from private parties.

1. Is he liable for business tax?
2. Are Chinese laundrymen liable for business assessment?

In 1905 a man got a large salary and was assessed on income. In 1906 he was not employed and was not assessed. He has been engaged for 1907 at a large salary. He claims he is not assessable as there is no way of estimating. He contends that it must be estimated on the income of last year.

3. Can I assess him this year?
4. What are the proceedings to take if he refuses to fill out and return schedule E?

1. This tailor is carrying on business as such, and we are of opinion that he is liable to the business assessment mentioned in clause (h) of sub-section 1 of section 10 of The Assessment Act, 1904, calculated on the assessed value of the premises used and occupied by him in carrying on his business.

2. Yes, to that mentioned in clause (h) of sub-section 1 of section 10 of the Act.

3. If the income this year is a salary or fixed amount, capable of being estimated, it should be assessed. If the income is not a salary or fixed amount capable of being estimated, the income received for last year must form the basis of assessment. (See sub-section 2 of section 11 of the above Act).

4. If default is made in returning Schedule E to the assessor duly filled out, signed, and verified by declaration as required by section 18 of the Act, the defaulter is liable to the penalty mentioned in section 21 of the Act.

Assessment of Private Canal.

171—W. M. S.—A canal has been and is used for floating logs from a river to a lake. It was originally built by a lumber company, but whether the company is in existence now or not is uncertain. G., a supposed member of the company, is assessed for some of the lots through which the canal flows. The lots are assessed as farm lands. They have long since been cleared of timber. The canal passes through Indian land part of the way. The owner of the canal company or otherwise charges toll at the rate of 25 cents per 1000 feet when it is used by other lumber companies. The canal has never been taken into account in making up the assessment roll.

1. Is the canal assessable as property independently of the lots through which it passes? If so, what sections of the act govern its assessment?

2. Is it subject to a business tax and if so at what percentage?

1. We are of opinion that G., or whoever is the proper owner of the canal (which appears to be a private enterprise,) should be assessed for it, at its actual value, as required by section 36 of The Assessment Act, 1904. Under the authority of clause (e) of paragraph 7 of section 2 of the above Act the words "real property" used in section 36 include "all structures and fixtures erected or placed upon, in, over, under or affixed to any highway, road, street, lane or public place or WATER," and under clause (a) "land covered with water."

2. If G. makes a business of charging toll for the use of the canal, he should be assessed for the business assessment mentioned in clause (h) of sub-section 1 of section 10 of the above Act, calculated on the assessed value of the canal.

Duties of Assessor.

172—R. G.—I have been appointed assessor and being unable to walk easily have employed an assistant to help me in the work. Is there any legal objection to the validity of the assessment if my assistant goes into each house and asks for information, statistics, etc., while I remain outside and value the property? I cannot see any objection to this course either on the ground of expediency or on a legal ground?

We do not see that any objection can be taken to the making of the assessment in the manner stated. Of course, however, the assessor appointed by the council, must assume all responsibility for the correctness of the assessment.

Assessment of Income—Business Assessment of Banker.

173—P. S.—1. In chapter 36, Assessment Amendment Act 1906, page 365, commencing at 7th line from bottom of page it reads as follows: "And the income of any person derived from any investment or from moneys on deposit in any bank, etc.," there seems to be a wide difference of opinion with respect to the \$300 exemption on income, some claiming that where said income does not exceed \$300 it is exempt and that only the excess over and above \$300 can be assessed and taxed, others claim that income not exceeding \$300 is exempt, but if said income exceeds \$300, say \$350, then the whole \$350 will be assessed and pay taxes. The statute does not seem to me to be very clear on this matter. Please give me your opinion on above matter.

2. A. rents a building from B. which he uses for banking purposes. B. is assessed as owner of the building and A. as tenant. B. pays the taxes. Is A. not liable for business assessment at so much per cent of value of the premises in which bank does business.

1. Where the income of a householder or head of a family within the meaning of paragraph 19 of section 5 of The Assessment Act, 1904, as enacted by section 1 of chapter 36 of The Ontario Statutes, 1906, derived from deposits in a bank, etc., does not exceed \$300, and he is not in receipt of income from all sources exceeding \$300, this income is exempt from assessment and taxation. If, however, his income, under the circumstances above stated, exceeds \$300, the WHOLE amount of his income is

assessable. If the recipient is not a householder or head of a family within the meaning of paragraph 19, no part of his income is exempt.

2. Under the circumstances stated we are of opinion that A is liable for the business assessment mentioned in clause (c) of sub-section 1 of section 10 of the above Act, calculated on the assessed value of the premises used and occupied by him in carrying on his business as a banker.

Prohibiting Pool and Billiard Rooms.

174—X. Y. Z.—1. Can a township council keep out billiard and pool rooms? If so how?

2. What bearing does section 486 A have on the matter with rural or township municipalities?

1. Sub-section 4 of section 583 of The Consolidated Municipal Act, 1903, empowers the councils of townships, etc., to pass by-laws "for licensing, regulating, and governing all persons who for hire or gain, directly or indirectly, keep, or have in their possession, or on their premises any billiard or bagatelle table, etc.," but neither this nor any other section of the statutes authorizes a township council to prohibit the conducting of a billiard or pool room in the municipality.

2. If the council has passed a by-law under the authority of sub-section 4 of section 583 of the Act, section 486a confers on the council the discretionary power of granting or refusing the license, as it sees fit, "and the council is not bound to state any reason for the granting or the refusing of any such license."

Council Cannot Refund Taxes on Premises Destroyed by Fire.

175—D. M.—Will you kindly tell me through the MUNICIPAL WORLD how the town council can legally refund part of the taxes to the fire sufferers. Last August the greater portion of the business places were burnt and we were paying a big tax on our business and on our buildings; they are both burnt and we are out of business. Now what we ask is for a twenty-five per cent rebate on building and business. The town solicitor tells them they cannot give a rebate on taxes. Kindly advise us what to do. I am a fire sufferer, I got a petition and had it signed by nearly all the fire sufferers and presented it to the council so they have put us off to see if they can give us a rebate. The town solicitor tells them that they cannot; is there not a way by which the council can give us a rebate legally. They are quite willing to, but they do not know how to do it to keep their books straight.

The only circumstances under which taxes can be refunded to ratepayers are those mentioned in sub-section 10 of section 112 of The Assessment Act, 1904, and this sub-section does not provide for relief in a case of this nature. The council has no authority to grant the relief asked, unless special legislation is obtained to enable it to do so, as was done in the case of the Ottawa fire some years ago.

Estimating Percentage of Votes Necessary to Carry Money By-Law.

176—J. E. A.—1. Will dead men whose names are on the list of 1906 count against a by-law voted on now?

2. Will parties who have disposed of their property since last assessment and have left the village count against a by-law voted on now?

1. We assume that the by-law is one that falls within the purview of either section 366 or section 366a of The Consolidated Municipal Act, 1903, and requires the assent of a certain proportionate part of the electors, or in the language used in these sections of the "ratepayers who were entitled to vote on the by-law." Therefore, we are of opinion that the names of dead men should not be taken into consideration in estimating the number of voters' entitled to vote on the by-law, who have supported it.

2. Under the authority of section 353 of the above Act to entitle a freeholder to vote on a by-law, he must be actually a freeholder at the time of tendering his vote. Owners who have disposed of their property and moved away from the municipality, are therefore not entitled to vote on the by-law, and should not be considered in arriving at the proportionate part of the ratepayers who have voted in its favor.

Granting or Refusing Licenses to Pool or Billiard Rooms.

177—D. R.—Referring to your answer to 105, A. B. C. in February number of the WORLD you say a municipal council has no right to refuse a license to any person who is willing to pay the license fee for keeping a pool room.

I would like to ask if you have taken section 486 A. of The Municipal Amendment Act of 1903, into consideration in forming your answer to A. B. C. I, with many other municipal councillors, am of the opinion that this section 486a, page 303, Statutes Ontario 1903, gives councils power to refuse a license. If this section does not do so, kindly state what sections over ride it?

See our reply to question number 174 in this issue.

Application of Truancy Act.

178—W. G. B.—Does The Truancy Act apply to all children up to the age of 14?

Section 2 of The Truancy Act (chapter 296, R. S. O., 1897) requires all children between the ages of 8 and 14 years to attend school subject to the exceptions mentioned in section 4 of the Act, and section 5 prohibits the employment of children under fourteen years of age during school hours.

Liability for Maintenance of Deviating Town Line.

179—P. S. E.—There is a road running parallel with a boundary line between two townships owing to the boundary line being impracticable for a road. Many of the old residents state that said road has always been considered a substitute for and in lieu of a road on said boundary line, and moneys have been granted and expended by both of said municipalities on said road as a deviation of the said boundary line and statute labor also, and both municipalities passed by-laws assuming same.

Now one of the townships has rescinded its by-law and is trying to compel the other township to assume and maintain all that part of said road that deviates from the said boundary line. Said deviation of road, however, does not return to the boundary line only by running on a concession line for the width of a lot when it again strikes the boundary line proper, said deviation is only for a good line of road. What action can the one township take to compel the other township to resume their just right and responsibility in the matter?

I have given you a correct statement of the circumstances. There is a bridge over a stream, on said deviation of road, 80 feet long, and if the said boundary line could be opened it would be necessary to build a bridge nearly a $\frac{1}{4}$ of a mile long.

The county council a few years ago gave a grant of \$450 to assist in building the said 80 foot bridge across the stream on said deviation of road, said money was divided in equal portions between the two said townships and was duly expended by them in construction of said bridge.

The deviating road appears to have been regularly assumed by by-laws of the adjoining municipalities respectively as a portion of the town line between them, and always dealt with and considered as such both by the adjoining townships and the county. We are therefore of opinion that under section 623 of The Consolidated Municipal Act, 1903, the by-law referred to cannot have the desired effect until a by-law in similar terms has been passed by the council of the other township. If the latter for six months after notice of the former's by-law omits to pass a by-law in similar terms, the duty and liabilities of each township in respect to the road will have to be referred to arbitration under the provisions of the Act as provided in section 624.

Liability for Accident on Highway.

180—RATEPAYER—During the fall of 1906 the G. W. Telegraph Company removed a line of their poles through this township. They

left several holes open. During the present winter, while the highway was not good on the centre, a farmer and ratepayer was driving his team with sleigh along the side of the road where the sleighing was better. One of his horses, a valuable mare, got a leg into one of these holes which is 4 or 5 feet deep and 8 or 10 inches in circumference; the mare was hurt and lamed, also caused her to cast her foal. Who would be liable for damages (\$50 being claimed) the township or telegraph company, or will the ratepayer have to suffer the loss?

It is difficult to give a definite opinion in a case of this kind, so much depends on the actual facts of the case. In order to succeed the claimant must show that the highway was out of repair, that this non-repair was due to negligence on the part of the municipal corporation and that the damage was sustained by reason of the non-repair. There must be direct evidence of the neglect of some duty on the part of the corporation which is sued. In this case, however, the holes had existed in the highway, rendering it dangerous ever since last fall, and the township should have seen that they were filled in. If the owner of the horse was not guilty of contributory negligence in driving along a portion of the highway which he knew to be dangerous, he would likely recover against the municipality, and the municipality obtain judgment over against the Telegraph Co. who made the dangerous excavations, under the authority of section 609 of The Consolidated Municipal Act, 1903. If a reasonable settlement can be effected with the claimant, we think the corporation had better arrange it.

Advertising Municipal Purchase of Land at Tax Sale.

181—J. R. M.—Is it necessary if the township wishes to buy a lot that is to be sold by the Sheriff for taxes, to advertise the same in the same paper that the sale was advertised in, or will any paper do?

The notice of the council's intention to purchase the lot should be published by the treasurer in the local newspaper or in one of the local newspapers in which the original sale was advertised, as required by sub-section 3 of section 148 of The Assessment Act, 1904.

Finality of Assessment Roll.

182—B. S. D.—For 1906, I was assessed for 100 acres of land of which I own only half, i. e., I own only fifty acres and my brother owns the other fifty. I did not receive any notice of the assessment and when I heard what the amount of the taxes was I considered it far too high an assessment, but the Court of Revision was over so I had no chance to appeal from assessment.

1. Can the assessor make me pay taxes on the 100 when I only own 50 acres?
2. Can he enter suit against me and make me pay what I considered an exorbitant rate?
3. What recourse have I, can I compel township to reconsider my assessment?
4. Will I in any case have to pay the tax on the fifty acres which I own?

1, 2, 3 and 4. We do not see that you have any redress, so far as the municipality is concerned, but that you will have to pay the taxes. Section 66 of The Assessment Act, 1904, provides that an assessment roll shall be valid and bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll, or any defect, error or misstatement in the notice required by section 46 of the Act, or the omission to deliver or transmit such notice." We do not think that sub-section 1 of section 112 of the Act applies to this case, as it is not an over charge which the Court of Revision can remit.

Assessment of Interest of Private Owner in Lands Leased to Crown.

183—B. S. D.—In the township of X the Crown leases 50 acres of land from A for a rifle range. A reserves the right to cultivate the balance of the land not used by the Crown for the rifle ranges which would be about 40 acres.

A claims this whole lot, 50 acres, to be exempt from taxes on account of being leased to the Crown.

In your opinion is this whole lot, 50 acres, exempt from taxes or only the portion that is used by the Crown for rifle ranges?

It is only the interest of the Crown in the fifty acres that is assessable, and the extent of this interest appears to be only that portion of the land used for rifle range purposes. It appears that A. has reserved the balance for his own purposes, and he should be assessed therefor and pay taxes on the assessment. (See section 35 of The Assessment Act, 1904).

Liability for Maintenance of Bridge in Village.

184—C. A.—Through the incorporated village of N. runs the N. river. Within the limits of the said village the river separates so as to form two streams, over those streams there are erected two bridges on the main road, connecting with the road of the adjoining township. One of the bridges is 80 feet in length, the other 40 feet, with an island between them of 300 feet in width at the bridges.

1. Is the county liable for the maintenance of said bridges?
2. Does the 100 feet, for which the county is liable, include the approaches to the bridge as well as the bridge proper?

3. Do both of the streams referred to above constitute one within the meaning of The Municipal Act?

1. No.
2. No, it includes only such artificial structure as is necessary to carry the road over the stream or river.
3. No.

Assessment of Income in Hands of Executor.

185—INCOME TAX—When an estate, which consists in part of loan company stock, remains in the hands of an executor or administrator for a number of years, who should be assessed for the income from such stocks, the legatees being of age and residents of this province?

The executor or administrator is the proper party to be assessed for this income. By clause (f) of sub-section 1 of section 22 of The Assessment Act, 1904, it is provided that, in a case of this kind, the entry in column number 2 of the assessment roll should be "Representatives of A. B., deceased" (giving the name of the deceased person).

Place of Voting—Registration of Tile Drain By-Law—Clerk Has Vote at Board of Health Meetings—Assessment of Church Property—Of Lessees From Railway Co.—Collection of Defaulters's Statute Labor—Of Taxes on Property Not Assessed—Finality of Assessment Roll—Assessment of Municipal Property.

186—CLERK—1. A. owns property in polling sub-division No. 4 in a township but lives in a neighboring town in the vicinity of polling sub-division No. 1. For convenience to A. it has been the custom for some time to put A's name on in polling division No. 1 instead of No. 4 and A. has been voting in No. 4.

(b) Has the council any power to pass a by-law to allow this?
(a) Can A. be prevented from voting in No. 1 when thus put on?

2. Should Tile Drain By-laws be registered? If so, should the party taking out the loan pay the registration fee and newspaper notice?

3. Has the clerk a vote at board of health meetings?
4. Are manse and parsonages in townships assessable? If so, to whom should they be assessed?

5. A railway company owns some land adjoining their road and bordering on the land, part of which is laid off in lots. A. and B. lease these lots from railway company with the understanding that the railway company is to pay the taxes. A. and B. build cottages on said lots for summer residents.

(a) The assessor assesses A. and B. for \$50 on land and \$200 on building. A. and B. refuse to pay the collector the taxes; from whom should he collect them?

(b) Should not the assessor have assessed A. and B. for buildings only?

(c) Are A. and B. liable for statute labor on assessment on building?

6. A pathmaster returned his road list in September, reporting

that B. had not done his road work. The clerk, placed on the collector's roll the amount due by B. for the same. B. got legal advice that as the list was not returned by the 15th day of August the clerk could not legally charge B. with the same. B. got the council to strike off the amount for undone road work.

(a) Must the road list be returned by the 14th of August in order to make it legal to collect for unperformed work?

(b) Had the council power to have the collector accept the taxes, less the amount for road work?

7. The assessor, in error, omitted to assess a piece of property last year. In placing the taxes on the roll this year should the clerk place the amount that the tax would have been at last year's rates or the amount at this year's rate?

8. Our assessor entered on his book, A. assessed for lot 4, $\frac{1}{8}$ acre assessment, \$200; in another entry he assessed A. for lot 4-10, $\frac{2}{8}$ acre assessment, \$250.

Now A. is owner of two lots, 4 and 10, and when presented with the tax notices according to the assessor's description, pays the one $\frac{1}{4}$ and gets a receipt and claims he will not pay first as he has a receipt for both lots' taxes. In reality each lot is worth more than either of the assessments and in comparison with last year's assessment it is quite evident that the assessor erred in putting down the 4 with the 11 and by making the second $\frac{2}{8}$ instead of $\frac{1}{8}$. Can the collector collect the balance of the taxes?

9. Can a gravel pit property owned by the municipality A. and situated in the municipality B. be taxed by B?

1. (a) No.

(b) If no objection is raised, A. may vote in the polling sub-division in the voters' list for which his name is found (No. 1), but if his vote is objected to he cannot take the freeholder's oath prescribed by section 112 of The Consolidated Municipal Act, 1903, as he is not a freeholder within that polling sub-division. (See clause 3 of the oath).

2. It is not necessary to register by-laws of this nature.

3. By sub-section 1 of section 48 of The Public Health Act (R. S. O., 1897, chapter 248) the clerk is constituted an ex-officio member of the local board of health of a township, and he has the same right to vote at its meetings as any other member.

4. These properties are assessable to the congregations which own them, or their trustees.

5. (a) From A. and B.

(b) We do not think so. A. and B. are properly assessable as tenants of the premises as a whole. The bargain between A. and B. and the Railway Co. is no concern of the assessor's.

(c) A. and B. are liable for statute labor on the assessed value of the property as a whole, at the ratio in vogue in the township.

6. (a) Sub-section 1 of section 15 of chapter 25 of the Ontario Statutes, 1904, makes it the duty of a pathmaster to return his statute labor list before the 15th day August in the year he receives it, but if he fails to return the list by this date, he may AND SHOULD do so, as soon as possible afterwards. The clerk is then empowered by the latter part of this sub-section, to enter the commutation for defaulters' statute labor on the collector's roll for the year in which the list is returned or the following year.

(b) We do not think so.

7. The rate should be that for last year, calculated on a valuation arrived at as provided in latter part of section 51 of The Assessment Act, 1904.

8. We are of opinion that he can. If A. was not satisfied with the amount of his assessment, he should have appealed to the Court of Revision to have it reduced. Not having done so he cannot now complain or resist payment, as section 66 of The Assessment Act, 1904, renders this assessment valid and binding "notwithstanding any defect or error, committed in or with regard to such roll, or any defect, error or misstatement in the notice required by section 46 of the Act, or the omission to deliver or transmit such notice."

9. No.

Procedure in Engaging Night Watchman—Business Assessment of Owner of Town Hall.

187.—J. N. H.—1. We desire to put on a night watchman. Do you think the town can legally assess the merchants in the centre of the town for this protection? Heretofore they have been paying for it individually, and some of them refusing. We would like to take them all in, and would like to know if we could legally assess on the basis of a frontage tax?

2. We also have a public hall owned by a private party and he pays a business tax on this, and we also have a by-law charging so much for each meeting or performance held in the hall. Do you think he is legally entitled to pay both the business assessment, and the tax of so much a meeting?

1. The council of the town has authority to pass a by-law for the purpose under sub-section 2 of section 548 of The Consolidated Municipal Act, 1903. This sub-section does not provide for the levy of the expense of the maintenance of a night watchman, by a frontage tax, but by a special rate upon all the real property within the limit defined by the by-law.

2. We do not know upon what principle the owner of the hall should be liable to a business assessment, simply because he owns the hall. We must have further information as to the circumstances of the case before we can definitely answer the question.

Business Assessment of Grocers—Keepers of Pool Rooms and Syrup Makers—Compelling Ratepayers to Furnish Information to Assessors.

188.—P. Q.—1. Under what act would we give grocers business assessments?

2. Can we give pool room and soft drink dealers business assessment?

3. Can we give syrup makers business assessment?

4. Can we compel storekeepers to fill out statements if commanded to do so by an assessor?

5. Can we compel laborers or people having income to fill out statements?

1. Grocers are retail merchants, and are liable to the business assessment mentioned in clause (g) of sub-section 1 of section 10 of The Assessment Act, 1904, calculated on the assessed value of the premises used and occupied by them in carrying on their business.

2. Yes, under clause (h) of sub-section 1 of section 10 of the Act.

3. Yes, they are manufacturers and liable to the business assessment mentioned in clause (d) of sub-section 1 of section 10 of the Act.

4. The assessor can do this under section 18 of the Act. The penalty for neglect or refusal to furnish the assessor with this information will be found in section 21 of the Act.

5. Yes, under the section mentioned in our reply to question number 4. For a form of this return see number 2 of Schedule E appended to the Act.

Assessment of Gas Pipe—Period of Exemption From Taxation.

189.—H. L. P.—1. Can the piping used in gas wells drilled on farm property be assessed to the company owning the wells the same as the lines running along the highways?

2. Can municipalities fix the assessment of industries at a longer period than ten years?

1. By clause (d) of section 2 of The Assessment Act, 1904, it is enacted that structures or fixtures of this kind shall be included in the term "land" or "real property," and by sub-section 2 of section 42 it is provided that so long as it is in actual use it shall be assessed at its actual cash value, as the same would be appraised upon a sale to another company or person possessing similar powers and rights and franchises in and from the municipality, etc.

2. No, but the exemption may be renewed from time to time by by-law passed with the assent of the electors

for further periods not exceeding ten years. See paragraph (g) of section 591a of The Consolidated Municipal Act, 1903.

Construction of Ditch Contract.

190.—G. S.—A ditch is let to a contractor which reads that he shall be paid 8 cents per cubic yard for every yard in length. What would you say that means?

The language of the contract in this case is somewhat contradictory, but after the best consideration which we have been able to give it we are of the opinion that the work must be paid for at the rate of 8c. per cubic yard, that is, the contract must be construed in the same manner as if the words "for every yard in length" had been omitted.

Fees of Collector.

191.—W. J.—Can a collector after he has been around two or three times collect pay from those who have not paid their taxes and what should be the charge or how much on the dollar for the collector's fee?

There is no provision made for the payment of any fee to a collector for calling more than once on rate-payers for their taxes.

Income Assessment.

192.—X. G.—A. owned a farm in our township valued at \$6,000. He gave B. a bond for deed the conditions of which were that providing B. pays A. \$300.00, for which sum the farm would rent, per year for ten years and the sum of \$1000.00 at the end of any year of said term, A. will give deed at the end of the tenth year and will take a mortgage for the remaining \$5000.00.

Should A. be assessed for \$300.00 income for this farm (he owns other property in the township and is assessed for income from other sources)? A. contends that this amount of \$300.00 is rent and therefore exempt.

Paragraph 20 of section 5 of The Assessment Act, 1904, exempts from assessment and taxation "rent or other income derived from real estate, except interest on mortgages." The payments referred to are income derived from real estate, and are not interest on mortgages, and we are therefore of opinion that they cannot be assessed as part of A.'s income.

Liability for Maintenance of Town Line.

193.—T. F. R.—About 32 years ago the county built a gravel road between township G. and A. which is a wet and swampy locality, the water overflows the road every spring to the depth of 16 inches and the more repairs are put on, by townships G. and A. the deeper it seems to sink. There is a hill on part of this road that the county put a pipe through at the same time to take the water off the said road but it has got filled in and never was low enough. Is the county responsible for the opening of said drain? The two adjoining townships G. and A. expend about one hundred dollars each on this road every year.

It is not stated whether or not this road was, after its construction by the county, assumed as a county road, and it would appear that the adjoining townships have maintained and kept this road in repair ever since its construction. We must have complete information as to how this road came to be built by the county and afterwards maintained by the adjoining townships before we can answer this question.

Levy of School Rate in Unions with Urban Municipalities.

194.—A. P. A.—Sub-sections 7 and 8, section 39, of The Public Schools Act, of 1906, provides for raising and paying school moneys to union school sections formed of parts of different townships, but does not appear to make any provision as to how these sums shall be levied and paid to school sections formed of a part of a township and any incorporated village. The township of N. has a union school section with an incorporated village. The township pays 29 per cent. and the village 71 per cent. as equalized by the assessors of each municipality.

There is one principal and seven assistants teachers for the whole year. In what way outside of the several grants we receive should the township's share be raised?

The latter part of sub-section 2 of the original section 70 of The Public Schools Act, 1901, contained this provision "this section shall not apply to union sections formed between township and urban municipalities." This section has been repealed by section 39 of chapter 53 of The Ontario Statutes, 1906, and the new section thereby enacted does not contain the above or a similar provision. Therefore, according to the letter of the present law, the levy for general township school purposes must be made in parts of the township forming union sections with urban municipalities in the same way as in those forming unions with parts of adjoining rural municipalities.

Assessment of Oil Lands.

195—C. C. W.—Please give me through the columns of the MUNICIPAL WORLD the manner in which you would assess oil lands, with amendments of 1906. Does it give the assessor authority to increase the assessment of oil lands in excess of what land is assessed for agricultural purposes in the neighborhood, and does it not exempt the income assessment?

See 4 Edward VII., chapter 23, section 36, page 130 and 1906, 6 Edward VII., chapter 36, section 10 and 11, page 367.

The effect of the amendment by section 10 of chapter 36 of The Ontario Statutes, 1906, of sub-section 1 of section 36 of The Assessment Act, 1904, is to make it the duty of assessors to assess oil lands at their ACTUAL VALUE. This value, we believe, would be considerably in excess of the value of the same lands if used for agricultural purposes only. The effect of the amendment by section 11 of chapter 36 of The Ontario Statutes, 1906, of sub-section 3 of section 36 of The Assessment Act, 1904, is to abolish the assessment and taxation of the income derived from the operation of oil lands.

Assessment of Church Property.

196—C. W. C.—I claim that a church building and lot that has been vacated although not used for any other purpose is assessable. The sect has built a new church in another part of the town which is exempt.

We do not agree with this view of the matter. Although for the time being it is not used for the purpose, it is still a "place of worship," and with the land used in connection therewith is exempt from assessment and taxation under the authority of paragraph 2 of section 5 of The Assessment Act, 1904. Until it is specifically devoted to some other purpose it remains exempt from assessment.

Voting Powers and Duties of Mayor.

197—P. V.—1. Can a mayor vote to a tie a motion when there are six councillors and a reeve?

2. Can the mayor dictate to the council and say the councillors do not know what they are doing before the yeas and nays are taken?

3. Can the mayor be called to order or take the floor?

4. Should the mayor try to lead the council?

1. Section 274 of The Consolidated Municipal Act, 1903, provides that "the head of the council or the presiding officer or chairman of any meeting of any council, except in cases where he is disqualified to vote by reason of interest or otherwise, may vote with the other members on all questions, and except where otherwise expressly provided by this Act, any question on which there is an equality of votes shall be deemed to be negatived."

2, 3 and 4. The duties of the mayor will be found in section 279 of the above Act. If the council has passed a by-law establishing rules of order, it may have some bearing on this case, but as to this we cannot say, not having seen it.

Fees of Returning Officers.

198—P. J. H.—1. What is customary fee for returning officer at municipal elections?

2. What is the customary fee for returning officers at a vote of the electorate on a by-law?

3. Is a returning officer entitled to the same fee where the municipal council is elected by acclamation on day of nomination as if an election had taken place?

1. The statute makes no provision for the payment of a fixed sum to the returning officer at municipal elections. Whether he is entitled to any pay for performing this duty in addition to the salary he is to receive as clerk of the municipality, depends on the arrangement entered into between him and the council at the time of his employment. If the council employed the clerk to perform ALL the duties pertaining to that office at a fixed salary, he is not entitled to any additional pay for performing this or any other specific duty.

2. The reply we have given to question number one will be a sufficient answer to this.

3. This also depends on the nature of the arrangement entered into between him and the council at the time of his appointment.

Time for Equalizing Assessments of Union Sections.

199—A. S.—1. When did the amendment to The Public School Act 1903 changing the term from three to five years in the the equalization of assessments in union school sections take effect?

2. After the incorporation of the village of C. in 1904, the assessor of said village and the assessors of the two adjoining townships met and agreed upon an equalized basis of assessments for the union school sections formed between said municipalities (the original union school section was composed of parts of said two townships). The previous equalization was made in 1902. When should the equalization after that of 1904 take place?

1. In 1903. See section 3 of chapter 32 of the Ontario Statutes, 1903.

2. In 1909.

Liability of Railway Company for Statute Labor—Collection of Taxes from Locatee of Crown Lands.

200—E. J. R.—1. The Canadian Northern Railway runs through this municipality from east to west. They were assessed and notified of their assessment. They wrote first stating that the statutes state very clearly that they were exempt from statute labor; later they sent a check for taxes less the statute labor. Are they exempt from statute labor?

2. A locatee on a place in the Rainy River District holds and cuts timber off same for a number of years then gives it up, never having paid taxes, and leaving back taxes for the number of years which he held possession. Now B. goes to local land office and gets a second location for same lot and coming from Government as free grant land. One would suppose there should be nothing against it except improvements. To whom will I look for those back taxes?

1. We do not think so. Sub-section 4 of section 44 of The Assessment Act, 1904, provides that "a railway company assessed under this section shall be exempt from assessment in any other manner for municipal purposes, except for local improvements." This subsection precludes the assessment of this property of a railway company in any other manner than is provided in section 44 of The Act, but does not absolve the company from liability to perform statute labor, or pay commutation therefor.

2. We do not think these arrears of taxes can now be collected, unless the amount can be recovered from the original locatee by ordinary action at law under the authority of section 90 of the above act. When the original locatee surrendered his location ticket, the land became re-vested in the Crown, and the locatees interest therein CEASED. The land cannot, therefore, now be sold to realize the amount of the arrears of taxes, nor can they be collected from B., the present locatee.