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MISSING

THE MUNICIPAL WORLD

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CONTENTS

PAGE

Editorial	114
Municipal Officers of Ontario	115
Warden of Hastings	
Provincial Municipal Auditor	
County Clerk of Hastings	
The Municipal Amendment Act, 1897	116
Preparing for Road Work	122
Pavements, Sewers and Waterworks	123
Spring Cleaning	123
Montana Highways	123
Tax Mills	123
In England	123
One of the best	123
Question Drawer	124
237. Absence of Reeve	
238. Bicycles and Sidewalks—Councillors' Gravel Pit	
239. County or Government Bridge	
240. Non-resident Tenants to be on Part 2 Voters' Lists	
241. Tax Sale Notes	
242. Sale of gravel from Road Allowance	
243. Fence on Highway. To remove	
244. Treasurer or Collector	
245. A Drainage Problem	
246. Assessment of Personal Property and Appeal	
247. Peddling Meat	
248. Clerk Not Deputy-Returning Officer	
249. Treasurer's Books or Auditor's Report	
250. Collector's Liability	
251. Non-Resident Pathmaster	
252. Maintenance of Sidewalk	
253. Transient Traders' License and Taxes	
254. Proceedings in Council—Nuisance to abate	
255. Location of Road	
256. Teamsters' License Only	
257. School Debenture By-Law	
258. Non-Resident Tenant—Voters' List	
259. Long Date Debentures	
260. Tax Mill on Highway	
261. Gravel	
262. Sewers	
263. Derrick Assessment	
264. Transient Trader	
265. Taxes—Algoma	
266. Public Library	
267. Municipalities Liability for Bridge	
268. Taxes on Mortgaged Real Property	
269. Not a Transient Trader	
270. Toll Bond Liability	
271. Personal Property or Business Tax	
272. Statute Labor Joint Assessment	
273. Union School Section—Organized and Unorganized Townships	
274. Clerk not on Committee	
275. Number of Town Councillors	
276. Police Villages and Telephone Companies	
277. County Pupils—High School Fees	
278. Road Wanted—Power of Council	
279. Assessment Educational Institution	
280. County or Village Bridge	
281. Ordinary Current Expenditure	
Is Personation an Offence under the Municipal Act?	
Legal Decisions—	129
Waterworth vs. Buchanan and Cuthbert	129
Re Hay and Listowel	129
Piper vs. London Street Railway	129
Publications Received	129

Calendar for June and July, 1897.

Legal, Educational, Municipal and Other Appointments.

JUNE.

1. Public and Separate School Boards to appoint representatives on the High School Entrance Examination Board of Examiners.—High School Act, section 38 (2).
By-law to alter School Boundaries, last day of passing.—P.S. Act, sec. 38 (3).
5. Make returns of deaths by contagious diseases registered during May.
20. Earliest day upon which statute labor to be performed in unincorporated townships.—Assessment Act, section 113.
28. High School Entrance Examinations begin.
Public School Leaving Examinations begin.
30. High, Public and Separate Schools close.—P. S. Act, section 89 (1); H. S. Act, section 41; S. S. Act, section 79 (1).
Protestant Separate Schools to transmit to County Inspector names and attendance during the last preceding six months.—S. S. Act, section 12.
Trustees' Report to Truant Officer due.—Truancy Act, section 12.
Assessors to settle basis of Taxation in Union School Sections.—P. S. Act, section 95 (1).
Last day for completion of duties of Court of Revision, except where Assessment taken between 1st July and 20th September.—Assessment Act, section 64.
Balance of License Fund to be paid to Treasurer of Municipality.—Liquor License Act, section 45.

JULY.

1. Dominion Day (Thursday).
All wells to be cleaned out on or before this date.—Section 113, Public Health Act, and section 13 of By-law, "Schedule "A."
Last day for County Council to pass by-law that nominations of members of Township Councils shall be on third Monday preceding the day for polling.—Municipal Act, section 113.
Before or after this date Court of Revision may, in certain cases, remit or reduce taxes.—Assessment Act, section 67.
Last day for revision of rolls by County Council with a view to equalization.—Assessment Act, section 78.
Last day for establishing new high schools by County Councils.—High School Act, section 8.

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The Municipal World

PUBLISHED MONTHLY

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

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

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THE MUNICIPAL WORLD,

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ST. THOMAS, JUNE 1, 1897.

The powers of municipalities in reference to highways have been increased by giving them power to lease the same after notice as required by the Municipal Act, sections 546 and 550.

The Registration of Debentures has been simplified by the repeal of the Debentures Registration Act, which was often overlooked. The new sections in the Municipal Act referring to this matter are a great improvement.

The Deputy Registrar General has sent out a circular drawing attention to the monthly return in reference to deaths from contagious diseases registered during each month. This return must be made whether any deaths of this character have been registered or not.

Section 50 of the Municipal Amendment Act, 1897, demands the careful attention of councillors who do not wish to be disqualified for two years. This provides that a council cannot borrow in any year more than 80 per cent. of the amount collected as taxes to pay the ordinary current expenditure of the municipality in the preceding municipal year. The words *ordinary current expenditure* will no doubt be the subject of much discussion until defined by the courts. We are of the opinion that debentures, coupons, or any expenditure which may not be considered a yearly one cannot be included in ordinary current expenditure. Every council should at once call upon the treasurer or clerk for a statement showing the estimates on which the taxes levied for 1896 were based and determine the amount of the ordinary current expenditure included therein. The by-law authorizing the borrowing of funds for current expenditure should limit the amount to 80 per cent. of this amount.

An important amendment to the Voters' List Act requires clerks to show occupation of voter in a separate column of the lists for townships, towns and villages. This should follow the name, as it does in the assessment roll. County clerks are also to receive two copies of the Voters' List, the same as postmasters and others.

The change in the law doing away with the necessity for "demanding a poll" at municipal nominations does away with a last relic of the open voting system. Under the present law all elections are to be by ballot when more candidates than are required are nominated for a particular office.

The new form of declaration is no doubt the result of our contention that the offices of Clerk and Treasurer of a municipality could not legally be held by the same person. Whether these offices may now be lawfully held by one person at the same time will receive consideration in a future issue.

In preparing the estimates County Councils should remember that, under section 357 of the Municipal Act, every council is required to pay all the valid debts of the corporation falling due within the year. All floating debts and current expenditure should be provided for by this year's estimates.

Municipal legislation, as passed at the last session is rather mixed. The Municipal Amendment Act, the Assessment Amendment Act, and an act to amend the statute law, all contain sections that should have been classified in one act. The revision of the statutes now going on will remedy the difficulty, and every municipal officer will feel relieved as soon as they are distributed.

The opinion of THE MUNICIPAL WORLD in reference to the warden's term of office being for two years under the County Councils Act of 1896, appears to have been accepted, as the law has been amended, and now contains "a specific provision limiting it to one year." The next change should refer to the election of a warden by ballot, as any legislation allowing this is unconstitutional.

In townships the commutation money collected for statute labor not performed in 1896 must not be overlooked. The overseers of highways have authority to expend this and give orders on the Treasurer to the person performing the work. The clerk should notify each pathmaster of amount collected in his division and send treasurer a list so he may verify pathmasters orders.

Good Roads in Ontario.

The report of the Provincial Road Commissioner has just been issued by the Department of Agriculture.

It is written in a popular style, technicalities are avoided, the information contained is practical and direct, and is compiled solely with a view to the condition of roads and streets as they exist in this province to-day. The intention of the report is that it shall furnish information on the subject of road and street improvement to municipal officers in towns and townships where engineers have not been employed to oversee this class of work. Everyone interested in "Good Roads" should read the report, a copy of which may be obtained by any person who will send his name and address to A. W. Campbell, Provincial Road Commissioner, Toronto.

Section 56 of the new Act empowers councils of adjoining municipalities to enter into an agreement as to maintenance of boundary lines for a term not to exceed ten years. This is a section that should receive consideration. Many councils are continually disputing in reference to expenditures on these roads, and although it is very pleasant to have joint meetings of committees on such matters, we believe that most councils will be better satisfied to be wholly responsible for a particular portion of the road. The question of statute labor to be performed by property in each township on the road is an important question to consider in this connection, as is also the amount of travel, location of roadmaking material, bridges, etc.

A Sawyer Massie Road Machine has been purchased for use on the Experimental farm, Ottawa.

Mr. Edward Coleman, township clerk of Rear, Leeds and Lindsay, was accidentally drowned by the upsetting of a boat on the 5th May. He was about 39 years of age and was a half brother of Mr. Wm. Richardson, county clerk of Leeds and Grenville.

Messrs. Hanna & Burnham are moving to quash the Lambton County Council's Leading Roads By-Law, passed last January, granting \$8,000 for improving "leading roads" within the county. The ground, it is said, on which the by-law is to be attacked is uncertainty, the roads on which the money is to be expended not being designated, and that county councillors, under the County Councils Act, 1896, are no longer members of local municipalities, and, consequently incapable of drawing orders or cheques on the treasurers of their divisions for work done. Probably the money will rest in the county treasury until the legal questions involved are disposed of or the by-law is repealed.—*Sarnia Observer.*

Municipal Officers of Ontario.

The Warden of Hastings.

Mr. John Sterling Dench, Warden of the county of Hastings, was born in the township of Murray, near Weller's Bay, forty-one years ago. He is the eldest son of the late Capt. Dench. At the age of three years he removed to Trenton with his father and mother, and was educated at Trenton high school. At nineteen years of age he went on the farm now occupied by him in Sidney, near Trenton. As a farmer, Mr. Dench has been successful and progressive. He was appointed assessor of the township in 1884, and held the position two years, when he entered the township council. He was elected deputy-reeve in 1888, and has been a member of the county council ever since. Mr. Dench has shown great aptitude as a



MR. JOHN STERLING DENCH.

The Provincial Municipal Auditor.

Mr. J. B. Laing was born in Scotland and educated in Edinburgh High School. He came to Canada in 1856 and settled in London in 1859, where he engaged in the wholesale dry goods business until 1887, when he removed to Toronto and opened an office as an accountant. He was associated with Mr. Cross as expert accountant in connection with the famous Connoly and McGreevy charges before the Special



MR. J. B. LAING.



Municipalities and School Boards. It is not expected that these will be ready for some months. Treasurers who may be in need of new books are advised to continue the old system or keep a blotter until the forms for the new books are approved.

County Clerk of Hastings.

Mr. Aylsworth was born in Ernestown and was educated at the Newburgh Academy, he afterwards taught school for a short time and then studied surveying, receiving his license as a Provincial Land Surveyor in 1861. After five years of general practice he became connected with the Rathbun Co. as their surveyor and general agent, which position he held for twenty-five years. Mr. Aylsworth's Municipal experience dates from 1871, when he was appointed to take the census prior to the incorporation of the village of Mill Point now known as the town of



MR. W. R. AYLSWORTH.

legislator and is an able debater. The subject of this sketch is a member of the Masonic fraternity, and was the District Deputy Grand Master of Prince Edward District in 1896. He is Supreme Warden of the Canadian Order of Home Circle and also a member of the A. O. U. W. He is a Conservative in politics, and was president of the West Hastings Liberal-Conservative Association during the past year.

Commission of the House of Commons. Mr. Laing was frequently employed as arbitrator in commercial circles and when appointed was auditor of the Toronto General Trusts Company. During the last six or seven years he has conducted numerous municipal audits under appointment by Commission from the Governor-in-Council, the last audit being for the County Council of Dufferin in 1896.

As a special municipal auditor his services have always been most satisfactory to all concerned, and to a wide circle of friends his appointment to a position of so much importance will no doubt be a source of much gratification. Mr. Laing's office is in the Attorney General's Department and he is at present engaged in considering the forms of books suitable for Treasurers of

Deseronto. In 1872 he was elected Reeve and represented the village and town for twenty-one years always being elected by acclamation. He was Warden of the County of Hastings in the years 1878 and 1881, and in January 1893 was appointed clerk of the County Council.

Mr. Aylsworth is a Liberal in politics, and in 1878 and 1892 was the unsuccessful nominee of his party in East Hastings for election to the House of Commons. He is also one of Her Majesty justices of the peace having been appointed in 1863.

"Porters are mighty strong men."

"Think so."

"Yes, I saw one raise a barrel of flour just now with the greatest of ease."

"H'm! That's no great feat. That's self-raising flour."

Editor—You live in a boarding-house, don't you?

Paragraphic Serf—I do.

Editor—How is it we never get any tough spring chicken jokes from you?

Paragraphic Serf—They can't afford chicken where I board. I write hash jokes.

The Municipal Amendment Act, 1897.

1. Section 277 of the said Act is hereby amended by adding thereto the words "provided, however, that the time within which a member of a county council shall be required to make such declaration shall be thirty days."

2. Subsection 1 of section 113 of the said Act, 1892, is amended by striking out the words "last Monday but one in December" in the fourth and fifth lines thereof and substituting therefor the words "third Monday preceding the day for polling."

This refers to by-law of county council fixing nomination day.

ELECTRIC LIGHT BY-LAWS.

3. (1) Subsection 2 of section 340, subsection 1 of section 342, subsection 13 of section 504 and section 505 of the said act, are amended by adding the words "electric light" immediately after the word "gas" wherever the said word "gas" appears in the said several sections and subsections.

(2) No by-law of any municipality creating or intended to create a debt for the erection or purchase of, or for otherwise acquiring an electric light plant, heretofore passed and otherwise legal, shall be quashed or shall be deemed to be invalid or illegal by reason only that the period fixed in and by the said by-law for the repayment of the debt thereby created exceeds twenty years; provided always that such period does not exceed the period of thirty years.

(3) It shall not be necessary to pass separate by-laws creating debts for the acquirement of gas, electric light or water works in case the municipality desires at the same time to acquire more than one of the said conveniences, but all or any two may be united in one by-law and one debt, or separate by-laws creating separate debts, in respect of the said subject matters, may at the option of the municipal council be submitted and passed, subject to the provisions of the said Act, and in case the by-law embraces two or more subject matters, but including not more, the procedure shall be that of the said Act and not that of The Municipal Water Works Act.

(4) The provisions of this section shall apply only to towns having a population of 5,000 or less as ascertained by the latest census of Canada.

DEBENTURE BY LAWS.

4. Subsections 4 and 5 of section 352 of the said Act, are repealed.

5. The said Act is amended by inserting therein the following section as section 352a:

352a. (1) Every by-law providing for the issue of debentures passed under the provisions of this Act relating to local improvements, where the same has been so registered, and the debentures issued thereunder, and the assessment made upon the real property mentioned therein, notwithstanding any want of substance or form either in the by-law itself, or in the time and manner of passing the same, shall be absolutely valid and binding upon the municipality and upon such real property according to the terms thereof, and shall not be quashed or set aside on any ground whatever, unless an application or action to quash or set aside the same be made to some court of competent jurisdiction, within one month from the registry thereof.

(2) Where any action or proceeding shall be brought or taken or where an application shall be made to quash or set aside such by-law so registered, a certificate thereof under hand and seal of the clerk of the court shall be registered in such registry office within five weeks from the date of registering the by-law, and in default thereof the court or judge may refuse to hear or may dismiss any such action, proceeding, motion or application to quash or set aside the by-law.

(3) The provisions of subsection 1 of this section shall also apply to all by-laws passed

under section 623a of this Act as enacted by section 16 of The Municipal Amendment Act, 1894, and to the debentures issued thereunder.

6. Section 354 of the said Act is hereby amended by striking out the words "sections 352" in the first line thereof and substituting therefor the words "sections 352 and 352a," and by inserting in the form of notice after the words "three months" the words "or one month (as the case may require)."

7. (1) Section 351 of the said Act is hereby amended by striking out the word "two" in the ninth line thereof and substituting therefor the word "four."

(2) Subsection 1 of section 352 of the said Act is hereby amended by inserting in the first line thereof immediately after the word "registered" the words "or registered before the sale of such debenture or debentures."

This requires debenture by-laws to be registered within four weeks after passing.

JUSTICES OF THE PEACE.

8. Section 415 of the said Act is hereby amended by adding after the word "Council" in the first line thereof the words "all members of a county council."

County councillors are hereby made *ex officio* justices of the peace.

9. Subsection 1 of section 469 of the said Act is amended by inserting therein after the word "maintaining" in the fifth line thereof the words "enlarging or improving."

COUNTY BUILDINGS.

10. The said Act is further amended by adding thereto the following sections:

469a. When a city or town has heretofore been paid by the county for its interest in such court house and gaol or in a house of correction or registry office after the separation and when such city has not erected separate buildings, then the award may determine what sum (if any) shall be annually paid to the county as the share or contribution of such city or town for or in respect of any enlargement or improvement made by the county after the separation. But no award shall hereafter provide for the purchase by the county from a city or town not separated from the county for judicial purposes of the interest of such city or town in such buildings or in the enlargement or improvement thereof.

469b. Where under an agreement or award heretofore made upon the separation of a town from a county for municipal purposes, or under any award made or agreement entered into thereafter between the city or town and the county, the corporation of such county has paid to the corporation of such separated town or city compensation for the amount contributed by such separated town or city prior to its separation from the county for municipal purposes, towards the erection, enlargement or improvement of the court house, gaol or house of correction, or registry office, or any of them, and in case such town or city has not erected separate buildings the corporation of such city or town shall pay to the county annually an amount equal to five per centum of the amount so paid, to the city or town, and the amount so to be paid by the city or town shall be in addition to the amount to be contributed by the city or town under section 469 of this Act.

469c. Nothing in sections 469a or 469b contained shall effect any agreement or award at present in force, but this section shall apply in case of any agreement or award hereafter made between any such county and city or separated town, but shall not affect any case or proceedings at law now pending.

INSPECTION OF ELEVATORS.

11. Section 479 of the said Act is hereby amended by adding thereto the following as subsection 16b:

16b. The council of any municipality shall have power to pass by-laws providing for licensing and inspecting elevators and hoists

used by the public or by employees for passengers or freight, and to impose and enforce penalties for infringement of such by-laws, and to prohibit and prevent the use of elevators or hoists contrary to the provisions of such by-law. But the provisions in this subsection contained shall be subject to The Ontario Factories Act and amending acts and any other Act, making provisions applicable to elevators and hoists.

TREES.

12. Section 479 of the said Act is amended by adding thereto the following subsection:

20b. For authorizing the park commissioner, or other officer appointed by the council so to do, to plant trees upon the streets of any municipality having a population of 40,000 or more, and to trim all trees in such cities, the branches of which extend over the streets thereof, and such municipality shall not be liable for injury to trees occasioned thereby when reasonable care, skill, and judgement have been exercised in such trimming.

FIRE ESCAPES.

13. Section 493 of the said Act is amended by adding thereto the following sub-section:

2a. To compel the owners and other persons interested in all buildings more than two storeys in height (except private dwellings and buildings in respect of which provision is made for requiring the construction of fire escapes thereon or in connection therewith in The Factory Act, The Shops' Act, or The Liquor License Act, or any other act of the Legislature now in force or hereafter to be passed) to provide proper fire escapes thereon, and to prevent the occupation of such buildings unless such fire escapes are provided.

WATER POWER.

14. The said Act is amended by adding thereto the following sections:

496a. It shall be lawful for the corporation of any town or village to acquire by lease or purchase any water privilege or water privileges situate within its limits, together with sufficient lands adjacent thereto, for the proper user of such water privilege or water privileges, and from time to time to expend thereon such sums of money as may be necessary for the development, repairs and user of such water privilege or water privileges; and for the purpose of such acquisition, development, repairs and user to borrow upon the debentures of the corporation such sums as shall be required for the same for such periods and at such rates of interest as the corporation shall by by-law determine.

496b. Before acquiring any such water privilege or water privileges and lands, a by-law shall be submitted to the ratepayers of the municipality setting forth the agreement for such acquisition which shall have been previously entered into, subject to ratification by the ratepayers, the amount required to be borrowed for the purpose of such acquisition and containing generally all such matters as are required by the provisions of this Act in relation to money by-laws.

496c. The vote of the ratepayers upon such by-law shall be taken in manner provided by sections 293 to 319, both inclusive, of this Act, and the persons entitled to vote thereon shall be the persons named in the said sections, and in case a majority of such persons shall vote in favor of said by-law the council shall pass the same.

496d. Upon the acquisition of such water privilege or water privileges it shall be lawful for the corporation to use the same for its own purposes, and to grant leases of the whole or any parts thereof upon such terms and conditions as may be agreed upon and to otherwise deal with the same as fully and effectually to all intents and purposes as might be done by an individual, but no sale of any part of the said water privileges or lands so acquired shall be made until a by-law authorizing the same has been submitted to the ratepayers and passed by

a vote of the same class of persons as voted upon the by-law authorizing the acquisition of said water privileges and lands, and no lease shall be granted for a longer period than thirty years with right of renewal and renewals.

MARKET FEES.

15. (1) Sub-section 5 of section 498 of the said Act is amended by striking out all the words after "vehicle" in the third and fourth lines thereof, and inserting in their stead the words "than is provided for in sub-section 7 of section 497 of this Act."

(2) In any municipality which has, on or before the 30th day of March, 1897, under section 502 of the said Act leased, assigned or sold its market fees, the preceding amendment shall come into force and operation only on the termination of the period for which such fees have been leased, assigned or sold. In other municipalities the said amendments shall come into force and operation on the 1st day of January, 1898.

TELEPHONE SERVICE.

16. The said Act is further amended by adding the following sections thereto :

504 (a). The council of every city and town shall have power to construct, build, own, purchase, lease, rent, improve, extend, maintain, manage, conduct and carry on a telephone business and service, and all works, land, buildings, plant, machinery, conduits, materials, equipment, apparatus and appurtenances necessary therefor or thereto belonging or appertaining or that may be properly used therewith in the municipality or within two miles thereof, and for supplying the corporation or persons in the municipality or in the neighborhood thereof with a telephone service and connection therewith, and may make a rate, charge or rent for such service and connections and for the use of transmitters and other apparatus therewith, and may require such payment to be made in advance, and may discontinue such service or the subscriber's connection therewith in default of such payment and may forthwith thereafter remove all transmitters, wires and other apparatus from the premises of such subscriber, and such rate, charge or rent may be collected by action as an ordinary debt, or against the person owing the said rate, rent or charge may be collected against the person liable to pay the same in the same manner as municipal taxes are, and may pass by-laws for levying an annual special rate to defray the yearly interest of the expenditure therefor and to form an equal yearly sinking fund for the payment of the principal at any time within a time not exceeding thirty years nor less than five years.

504 (b). Such corporations or their servants under their authority may for the purpose of laying down, taking up, erecting, constructing, examining or keeping in repair the plant, machinery, conduits, materials, poles, wires, rods, equipment, apparatus or other appliances for conducting, distributing or otherwise carrying on the said telephone business or service or connections therewith, break up, dig and trench in, upon, through, over, under and along the highways, streets, lanes, roads, squares and other public ways, passages and places in the municipality or upon, in, through, over, under or along any private property, or may by means of conduits or upon poles or otherwise conduct or carry such plant, materials, equipment, apparatus, wires or rods through, over, under, along or cross such streets, lanes, roads, squares and other public ways, passages and places in the municipality or upon private property, and may also break up, dig and trench all passages common to adjoining owners or tenants for the purpose of laying down conduits or erecting poles therein. But such corporations shall make satisfaction or compensation to the owners or proprietors of buildings or other property for all damages by them sustained in or by the exercise of any of the powers by this section granted.

504 (c). Such corporation may from time to time make and enforce all necessary by-laws, rules and regulations for the general maintenance and management of all works, plant, machinery, conduits, materials, equipment, apparatus and appliances constructed, maintained and used for or with such telephone business and service and of the connections therewith, and designating or limiting the amount or extent of transmitters, apparatus or other appliances to be furnished to persons desiring connection with the said telephone service, and for regulating and defining the duties of the officers and others employed in connection with such business or service, and for the imposition and collection of the rates or charges for supplying such service or for connection therewith and for the rent of fittings, machines, apparatus, transmitters or other things leased or supplied to subscribers, and for fixing such rates, charges and rents and the times and places when and where the same shall be payable, and the corporation may allow for prepayment or punctual payment such discount as they may deem expedient.

504 (d). Such corporations and their officers and agents shall in such telephone business and service have the like protection in the exercise of their respective offices and in the execution of their duties as municipalities or their officers now have under the laws of this Province, and if any action or suit shall be brought or claim made by way of arbitration or otherwise against such corporations or any person or persons for anything done in pursuance of such telephone business or service or the powers given for the purposes thereof, whether tort or contract, the same shall be brought within six calendar months next after the committing of the act or the discovery of the injury or damage by the injured party or the owner of the property damaged, or in case there shall be a continuation of damage, then within one year after the first committing of the said act or the discovery as aforesaid.

ADVERTISING MUNICIPALITY.

17. The said act is amended by adding thereto the following section :

520c. The council of every city and of every town having a population of 5,000 and over may include in the annual estimates a sum not exceeding \$500, to be expended in diffusing information respecting the advantages of such city or town as a manufacturing, business, educational or residential centre, or as a desirable place in which to spend the summer months. The councils of other municipalities may provide for the expenditure of a sum not exceeding \$100, for the like purpose.

18. Sub-section 4 of section 531 of the said Act is amended by inserting after the word "corporation" where it first occurs in the sixth line thereof the words, "or to recover damages sustained by reason of any negligent or wrongful act or omission of any other corporation or of any person other than a servant or agent of the municipal corporation."

BIICYCLE PATHS.

19. Section 550 of the said Act is amended by adding thereto the following as sub-sections:

1a. For setting apart so much of any highway or road or street as the council may deem necessary for the purposes of a bicycle path.

1b. If a person rides or drives a horse or other beast of burden, or a wagon, carriage or cart along a bicycle path hereafter or heretofore set apart by by-law he shall incur the penalties imposed by The Act to Regulate Travelling on Public Highways and Bridges.

LEASING THE HIGHWAYS.

20. Section 546 and sub-section 1 of section 550 of the said Act are each amended by inserting after the word "diverting" in the second line thereof the words "leasing, selling."

AREAS.

21. Municipal corporations are hereby authorized to permit areas or openings to be con-

structed in or under the sidewalks and streets of the respective municipalities, and to authorize the continuance of any heretofore constructed, and to make an annual charge for such privilege and for the use of the areas or openings heretofore constructed of such sums as the council may think reasonable, and may enforce the payment of said sums in like manner as municipal taxes. And all bonds and agreements now entered into and existing between any owner or owners of property in any municipal corporation, and such corporation for indemnity in respect of such areas are hereby cancelled and made void as to such indemnity except as to any rights or causes of action which may have accrued thereunder to such corporation owing to any accident or injury arising from negligence in connection with such areas or the improper use thereof prior to the passing of this Act. But neither this section nor the permission or privileges in respect of such areas or openings which may be granted by the said corporation hereunder shall interfere with any liability created or existing under the provisions of The Municipal Act, nor with the remedies over provided by sub-sections 4, 5 and 6 of section 531 of the said Act, nor shall any vested right in such area or openings be created by this section or by such permission or privilege.

22. Sub-section 1 of section 31 of The Municipal Amendment Act, 1896, is hereby repealed and the following substituted therefor :

In cities of over 100,000 inhabitants, the police commissioners of such cities shall have the powers which are now possessed by the municipal council so far as they relate to licensing, regulating and governing persons keeping intelligence offices, transient traders, hawkers, pedlars or petty chapmen, auctioneers, owners of exhibitions of wax works, menageries, circus riding and other such like shows usually exhibited by showmen, roller skating rinks and other places of like amusement, exhibitions held or kept for hire or profit, bowling alleys and other places of amusement, persons who for hire or gain keep billiard or bagatelle tables, victualling houses or other places for lodging, reception, refreshment, or entertainment of the public, owners and keepers of stores and shops where tobacco, cigars or cigarettes are sold, milk vendors, bill posters, persons selling fresh meat in quantities less than the quarter carcass and persons carrying on the trade of plumbers, and so far as the said powers relate to licensing and regulating ferries, and to restraining and regulating the running at large of dogs and imposing a tax on the owners, possessors or harborers of dogs, and the killing of dogs running at large contrary to the by-law, and the selling of dogs so impounded or any of them at such time or times and in such manner as may be directed by the by-law in that behalf; and also all other powers possessed by the councils of such cities in reference to licensing, regulating, or governing trades, businesses or occupations, and such police commissioners shall have full power to license, regulate and govern each person engaged in any of the businesses or employments hereinbefore set out, whether the full power to license, regulate and govern has been heretofore possessed by such municipalities or not, but the councils shall continue to have the power to fix the fees to be paid for such licenses, and any moneys derived from such licenses are to be handed over by the police commissioners to the treasurers of such cities to form part of the revenue thereof.

QUEEN'S JUBILEE.

23. The council of any city may include in the estimates thereof for the year 1897, a sum to be expended in celebrating the 60th anniversary of the coronation of Her Most Gracious Majesty the Queen, which sum shall in the case of cities having a population of 100,000 or over be not more than \$5,000, in case of cities having a population of 30,000 or over, not more than \$3,000, and in case of other cities not more than \$1,500.

BONUSING MILLS.

24. (1) Subject as hereinafter provided it shall be lawful for the council or councils of any one or more townships or village municipalities in the Provisional County of Haliburton to pass a by-law or by-laws for granting aid to secure the establishment of a grist mill in such township or village, by taking stock in any such enterprise to an amount not exceeding under the powers hereby conferred, one-half of the actual cost of establishing the mill nor, in any event, to a greater amount than \$3,000, to issue debentures for the purpose of paying for such stock and do all other acts in connection therewith, as if the power to grant bonuses were still vested in municipalities.

(2) No such aid by way of subscribed stock shall be given until after the passing of a by-law by the municipal council for the purpose and the adoption of such by-law by the qualified electors as provided by The Consolidated Municipal Act, 1892, in the case of by-laws for the creation of debts, and except as herein otherwise provided, all the provisions of the said Act relating to the creation of debts and the assent of the qualified ratepayers shall apply.

(3) In case two or more municipalities join in granting aid as herein provided the by-law shall in addition to the other provisions and requirements of this Act, receive a majority of the votes cast in each such municipality.

(4) Notwithstanding anything in the preceding section contained, the vote of two-thirds in the affirmative of the ratepayers who are entitled to vote upon any by-law granting aid to, or for promoting the establishment of a grist mill or for lending money thereto shall be necessary in order to the carrying of the by-law.

(5) No such aid shall be granted for the establishment of a grist mill in a location less than twenty miles from any grist mill heretofore established in the said county and in operation at the time of the passing of this Act.

(6) In addition to the certificate required by section 318 of the Consolidated Municipal Act, 1892, the clerk, in case of a majority of votes being in favor of the by-law, shall further certify whether or not, as shown by the voters' list, such majority appears to be two-thirds of all the voters who are entitled to vote on the by-law and a clear majority of the votes cast in each municipality.

(7) In case of a dispute as to the result of the vote on any by-law submitted under this act, the judge of the county court of the county of Victoria shall have the same powers for determining the question as he has in any case of a scrutiny of votes.

(8) The petition to the judge may be by an elector or by the council, and the proceedings for obtaining the judge's decision shall be the same as nearly as may be as in the case of a scrutiny.

(9) Sections 209 to 222, 293 to 319, and sections 321 to 328, inclusive, of the Consolidated Municipal Act, 1892, and their sub-sections, shall be taken and considered as part of this act.

(10) Except as herein otherwise provided, all the provisions of the Consolidated Municipal Act, 1892, relating to the creation of debts, the issue of debentures and the time and manner of repayment of the same shall apply and be read as part of this act.

(11) The council of each municipality taking stock in the company as herein provided shall annually, at its first meeting for the year, elect from among its members a representative of such council to the board of directors of the company, and such representative shall be entitled to sit and vote at all meetings of the board and to vote at all meetings of shareholders in respect of the stock held by the municipality which he represents.

VICTORIAN ORDER OF NURSES.

25. The council of any municipality may assist the Victorian Order of Nurses by a grant of money to the order.

26. Sub-section 1 of section 24 of the Consolidated Municipal Act, 1892, is amended by adding thereto the following words: "and the Lieutenant-Governor-in-Council may also by such proclamation provide that the said first mentioned village or town so annexed or to be annexed shall, for the purpose of elections to the Legislative Assembly, continue for such period of time as may be mentioned in the proclamation to form part of the electoral division of which it had theretofore formed a part."

27. The proclamation bearing date the 21st day of April, 1896, annexing the village of Allandale to the town of Barrie, and providing that the said village should, for the purposes of elections to the Legislative Assembly, continue for the term of ten years from the 15th day of December, 1896, to form part of the electoral division of Cardwell, is hereby confirmed.

DEPUTY-RETURNING OFFICERS.

28. Section 99 of the Consolidated Municipal Act, 1892, is amended by adding thereto the following sub-section:

(2) In case during the polling the returning officer or deputy-returning officer at any polling-place becomes unable to perform his duties through illness or other cause, the poll-clerk at such polling-place shall act as returning officer or deputy-returning officer, as the case may be, and he may appoint some other person to act as poll-clerk, and shall perform all the duties of a returning officer or deputy-returning officer.

NOMINATIONS.

29. Section 116 of the Consolidated Municipal Act, 1892, is amended by striking out all the words therein after the word "office," in the sixth line, and inserting the following in lieu thereof:

"But if more candidates are proposed for any particular office than are required to be elected, the clerk or other returning officer or chairman shall adjourn the proceedings for filling such office until the first Monday in January next thereafter, where (unless there shall be an election by acclamation by reason of the resignation of any candidate or candidates nominated, as in the next succeeding section provided) a poll or polls shall be opened in each ward or polling-subdivision at such place or places respectively as may be fixed by the by-law of the said council for the election at nine o'clock in the morning, and shall continue open until five o'clock in the afternoon, and no longer."

This amendment does away with the necessity for demanding a poll at a municipal nomination.

30. In case, at an annual or other municipal election, the candidates, or any of them who are nominated, retire, and by reason of such retirement the requisite number of persons is not elected, then the members elected, if they equal or exceed the half the council when complete, or a majority of such members, shall order a new election to be held to fill the vacancies so caused, in the manner provided by the Consolidated Municipal Act, 1892.

31. In case, by reason of such retirement, less than half the members of council are elected, the clerk as returning officer shall cause a new election to be held, in the manner provided by the Consolidated Municipal Act, 1892, and until such election is held and the number of members necessary to complete the council is elected, the council of the preceding year shall continue in office, and may do or cause to be done all such acts as a council duly elected for that year might lawfully do.

ABSENCE OF MAYOR OR REEVE.

32. (1) Sub-section 1 of section 182 of the Consolidated Municipal Act, 1892, is amended by striking out the words "city or" in the first line.

(2) In case the office of mayor in a city becomes vacant after the 1st day of July in any year, and an election to fill the vacancy has not

been ordered by the court or a judge, the council shall elect one of their own number to fill the office during the residue of the term.

33. Section 238 of the Consolidated Municipal Act, 1892, is repealed.

34. Sub-section 1 of section 239 of the said act is repealed and the following substituted therefor:

(1) In the case of the absence of the head of the council from illness or any other cause, or in case his office is vacant, the council may, from among the members thereof, appoint a presiding officer who, during such absence or vacancy, shall have all the powers of the head council.

RETURNS TO BUREAU OF STATISTICS.

35. Sub-section 1 of section 248 of the Consolidated Municipal Act, 1892, is hereby amended by adding at the end thereof the words "and every such return shall be transmitted by mail in a registered package."

36. Sub-section 1 of section 248 of the said act is amended by adding at the end thereof the following:

(a) The clerk of every municipality shall, within one month after the final passing of every by-law for creating a debt, send to the secretary of the Bureau of Industries one copy of the newspaper advertisement required under section 345 of this act.

37. Sub-section 1 of section 252 of the said Act is amended by adding at the end thereof the words "and every such return shall be transmitted by mail in a registered package."

38. Sub-section 2 of section 263 of the said act is hereby amended as follows:

(a) By inserting in the third line after the words "and also" the words "in duplicate."

(b) By inserting in the sixth line after the word "shall" the words "under a penalty of \$20 in case of default," and by inserting after the word "transmit" in the same line, the words "by mail in a registered package."

(c) By inserting in the seventh line after the word "and" the words "also one copy of the."

(d) By inserting in the ninth line after the word "other" the word "abstract."

(e) By inserting in the tenth line after the words "with the" the word "other."

The auditors are by this change required to transmit one copy of abstract and detailed statement to the Bureau of Industries by mail in a registered package.

39. Section 263 of the said Act is amended by adding thereto the following as sub-section (6):

(6) The treasurer of the Province shall retain in his hands any moneys payable to any municipality, if it is certified to him by the secretary of the Bureau of Industries that the auditor or auditors of such municipality have not made the returns hereby required.

FINANCIAL STATEMENTS.

40. Section 263 of the Consolidated Municipal Act, 1892, is amended by adding thereto the following subsection:

(6) If any member or officer of a municipal corporation, or other person, wilfully or knowingly makes or causes or procures to be made, any untrue entry in the statement required by sub-section 3 of this section, or wilfully or knowingly causes to be omitted from the said statement any entry or item which should be included therein, he shall be liable, on summary conviction thereof before two or more justices of the peace, to a penalty of not less than \$5, nor more than \$40, and costs of conviction.

DECLARATION OF OFFICE.

41. (1) Section 271 of the Consolidated Municipal Act, 1892 is amended by striking out the form of declaration of office therein contained and substituting the following therefor:

I, A. B., do solemnly promise and declare that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of (inserting the name of the office) or in the case of a person who has been appointed

to two or more offices which he may lawfully hold at the same time. That I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the offices of assessor and collector (or as the case may be) to which I have been elected (or appointed) in this township (or as the case may be), and that I have not received, and will not receive, any payment or reward, or promise of such, for the exercise of any partiality or malversation or other undue execution of the said office (or offices) and that I have not by myself or partner, either directly or indirectly, any interest in any contract with or on behalf of the Corporation (where declaration is made by the clerk, treasurer, collector, engineer, clerk of works or street overseer, the words following) save and except that arising out of my office as clerk or my office as assessor and collector (or as the case may be.)

(2) Any person who has been elected or appointed to two or more municipal offices which he may lawfully hold at the same time may make one declaration of office as to all the offices to which he has been elected or appointed, but the same shall be made and subscribed before he enters upon the duties of any of the said offices.

BY-LAWS CREATING DEBTS.

42. Sub-section, 3 of section 332 of the Consolidated Municipal Act, 1892, is amended by inserting after the word "applicant" in the sixth line, the words, "or in case the applicant is a railway company some person on its behalf."

43. (1) Sub-sections 1 and 2 of section 340 of the Consolidated Municipal Act, 1892, and sub-section 3 thereof, as amended by sub-section 1 of section 12 of the Municipal Amendment Act, 1894, are repealed and the following substituted therefor:

(1) The by-law, if not creating a debt for the purchase of public works, whether of this Province or of the Dominion of Canada, pursuant to the statutes in that behalf and to the provisions of sections 349 and 350, shall name a day in the financial year in which the same is passed when the by-law is to take effect; and if no day is named it shall take effect on the day of the passing thereof.

(2) The debentures may be issued all at one time, and in such case within a year after the passing of the by-law, or, in any case where, because of the proposed expenditure upon the objects for which the debt is contracted being estimated to extend over a series of years, and it being undesirable to have large portions of the money in hand unused and uninvested, or for other like or sufficient causes set out in the by-law, it would in the opinion of the municipal council, be to the advantage of the municipality, they may be issued in instalments of such amounts (not exceeding in the aggregate the total amount for which provision is made by the by-law), and at such times as the exigency of the case demands, but so that the whole shall be issued within five years, and the first instalment within one year, after the passing of the by-law.

(2a) If contracted for railways, harbour works or improvements, gas or water-works, or for the construction of sewers, the purchase and improvement of parks or the erection of public school houses, electric light works in towns having a population of 5,000 or under, the whole debt, or each instalment of the debt, as the case may be, and the obligations to be issued therefor, respectively, shall be made payable in thirty years at furthest, and unless contracted for any of the purposes aforesaid, or for the purchase of public works, as aforesaid, then in twenty years at furthest, from the time or times when the debentures are by the by-law directed or authorized to be issued, whether that be at a date or dates certain, specifically fixed, or at a date or dates depending upon and determined by the happening of any event or events or upon the fulfilment of any condition or conditions as set forth in the by-law.

(3) The by-law shall settle a certain specific sum to be raised annually, for the payment of interest during the currency of the debentures

or of each instalment of the debentures, as the case may be, also, a certain specific sum, to be raised annually, for the payment of the debt, or of each instalment thereof, as the case may be; the said sums to be such as will be sufficient, with the estimated interest on the investments thereof, to discharge the debt, or the instalment as the case may be, when payable; and the annual rate required for such purposes shall begin from the date when the debentures are by the by-law directed or authorized to be issued as aforesaid.

(3a) No by-law heretofore passed shall be deemed to be invalid by reason only of such annual rate commencing at a time subsequent to the year in which the by-law took effect, or because the levy of such annual rate did not begin until the fulfilment of conditions contained in the by-law.

(3b) Nothing in the next preceding sub-section contained shall prejudice or effect the question of costs of any action or proceeding pending on the 5th day of May, 1894.

(4c) Nothing in this section contained shall apply to or effect any debentures issued or to be issued in pursuance of section 21 of the act passed in the 54th year of Her Majesty's reign, chaptered 72, or sections 1 and 3 of the act passed in the 57th year of Her Majesty's reign, chaptered 71.

44. Section 342 of the said Consolidated Municipal Act, 1892, is repealed and the following substituted therefor:

342. (1) In any case of passing a by-law for contracting a debt, by borrowing money for any purpose, the municipal council may, in its discretion, make the principal of the debt, or of each instalment of the debt, as the case may be, repayable by yearly sums, during the currency of the period (not exceeding thirty years, if the debt is for railways, harbour works or improvements, gas or water-works or for the construction of sewers, the purchase and improvement of parks or the erection of public school houses, and not exceeding twenty years if the debt is for any other purpose except the purchase of public works as in sub-section 1 of section 340 mentioned), within which the debt, or the instalment of the debt, as the case may be, is to be discharged; such yearly sums to be of such amounts that the aggregate amount payable for principal and interest in any year in respect of the debt, or of the instalment as the case may be, shall be equal, as nearly as may be, to what is payable for principal and interest during each of the other years of such period; and may issue the debentures of the municipal corporation for the amounts, and payable at the times, corresponding with such yearly sums, together with interest, annually or semi-annually, as may be set forth and provided in the by-law.

(2) The by-law shall set forth a certain specific sum, to be raised in each year during the currency of the debt, or of the instalment of the debt, as the case may be, which sum shall be sufficient to discharge the several yearly sums of principal and interest accruing due, as the said yearly sums become, respectively, payable according to the terms of the by-law; and in cases within this section it shall not be necessary that any provision be made for sinking fund.

45. Sub-section 4 of section 340 of the last mentioned act is amended by striking out the word "five" in the third line substituting the word "four."

46. Section 12 of the Municipal Amendment Act, 1894, is repealed.

REGISTRATION OF DEBENTURE BY-LAWS.

47. Section 351 of the Consolidated Municipal Act, 1892, is amended by striking out the word "registered" in the fifth line and substituting the word "transmitted," and by striking out the words "in the registry office for the county" in the sixth line and substituting the words "to the Registrar of the Registry Division," and by striking out the words "in the registry office" in the seventh and eighth lines and substituting the words "to the Registrar," and by striking out the words "the county" in

the sixth line and substituting the words "the registry division," and by adding thereto the following sub-sections:

(2) The registrar shall receive the file in his office, and enter in the proper book, every by-law so transmitted to him.

(3) The by-law shall be certified and authenticated by the seal of the municipal corporation, and the signature of the head thereof or of the person presiding at the meeting at which the by-law has been made and passed, and that of the clerk of the corporation.

(4) The copy so certified shall be open to public inspection and examination at all reasonable times and hours upon payment of the proper fees.

(5) The registrar shall be entitled to the fees following:

For registration of each such certified copy, \$2 00
For making search, inspecting each copy of by-law, and examining entries connected therewith..... 50

(6) Any clerk who neglects to perform within the proper period any duty devolving upon him in virtue of this section shall be subject to a fine of \$200, or, in default of payment, to imprisonment for a period not exceeding twelve months, to be prosecuted in the name of the Attorney-General of Ontario in any court of competent jurisdiction.

48. Section 355 of the said act is repealed.

49. The Debentures Registration Act, chapter 187 of the Revised Statutes of Ontario, 1887, and amending acts are repealed.

MUNICIPAL LOANS LIMITED.

50. Sub-section 1 of section 413 of the Consolidated Municipal Act, 1892, as the same is enacted by section 10 of the Municipal Amendment Act, 1893, is amended by striking out all the words in the said sub-section after the word "therefor" in the ninth line, and inserting the following words in lieu thereof:

Provided that the amount so borrowed and outstanding shall not, at any time, exceed 80 per cent. of the amount collected as taxes to pay the ordinary current expenditure of the municipality in the preceding municipal year, and the powers by this section conferred shall not be exercised except for the purpose of meeting the ordinary expenditure of the municipality, and in the event of the council authorizing the borrowing of any larger sum than the said percentage, the members of the council who voted therefor shall be disqualified from holding any municipal office for the period of two years; provided always, that the person or bank lending any sum to a municipal corporation under this section shall not be bound to establish the necessity of borrowing the same.

USE OF SIDEWALKS.

51. The council of every municipality may, by by-law prohibit carriages, wagons, bicycles, sleighs, and other vehicles and conveyances of every description, and whatever the motive power, or any particular kind or class of such vehicles and conveyances, from being upon, or being used, drawn, hauled or propelled along or upon any sidewalks, pathways or footpaths, used by or set apart for the use of pedestrians, and forming part of any street, avenue, boulevard, bridge or other means of public communication or in or upon any avenue, boulevard, park, park-plot, garden or other place set apart for ornament or embellishment of the municipality, or for public recreation.

LIVERY STABLES.

52. Section 9 of the Municipal Amendment Act, 1896, is repealed and the following is substituted therefor:

9. Sub-section 2a of section 436 of the said Act, as amended by section 11 of the Municipal Amendment Act, 1893, is amended by adding at the end thereof the following:

And shall pass a by-law or by-laws for regulating the hours of labor of persons employed in livery or boarding stables, or as drivers of cabs, carriages or sleighs kept for hire within the said city, and may also pass

by-laws for regulating the hours of labor of persons employed by the owners of horses, carts, trucks, omnibuses and other vehicles kept for hire within the said city, and for licensing drivers of cabs within the said city.

BOARDS OF HEALTH.

53. Where an action has been brought against the local board of health or any member of the council, or member, officer or employee of the local board of health of any municipality by any person who has suffered any damage by reason of any act or default on the part of such local board of health, or any member, officer or employee thereof, the municipality may assume the same or the defence thereof, and may pay any damages or costs for which such member, officer or employee may be or has become liable in respect thereof; this section shall not extend to or include a mere contractor with the corporation; nor any such member of the council or local board of health, or officer or employee who is such contractor, and by reason of whose act or neglect the damage was caused.

54. Sub-sections 7 and 9 of section 495 of the Consolidated Municipal Act, 1892, are hereby amended by inserting the words "municipality or" before the word "county" where the same occurs in the said sub-sections.

55. The following additional sub-section is added to section 495 of the said act after sub-section 8 thereof:

8a. And for making grants in aid of the said university or the said college, and the said city of Toronto may so grant to the said college water from the city waterworks, with or without any charge therefor.

MAINTENANCE OF BOUNDARY LINES.

56. The Consolidated Municipal Act, 1892, is amended by inserting the following therein as section 538a:

538a. (1) The councils of adjoining townships may enter into an agreement for the maintenance and repair of any road forming the boundary between such townships, whereby each of such townships may undertake for a term of years not to exceed ten years to maintain and keep in repair any portion of such road for its whole width, and to indemnify and save harmless the other township from any loss or damage arising from want of repair of such portion.

(2) Any agreement so made shall, when confirmed by by-law of the council of each of the contracting townships, be registered in the registry office in the manner provided by sub-section 1 of section 547 of this act.

(3) After the registration of the by-laws confirming such agreement, each of the contracting corporations shall have sole jurisdiction over that portion of the road which it has undertaken to maintain and keep in repair, and shall be liable for all damages incurred by reason of neglect to maintain and keep the same in repair, in the same manner and to the same extent as in the case of any road lying wholly within and under the jurisdiction of such township; and the other contracting corporation shall be relieved from all liability in respect to the maintenance and repair of such portion.

(4) Any such agreement heretofore made and entered into shall, after confirmation thereof and registration of the confirming by-laws as aforesaid, be legal, valid and binding upon each of the said township municipalities, and the said townships shall severally have jurisdiction over and be liable for the maintenance and repair of portions of any road which is the subject of such agreement, according to the terms and tenor thereof.

WIDTH OF STREETS.

57. Section 545 of the said act is amended by adding at the end the words "by a three-fourths vote of the members thereof."

GRAIN ELEVATORS.

58. The council of any municipality may pass by-laws for granting aid by way of bonus to promote the establishment of grain elevators,

in the same manner and to the same extent and subject to the like terms and conditions as in the case of by-laws for granting aid for the promotion of iron smelting works, and all the provisions of section 637a of the Consolidated Municipal Act, 1892, and the amendments thereto, shall apply to by-laws for granting aid to promote the establishment of grain elevators.

POPULATION.

59. Wherever any power is conferred upon, or any provision of law relates to cities having "over," or "upwards," or "more than," or "exceeding" a specified population, the sections relating to said powers shall be read as conferring the same upon or as relating to any city having a population equal to the number therein specified, and it shall not be necessary that the population of the city should exceed the said specified number in order that the said powers should be exercisable by, or that the said provisions should apply, to such city. Unless otherwise provided, the population shall for the purposes aforesaid be ascertained by the last census of the Dominion of Canada or by the last census taken thereafter under a by-law of the municipality.

COUNTY COUNCILS ACT.

60. Section 6 of the County Councils Act, 1896, is amended by striking out all the words thereof after the word "force," in the sixth line thereof, and substituting therefor the following:

"Any person having the necessary qualification and not otherwise disqualified, who is a member of a local municipal council for the year in which nominations are to be held for the election of members of the county council shall be eligible for nomination and election as a member of the county council at such election, but no member of the council of a local municipality shall sit or vote as a county councillor, and no clerk, treasurer, assessor or collector of a local municipality, and no clerk or treasurer of a county shall be eligible for nomination or election as a county councillor, or shall sit or vote at such county council. No person who has been nominated and is a candidate for election as a county councillor in any county council division shall, while he remains a candidate as aforesaid, be eligible for nomination or election as a member of the council of any local municipality."

61. Section 17 of the County Councils Act, 1896, is amended by adding at the end thereof the following words: "and except when so required to give a casting vote, no nominating officer shall vote at an election held for the county council division for which he is appointed."

62. Section 21 of the County Councils Act, 1896, is amended by inserting therein the following as sub-section 1a:

(1a) In case the nominating officer of the division in which the vacancy exists is dead, or is unable through illness or absence, or neglects or refuses to act, the warrant for a new election may be directed to some other person, and such person shall act as nominating officer, and shall have all the powers and perform all the duties of a nominating officer duly appointed under section 7 of this act.

WARDEN FOR ONE YEAR.

63. Section 225 of the Consolidated Municipal Act, 1892, is repealed.

64. The members elect of every county council shall, at their first meeting after a general election of members for the council, at which a majority of the full council are present, and after making the declaration of office and qualification, organize themselves as a council and elect one of themselves to be warden, and the warden so elected shall hold office until the first meeting in the succeeding year, when a new election of warden shall take place, and the warden chosen at such last mentioned election shall hold office until a new council is organized, as in this section provided.

65. Whereas by a commission issued under

the provisions of the County Councils Act, 1896, directed to His Honour William Warren Dean, Judge of the county of Victoria and His Honour Thomas Moore Benson, Judge of the united counties of Northumberland and Durham, as commissioners, the said commissioners were empowered to divide the county of Lennox into county council divisions for the purposes of the said act; and whereas by the words "the county of Lennox" in the said commission it was intended to designate the county of Lennox and Addington; and whereas the said commissioners in conformity with the said act did so divide the county of Lennox and Addington and reported the said division as intended by the said commission.

Therefore it is enacted and hereby declared that the division of the said county of Lennox and Addington so made and reported by the said commissioners is declared to be valid and sufficient to all intents and purposes and of the same force and effect as if the said commission had directed the said commissioners to divide the county of Lennox and Addington for the purposes of the said County Councils Act.

ASSESSMENT NOTICES IN CITIES.

66. Section 47 of the Consolidated Assessment Act, 1892, is amended by inserting therein the following as sub-section 1a:

(1a) In any city in which a by-law or by-laws shall have been passed under section 2 of the Assessment Amendment Act, 1896, notice of assessment shall be served upon persons resident or domiciled or having a place of business within the municipality, either personally or by leaving such notice in the office or place of business of such person in the municipality and where such office or place of business is situated in any public building or in any building the apartments of which are occupied by different persons as places of business, the notice shall be left with the person assessed, or in his absence with some person employed in the particular office in which the person named in the notice is engaged, and if there be no such person then by leaving the same in the particular office in which the person assessed is employed or engaged.

ASSESSMENT ACT AMENDMENTS.

67. Sections 55 and 56 of the Consolidated Assessment Act, 1892, shall not apply to any city.

68. Section 3 of the Assessment Amendment Act, 1896, is repealed.

69. (1) In every city the court of revision shall consist of three members, one of whom shall be appointed by the city council, and one by the mayor, and the third shall be the official arbitrator appointed for the city under the Municipal Arbitrations Act, and in the case of cities where there is no official arbitrator, the sheriff of the county shall be the third member.

(2) In cities having a population of 100,000 or more, each member of such court of revision shall be paid at the rate of not more than \$500 per annum for his services, and in cities having a population of more than 30,000 and less than 100,000, each member of such court shall be paid at the rate of not more than \$300 per annum, and in other cities each member shall be paid such sum per annum as the council shall by by-law or resolution provide.

(3) No member of the city council, and no officer or employee of the city corporation shall be a member of the court of revision.

(4) The members of such court of revision shall be appointed as soon as practicable after the passing of this act, and shall hold office for the current year and thereafter until their successors are appointed, but the mayor or council may each or either of them, after the organization of a new council and before the 1st day of March in any year, appoint a member of such court of revision in place of any member appointed by the mayor or council in a preceding year.

(5) Two members of any court of revision under this section shall form a quorum, and upon the death or resignation of any member of any such court, a successor shall immediately

thereafter be appointed by the authority which appointed the member so dying or resigning. In case of a vacancy in the office of sheriff, or if the sheriff is unable to act from any cause in cities where there is no official arbitrator the registrar of deeds for the county or a registry division of the county whose office is in such city, shall act as the third member of the court during such vacancy or inability of the sheriff to act.

70. (1) Sub-section 1 of section 76 of the Consolidated Assessment Act, 1892 is amended by striking out the figures "\$50,000," in the 6th line, and inserting in lieu thereof the figures "\$20,000."

(2) Sub-section 2 of the said section 76 is amended by striking out the figures "\$50,000," in the 6th line and inserting in lieu thereof the figures "\$20,000."

(3) Sub-section 4 of the said section 76, as the same is enacted by the Assessment Amendment Act, 1895, is amended by adding at the end thereof the following words, "subject to appeal to the Court of Appeal."

(4) Sub-section 6 of the said section 76 is repealed.

(5) The said section 76 is further amended by adding at the end thereof the following as sub-section 7:

(7) An appeal shall lie to the Court of Appeal from any judgment or decision of the said judges or a majority of them, and subject to any rule of court relating to such appeals, the procedure thereon shall be, as far as may be, the same as upon any appeal from a county court; and the appeal provided for by this sub-section may be heard by three judges of the Court of Appeal, and the decision of such judges or a majority of them shall be final.

(6) Section 76a of the said act, as enacted by section 5 of the Assessment Amendment Act, 1894, is amended as follows:

(a) In paragraph 1 by inserting after the word "act," in the fourth line, the words "or on any question which has arisen upon an appeal of a person, partnership or corporation assessed on one or more properties to an amount aggregating \$10,000"

(b) In paragraph 2 by striking out the word "general" in the second line.

TAX SALE DISTRICTS.

71. For the purposes of tax sales the council of any county may by by-law divide the county into districts, each of which may contain one or more municipalities, and the by-law may as to each of such districts provide that thereafter the sales of land situate therein for arrears of taxes shall be held by the treasurer at such place in the district as may be named in the by-law, and every advertisement or notice of any such sale shall state the name or number of the district and the place therein at which the sale will be held.

72. Sub-section 3 of the said section is amended by adding at the end thereof the following words:

"But the owner of any land so purchased by the local municipality shall not be at liberty to redeem the same except upon payment to the county treasurer of the full amount of the taxes due, together with the expenses of sale, and the treasurer shall account to the local municipality for the full amount of taxes paid."

73. Section 180 of the said act is amended by adding at the end thereof the following:

"Provided, that if such lands have been purchased by the local municipality in which the same are situated under the provisions of sub-section 3 of section 170 of this act, the owner shall not be at liberty to redeem the same except upon payment of the full amount of taxes due, together with the expenses of sale, as provided in the said sub-section."

ASSESSMENT IN DISTRICTS.

74. Section 29 of the Act respecting the establishment of municipal institutions in the districts of Algoma, Muskoka, Parry Sound, Nipissing, Thunder Bay and Rainy River, is

repealed and the following substituted therefor:

(1) The council for the year following the return of the first assessment roll may by by-law adopt the assessment therein as finally revised as the assessment for that year:

(2) The council of any municipality established under this act may by by-law alter and fix the time for making the assessment in the municipality, and may by by-law adopt the assessment of the preceding year as finally revised as the assessment (subject to revision, as herein provided for, in the case of the first assessment), on which the rate of taxation for that year shall be levied; provided always that a new assessment shall be made within a period of not more than three years from the date upon which the last assessment roll was finally revised.

QUALIFICATION OF COUNCILLORS IN DISTRICTS.

75. Section 41 of the Act respecting the establishment of municipal institutions in the districts of Algoma, Muskoka, Parry Sound, Thunder Bay and Rainy River is amended by striking out the figures "200" and "400" in the fourth line thereof and substituting therefor respectively the figures "100" and "200."

76. Sub-section 1 of section 73 of the Consolidated Municipal Act is amended by striking out the words "and in the said last named districts and provisional county, 5. In townships and incorporated villages, freehold to \$200, or leasehold to \$400," and inserting in lieu thereof the words "and in the said last named districts and provisional county, 5. In townships and incorporated villages, freehold to \$100, or lease hold to \$200."

77. The appeal from the decision of the engineer provided for in section 104 of the General Road Companies Act, and in section 9 of the act passed in the fifty-third year of Her Majesty's reign, chaptered 42, shall lie to the Provincial Instructor in Roadmaking, instead of, as heretofore, to the judge of the county court, and the said sections are amended so far as the same relate to such appeal by substituting "the Provincial Instructor in Roadmaking" for "the judge of the county court" and "the judge" wherever the said words appear therein, and the said Provincial Instructor in Roadmaking shall have all the powers of the judge of the county court hearing an appeal from the engineer under either of the said acts.

POUND-KEEPERS' NOTICE.

78. The Act respecting Pounds is amended by inserting therein the following as section 3a:

3a. Where any animal has been impounded the poundkeeper shall, within twenty-four hours, deliver to the clerk of the municipality a notice in writing containing a description of the color, age and natural and artificial marks of the animal, as near as may be.

SNOW FENCES.

79. Section 3 of the Act respecting snow fences is hereby amended by striking out the word "owners" at the end of the ninth line and inserting instead thereof the word "occupant."

SHEEP AND LAMBS.

80. Sections 11 and 13 of the Act to impose a tax on dogs and for the protection of sheep are hereby amended by inserting the words "or lamb" after the word "sheep" wherever the said word "sheep" occurs in the sections named.

RAILWAYS AND STREET DRAINAGE.

81. Sub-section 1 of section 3 of the Act to provide for the crossing of railways by street drains and water mains is hereby amended by inserting after the word "contractor" in the second line, the words "persons or company."

82. Section 7 of the Act to make provision for the safety of railway employees and the public is hereby amended by inserting in the first line, after the word "servant," the following words: "his legal representatives and any person entitled in case of his death."

VETERINARY SURGEON.

83. Section 1 of the Act to prevent the spread of contagious diseases among horses and

other domestic animals is amended by striking out, in lines 13 and 14, the following words: "registered by the Ontario Veterinary Association," and inserting in lieu thereof the words "authorized to practice in Ontario as a veterinary surgeon."

84. Section 1 of the act passed in the fifty-third year of Her Majesty's reign, chaptered 65, entitled, an Act to make further provision for preventing the spread of contagious diseases among horses is amended by striking out the words "registered by the council of the Agriculture and Arts Association of Ontario," in the fourth, fifth and sixth lines, and inserting in lieu thereof the words "authorized to practice in Ontario as a veterinary surgeon."

85 This act shall not come in force until 1st July, 1897, except section 24, which shall come into force on the passing thereof.

In addition to the above, an act to make amendments to the statute laws, contains the following municipal amendments:

REGISTRY OFFICES.

The council of every county, city, or separated town may by by-law authorize the warden, mayor or treasurer to inspect the books of office kept in any registry division in the county or city, for the purpose of testing the accuracy of the returns or computations of fees received by the registrar to a share or percentage of which the county, city or town may be or may become entitled, and the registrar shall at all convenient times allow the said books to be inspected for such purpose free of charge.

LANDLORD AND TENANT.

(1) In the case of leases hereafter made unless it is therein otherwise specifically provided a covenant by a lease for payment of taxes shall not be deemed to include an obligation to pay taxes assessed for local improvements and item 2 in column 2 of schedule B of the act respecting short forms of leases is amended by adding thereto the words "except municipal taxes for local improvements or works assessed upon the property benefited thereby;" and by adding to item 2 in column 1 the words "except for local improvements."

UNION TOWNSHIPS IN UNORGANIZED DISTRICTS.

Sub-section 2 of section 1 of chapter 185 of the revised statutes is amended by inserting in the fifth line thereof after the word "persons" the words "provided however that the population of such township amounts to not less than fifty persons."

VOTERS' LISTS.

Section 3 of the Ontario Voters' Lists Act, 1889, is amended by adding thereto the following sub-section:

9a. In townships, towns and villages the clerk shall also, opposite the name of each person, state such person's occupation by inserting the same in a column for that purpose.

Section 5 of the said act is amended by adding thereto the following paragraph:

(g) The clerk of the county in which the municipality is situate.

CONSTABLES AND CRIERS.

The sheriff shall have the appointment and control of the court crier and of the constables at the sittings of the Courts of Assize and Nisi Prius, Oyer and Terminer and General Gaol Delivery and of the High Court of Justice, the General Sessions of the Peace and other courts at which the attendance of the sheriff is required.

PUBLIC SCHOOLS ACT.

Sub-section 4 of section 89 of the Public Schools Act, 1896, is amended by inserting therein after the word "districts," in the first line thereof, the words "and in the Provisional County of Haliburton."

HIGH SCHOOLS ACT.

Section 2 of the High Schools Act is amended by adding thereto the following sub-section:

(11) The municipal council in every town in a judicial or territorial district shall pay for the maintenance of pupils of such town who attend a high school in any other town in the same district at the rate per pupil (after deducting the Legislative grant) payable for the pupils of the town in which the high school is situated. Any dispute between the municipal council of the town and the board of trustees with respect to the amount to be so payable shall be settled as in the case of county pupils under this act.

THE MARRIAGE ACT, 1896.

Section 25 of this act has been repealed and the following substituted therefor:

25.—(1) Every clergyman, minister or other persons authorized to solemnize marriages, where a marriage register is not already possessed by any church or congregation over which he is placed or has charge, shall make application for a register (which shall be the property of said church or congregation) to the clerk of the city, town, incorporated village or township municipality within which the said church or congregation is situated; the clerk shall thereupon supply such register at the cost of the municipality, and the clergyman, minister or other person in whose keeping the register is, shall, on or before the 8th days of July and January in each and every year, make to the said clerk a complete copy of every marriage recorded therein during the previous half year.

(2) One additional register may be supplied to any clergyman, minister or other person authorized to solemnize marriages, and a register shall also, on application, be supplied to any clergyman or minister in the municipality who is not in charge of a church or congregation, but in that case he must similarly make a return at the periods aforesaid of all marriages solemnized by him.

INSPECTION OF MILK.

The operation of section 4 of the Act to provide for the Inspection of Meat and Milk Supplies of Cities and Towns, passed in the fifty-ninth year of Her Majesty's reign, and chaptered 60, is hereby suspended and no proceedings shall be taken under the authority of the said section until the close of the next session of the Legislature.

The development of water-power is suggested for the village of Thornhill to the amount of 200 horse-power.

The prevailing opinion among county councillors is that the new system of councils will be a success. The *Welland Tribune* says:

"The county council is now a workable body as a whole, and almost the entire work is done by the council. No time is wasted by small committees going out and breaking the quorum of council. When a subject is threshed out in committee the debate has not to be repeated for the information of the whole council, as before. The saving of time is very marked."

State aid for road construction is wanted in Wisconsin, and the Board of Directors of the Wisconsin League of Good Roads has asked the State Legislature to take the first step toward the amendment of the constitution so as to admit of state aid for road building. The state constitution now provides that "the state shall never contract any debt for works of internal improvement or be a party in carrying on such works." The Good Roads League proposes to amend this by making an exception in the case of "wagon roads designed and to be used solely for free public travel."

ENGINEERING DEPARTMENT.

A. W. CAMPBELL,

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

Preparing for Road Work.

Statute labor is about to commence in the various municipalities throughout the province, and pathmasters and councils, if they have not already done so, should at once give the matter their most careful study. The improvements to be made with this year's expenditure of labor and money should be thoroughly looked into, and plans prepared, so that no time will be lost when the men are on the ground; and so that the best ways and means will have been discovered. It is the neglect to exercise this forethought that causes the waste of a great portion of labor and expenditure applied to roads. Every step in the work should be carefully thought over by the pathmaster, and if there is a capable road commissioner, or general township supervisor with whom he can consult, and to whom he can apply for advice, so much the more prospect is there that work will be performed well and economically.

If a section of road is to be overhauled and constructed, the pathmaster should know where and to what extent under-drainage is needed; he should know what open drains are needed; he should know what culverts are needed; he should know what amount of grading is needed, and he should know where to commence, and in what order the various parts of the work should be undertaken; and he should know how many days of labor, what material and what tools or machinery are needed in each successive step. All lumber, tile or other material required, should be purchased in advance, and should be on the ground when needed.

More than knowing what tools are needed, the pathmaster should take proper steps to see that they will be furnished. Otherwise there will be too many wagons, and not a scraper to be had; too many with shovels, and not enough with teams; half-a-dozen plows and no shovels. Any implements owned by the municipality should be looked after early in the season to see that they are in a proper state of repair.

In notifying those by whom statute labor is to be performed, only such a number as can be properly directed by the pathmaster and used to the best advantage on the work should be called out for one time. To call the men out without reference to the needs of the work is either an evidence of mismanagement on the part of the pathmaster, or if it cannot be done, is generally an indication that the statute labor of the district is of very little value.

Gravel pits should be attended to before the material is hauled to the road. They should be stripped of the layer of earth which generally covers them, so as to avoid delay when the teams are in the pit;

or if this is neglected, the probability is that the dirt will be permitted to fall into the pit, mix with the gravel, and placed on the road, producing injury rather than benefit. If the gravel needs screening or crushing before being placed on the road, this should not be left until teams are in the pit, but is a matter for which a municipal appropriation should be made, as statute labor can be utilized to much better advantage in hauling the gravel.

Experience, wherever statute labor has been employed, has shown that it can usually be made most productive of good when used in teaming. Without a great deal of friction, wagon boxes of a fair size can be insisted upon, and honest loads drawn. Appropriations from the general funds should be so directed as to utilize as much of the statute labor as possible in this way; they should provide for the preparation of road metal; that is, the crushing of stone or the screening of gravel, or whatever preliminary treatment is needed to provide a good metal. It is better that a grading machine should be used on the road some little time before the gravel of broken stone is applied, and this is a matter which can be profitably attended to by the council. Draining, or a major part of it, and the construction of culverts are details which should be looked after, independently of statute labor. Townships which can anticipate statute labor by preparing the gravel, grading the roads with improved machinery, and constructing culverts and drains out of the general funds, using the statute labor in loading the wagons, teaming, and spreading the metal on the roads, will obtain the most satisfactory results.

In a recent number of *The Yale Review*, Professor Commons describes certain typical cases which seem to show that, "apart from politics, poor relief and fancy wages, apart from extras, litigations and repairs, but including depreciation and added office expenses, the municipality can do all its work connected with streets, such as paving, sweeping, sprinkling, trenching, sewerage and laying water pipe, at a cost by day labor of 5 to 30 per cent. less than by contract; and that allowing for extras, litigation and repairs, the saving is considerably greater."

Professor Commons finds that the cost of inspection, under the contract system, ranges from 1 per cent. of the total cost in pavement contracts to 10 per cent. in deep sewer construction, the average being about 5 per cent. for sewers.

The inspector must be a man of the same ability as the foreman. In direct employment, however, not only the foreman takes the place of the inspector, but the laborers themselves become inspectors, and the inspection is better done.

Furthermore, the profits of contractors and sub-contractors are largely saved, and from the superior quality of public work there results a marked saving in the item of repairs and replacement.

Pavements, Sewers and Waterworks.

There was a time when sewers were supposed to belong to the cities only; that they were in smaller towns unnecessary and a needless expense. The progress of sanitary science and modern invention is rapidly producing a change in this respect, and town municipalities of the most modest pretensions are introducing waterworks systems, electric light systems, sewer systems and gas plants. Attention is now being called in a new direction, and the improvement of streets, so long neglected, is being actively entered upon.

There is no direction toward which municipal enterprise can more profitably be turned than in that of street improvement. While such is the case, councillors cannot afford to overlook the claims of the other public works mentioned. Where the construction of sewers is contemplated they should in all cases be laid before the roadway is paved. Not only is this advisable for the purpose of securing easy drainage, but pavements cannot be torn up and replaced without injury. This is particularly true of gravel or macadam, and is more or less the case with brick, asphalt and the more durable materials.

Not only should the main sewers be constructed, but sewer connections and water services should be laid to the street line as far as possible, a measure for which provision is made in the Municipal Act. In returning the earth to the excavations, constant use must be made of the rammer to compact the earth as solidly as it was originally. With thorough ramming, more earth can be returned to a trench than was taken out. In the case of a main sewer, it is advisable to permit the roadway to settle for a year before paving, as settlements, after the macadam, or brick or asphalt is placed on the road, can rarely be rightly repaired, and seriously injure the pavement.

It is not the intention of these remarks, however, to deter a council from all street improvement until sewers and waterworks systems have been constructed. Towns, and even villages, cannot afford to neglect the streets, if only for the sake of appearance and not as a measure of economy.

Spring Cleaning.

Towns which have not already looked after the scraping of street filth and refuse from the streets, should lose no time in attending to this important matter. It is very commonly supposed that a macadam road does not need such treatment. This is a very great error. A macadam roadway will be benefitted by scraping and sweeping just as much as will an asphalt or brick pavement. The accumulation of mud to be found on the surface of any street in the spring, will change to dust a little later in the season, to be inhaled by the citizens. Dust is not at all agreeable, and, as a matter of comfort, should be

prevented in this way. This accumulation is, moreover, injurious to the roadway since it will, when wet, become mud, make the surface rough, interfere with surface drainage, and will be the beginning of ruts.

Not only should public property receive in the spring special treatment for sanitary reasons, but the vigilance of the health officers should be exerted to its full extent in seeing that private citizens do not neglect their back yards until the commencement and spread of disease draws attention to the matter.

Sanitary science is a matter little understood or thought of in the country, and in towns and villages. The free pure air is supposed to make up for all oversight in the matter of drainage, impure water, and decaying filth. Modern sewers and systems of sewage disposal, the facilities for procuring a pure water supply, the cleaning of streets, garbage disposal, sanitary inspection, the creation of parks. All these are becoming so thoroughly systematized in the larger towns and cities, that the centres of dense population bid fair to become a refuge from the malaria and typhoid of the country districts.

Montana Highways.

The highways of Montana, by a bill lately passed by the State Legislature, are placed in the charge of the county surveyor, and the old office of road supervisor, usually held by an inexperienced man, is abolished. The act defines the powers and duties of county surveyors and provides for their compensation. By this act each of these officers is required to keep the highways in his county clear of obstruction and in good repair and maintain bridges, to make all plans and specifications for new roads and bridges, to report to the county commissioner on all work completed, and if the work is done according to the plans, specifications and contract he is to draw his vouchers for the same before payment is made. The county surveyor is chairman of all boards of viewers of roads, keeps the records of road surveys, and is the general superintendent of all roads. He may employ labor, teams, etc., and has power to contract for all work not exceeding \$200 in cost; for larger amounts the approval of a majority of the Board of County Commissioners is required. The salary received varies with the class of county, from \$750 to \$2,000 per year. Viewers and all assistants of the county surveyor may not receive more than \$3 per day.—*Engineering News.*

Tax Mills.

"I wonder why the tax levy is made in mills instead of cents," remarked Beechwood.

"That is in accordance with the eternal fitness of things," replied Homewood.

"Well."

"Because it grinds the taxpayers."—*Pittsburg Chronicle-Telegraph.*

In England.

The following extract from a paper prepared by the County Surveyor of Nottinghamshire, England, and read at a conference of town and district councils, contains a lesson taught by experience, which may fittingly be applied to the pathmaster system in Canada:

"Enough is known of the generally unsatisfactory ever-changing 'system' of parish management, and the 'saving' system of one authority carrying out the details of management for another, who has to pay the cost incurred, to make it unnecessary to enter into minor details of management. The system has been tried over and over again, and the invariable result is discontent, and almost invariably bad roads. No roads can be effectually managed where the head or chief is constantly changing. No system can work where any one is unpaid for work that should be paid for. No reasonable person can expect good results from such management. For many years past it has been the custom to find a place in certain rural districts for a poorer inhabitant "on the roads," either as surveyor or workman; the result is, the poor official has a poor finish, and the roads a poor ending. It will be generally agreed that a road maintenance must of necessity be well and properly managed, or it is sure to be costly and unsatisfactory. Each successive surveyor in a parish will, if at all a strong man, have his own ideas of what is right and proper, and if a weak man, will be constantly driven from pillar to post by stronger men; but the same unsatisfactory ending will be found. The roads will be forfeited with material, more often bad because it is cheap; or else starved of necessary material or labor because the initial outlay is great, or appears so. If it could be firmly established in the minds of all that the whole of every road must of necessity be renewed, repaired and maintained, the key-note of lasting reform would result, and this must be appreciated to understand and approve of the more modern system now adopted by the council."

One of the Best.

THE MUNICIPAL WORLD, published at St. Thomas, Ontario, is one of the very best periodicals of its special class that we are acquainted with. Its contents are not page-long disquisitions on the old and well-worn topic of city abuses and city management, and questions of kindred nature, but rather are notes brief and to the point on the most practical subjects of municipal interest. Its engineering department is good, but its legal department and its "Question Drawer" are of great worth. It is published monthly in the interest of every department of the municipal institutions of Ontario, and its price is \$1 a year.—*City and State.*

QUESTION DRAWER.

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

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

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

Absence of Reeve.

237.—B. O.—Our reeve contemplates leaving for the Northwest and will be absent from four to six months. Can he hold the position of reeve or will he have to resign?

Section 177 of the Municipal Act provides that a member of the council who absents himself from the meetings of the council for three months without being authorized so to do by a resolution of the council entered in the minutes, his seat in the council shall thereby become vacant, and the council shall declare the seat vacant, and order a new election.

Section 239 of the same act provides that in the absence of the head of the council and also of the deputy-reeve, if any, by leave of the council or from illness, the council may, from among the members thereof, appoint a presiding officer, who, during such absence, will have all the powers of the head of the council. As your reeve proposes to be absent from the council for more than three months, he must secure permission by resolution, and if there is no deputy-reeve in the council, a chairman may be appointed, who will have all the powers of the reeve. The resolution should specify the length of time for which the reeve obtains leave of absence.

See section 34 of the Municipal Amendment Act in this issue.

Bicycles and Sidewalks—Councillor's Gravel Pit.

238.—NED.—In our municipality there is an unincorporated village. Bicycle riding upon sidewalks has become so troublesome that many are complaining. What course should the council take to prohibit bicycle riding upon sidewalks in said village or a part thereof without effecting in any other part of the corporation?

2. Two years ago a certain party leased to the corporation a gravel pit. In 1897 said party was elected township councillor, gravel leased being all used, more has been taken. How can said party be paid or in what way can he receive his pay without violating his declaration of office or being disqualified?

1. A by-law may be passed under the authority of sub-section 27, section 496, Consolidated Municipal Act, 1892, or chapter 45, section 51, Act of 1897, on and after July 1, 1897.

2. In order to do business with the municipality he must keep out of the

council. See section 431, Consolidated Municipal Act, 1892.

County or Government Bridge.

239.—M. A. C.—A bridge was built across a river, said river dividing two counties. Bridge was built by commissioner appointed by the Council. The Dominion and Provincial Government each gave \$2,500; the balance was raised by subscription.

Who is responsible for opening and closing the swing?

In the absence of an agreement we are of opinion that the counties would not be liable for operating the bridge.

Non-Resident Tenants to be on Part 2 Voters List.

240.—W. C. A.—In the present number of your paper I notice under question No. 228 (3) "Are tenants who are assessed for say \$400, but are non-residents, to be placed on Voters' List Part 2" that your answer is "Yes."

Is this not an error or an oversight? See sections 79 and 103 the Consolidated Municipal Act, 1892.

If a tenant is otherwise qualified he ought not to be left off the voters' list because he is at the time of making the list a non-resident. Unless this course is adopted many persons may be disfranchised. The oath requires a tenant to swear that he was on the day of the final revision of the assessment roll a tenant. He is not required to swear that he was at that time a resident, but only that he has been a resident for one month next before the election. He should therefore be put upon the list so that if he should afterwards become a resident for one month before the election he would be entitled to vote.

Tax Sale Notes.

241.—ALGOMA.—At an adjourned tax sale our municipality bought in a number of parcels of land. Some time before the expiration of one year from day of sale, council, by resolution, instructed treasurer to sell what lots he could and accept \$5.00 from person buying, and balance of price after a year and a day from date of sale. No written agreement.

1. Is such transaction legal or binding on either party.

2. During 1896 council have sold several such lots and accepted notes from purchasers instead of cash, some of notes not maturing until December, 1897. Deed to be given on payment of last note. Is this transaction legal, and can notes be collected if parties are worth them?

Copy of resolution passed Dec. 15, 1894: That the treasurer have power to resell all lands that are in the hands of the council for the amount of taxes and costs charged against them, and demand a deposit of \$5 on every lot sold.—Carried. Adjourned sale November 4, 1894.

We can see no reason why sale is not legal or why notes cannot be collected.

Sale of Gravel From Road Allowance.

242.—A COUNCILLOR.—1. Have pathmasters or councillors any legal right to give any person or persons liberty to take any soil or gravel or sand off a concession road for his or their private use?

2. Has a Council power to sell by the load or otherwise to any person or persons as above mentioned?

3. Can a township council take gravel from the road allowance and undermine a line fence?

4. Can a council order gravel to be taken off the road allowance and taken miles away when required nearer?

5. Would a council be held liable in case an accident occurred as a result of holes formed in the side of the road through the taking out of gravel by their order?

1. No.
2. No.
3. No.
4. Yes.
5. Yes.

Fences on Highway—To Remove.

243.—W. H.—1. Can a municipal council be compelled to run lines to make persons remove fences off road allowances, the original posts having been lost or removed (on town line).

2. Would council be justified in sending Road Commissioners to remove the fences at the cost of persons refusing to remove the same?

1. No. See section 491 Municipal Act.

2. Yes, but better way would be to indict them before the grand jury for obstructing the highway.

Treasurer or Collector.

244.—REEVE.—Can the treasurer of an incorporated village be appointed and act as collector for same municipality?

No, but the council may require the payment of taxes and of all local improvement assessments to be made into the office of the treasurer. See section 53 of the Assessment Act.

A Drainage Problem.

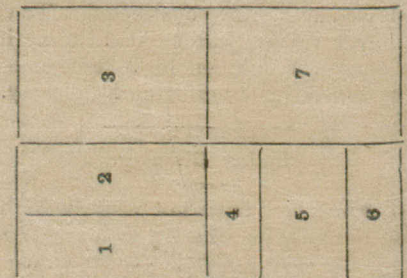
245.—W. Y. M.—The enclosed diagram shows the boundary lines of seven farms. The water drains naturally from part of No. 1, naturally and through artificial drains from No. 2 and 3 and naturally from part of No. 7 into Nos. 4, 5 and 6.

The owners of No. 2, 3 and 7 refuse to take any steps to carry the water that drains from their farms on to Nos. 4, 5 and 6 to a proper outlet.

1. What steps can the owners of Nos. 4, 5 and 6 take in order to get rid of the water which flows from Nos. 1, 2, 3 and 7?

2. Would a petition to the municipal council of the municipality describing farms Nos. 1, 4, 5 and 6 as the area to be drained by a drain or drains and signed by the owners of said farms be a proper petition for the council of the municipality to entertain?

3. Can the engineer assess other lands than the farms within the area thus described in the petition for benefit?



1. It seems to us that this is a case within the Ditches and Watercourses Act, 1894, although it is quite possible that when the engineer makes an examination it will be necessary to make a more extensive drain than is authorized by section 5 of this act, and that it may be necessary to obtain the authority of the council upon the petition of a majority of the owners of all the land to be affected. See cap. 67 act of 1896.

2. A petition is not necessary unless the drain will pass through or into more than seven original township lots.

3. Section 6 shows what lands are liable for construction.

If upon examination of the engineer the case is beyond the scope of the Ditches and Watercourses Act, a petition must be obtained, signed by a majority in number of the resident and non-resident persons, as shown by the last revised assessment roll. See section 3 of the Drainage Act, 1894.

Assessment of Personal Property and Appeal.

246—C. W. W. D.—1. What is the prevailing mode of assessing the personal property of merchants in unincorporated villages in Ontario. If not by ordinary assessment what is the rate of business tax?

2. If council have reason to believe that any merchant has not given a true statement of the amount of his personal property, although it is a statutory declaration signed by him, what further steps can they take to get at the facts of the case. The trouble in question is this. A merchant runs a good general store, comprising dry goods, groceries, hardware, flour and feed, also a tailoring department, has every appearance of carrying a stock of over \$7,000, and is doing a good business, yet his statutory declaration made out and signed by him is \$700 odd only. Other stores showing not half the amount of goods admit twice that amount.

3. If a ratepayer appealed against said assessment of personal property how would the council proceed in face of his declaration.

1. All personal property should be assessed at the actual cash value, less an amount equal to the debt owed on account of such property. See section 26, subsection 21, of section 7, Consolidated Assessment Act, 1892. As to a business tax, see section 31 a of same act.

2. The only remedy is to appeal to Court of Revision, and from that court to county judge.

3. He may be required to attend and be examined on oath. See subsection 14 of section 64 and section 70 of Assessment Act.

Peddling Meat.

247—R. M.—1. Can the Municipal council in an incorporated village pass a by-law preventing non-residents peddling fresh meat in the village?

2. Can they pass a by-law prohibiting peddling of fresh meat entirely?

We have no market.

No.

No. See Questions 56, 118 and 157.

Clerk, Not Deputy—Returning Officer.

248—F. D. N.—Can I act as Deputy—Returning Officer or must we have two deputies to receive ballots and then report to me? There are two polling subdivisions in village.

No. Two deputies necessary. See section 97, Consolidated Municipal Act, 1892.

Treasurer's Books or Auditor's Report.

249—P. I.—There is a dispute between the auditors of this township for 1896 and the township treasurer as to whether or not proper accounts are kept by said treasurer. There are several special funds collected from special lands in this township such as Big Marsh Debentures, Dwells' Marsh Debentures, School Debentures, etc. The auditors claim that according to section 372,

Consolidated Municipal Act, 1892, special accounts should be opened under the above named headings, and that each account should be charged with all moneys collected for each special purpose, and also that all moneys borrowed for these special purposes should be charged to the proper account, and the interest paid for such loan together with repayment of loan should be paid out of the funds of that account for which the money was borrowed. The taxes are handed by the collector to the treasurer in one lump sum, no attempt being made at allotting to each special fund its proper portion of money and no accounts are opened representing these special funds. When money is borrowed, no matter for what purpose, the interest is paid out of the general fund.

The auditors recommended a more systematic keeping of accounts by the collector and treasurer, referring the council to above mentioned section of the Consolidated Municipal Act, 1892, as to requirements in this respect.

This was taken exception to by the treasurer who claims that all accounts required by that section are duly and properly kept. Which do you consider in the right, the treasurer or the auditors?

The treasurer has several accounts such as officers' salaries accounts, roads and bridges account which are credited with the various expenditures in each case. Should he or should he not, as the auditors claim he should, have a debtor side to these accounts, upon which side he should charge these accounts with all moneys collected or appropriated for each particular purpose?

Our opinion is that the auditors are right.

Collectors' Liability.

250.—VILLAGE CLERK—In case the collector of 1896 who was hired by the year to do other work, such as constable work on the streets, etc., does not return his roll to the treasurer at the proper time and refuses to collect the balance of the taxes, his excuse being that his time was out at the end of the year, and the council having had to appoint another to complete the collection, and he finds that the owner of a property that was on it (the property) at the time the former collector should have collected the taxes, had moved out of the municipality, and the mortgagee refuses to pay them and forbids the collector to return them against the property, holding that at the time they should have been paid the then owner had lots of property to distrain. Has the council power to withhold the amount of taxes which the former collector failed to collect from an amount which they still owe him for wages for last year?

If, through the collector's negligence, a loss was sustained by the municipality he would be liable to the extent of such loss, and if he were to sue the municipality for the amount of his wages, the municipality could counter claim for the loss.

Non-Resident Pathmaster.

251.—COUNCILLOR—The township council appointed a pathmaster that lives in a city in the said township. Can he act as such providing he owns land in the said township?

Yes.

Maintenance of Sidewalk.

252.—J. K.—Before the organization of our township municipality there was built in the village of Bruce Mines a certain portion of sidewalk. Since the organization of said municipality the council has spent, from time to time, certain amounts in repairing the said sidewalk. This is, as you understand, a township municipality. If this sidewalk should get into an unsafe state of repair and some one should get hurt on the sidewalk owing to it being defective, could the person hurt claim recompense from the council? Or is the council responsible for the condition of the said sidewalk?

The council has by its conduct considered the sidewalk necessary, and so long as it remains for public travel on it the municipality will be liable for damages for neglect to repair. Whether the municipality under the circumstances, is bound to continue the existence of the sidewalk is another question, but so long as it is allowed to remain, there is an invitation to use it and the municipality will be liable for damages occasioned by its negligence in not keeping it in repair.

Transient Traders' License and Taxes.

253.—W. G.—In the month of May, 1895, and after the assessment roll for that year had been handed in to the clerk, a trader opened up business in this municipality having to pay a transient traders' license fee, in accordance with a by-law of the municipality. This trader, who has continued in business here since, now asks to have the taxes on a property which he has leased as a dwelling satisfied out of said license fee.

1. Should this trader's stock have been specially assessed for 1895 and taxes charged against him for the unexpired portion of that year? If so, can it be done yet?

2. Can he legally claim to have the taxes on the real estate of which he is a tenant charged against the license fee?

3. I have been of this opinion, that section 9a refers all through to income or personal property, and that "taxes" in that part of it which says that "license shall be credited upon and on account of taxes, etc.," means taxes on personal property or income only, and that taxes on real estate, whether tenanted or owned by trader, could not legally be charged against license. Am I right or wrong?

1. This property cannot be assessed now.

2 and 3. We think the interpretation which you have placed upon the act is the correct one and that the trader is not entitled to have taxes upon the real estate charged against the license fee.

Proceedings in Council—Nuisance to Abate.

254.—SUBSCRIBER.—Town Council at a regular meeting by a vote defeated report of the Light Committee as to a five years' contract with Electric Light Company here. After a month's time elapsed the Light Committee met again and prepared another report similar except that two more lights be given than first report stated. The mayor called a special meeting for council to consider the new or second report. Then the council in committee of the whole discussed and passed the second report clause by clause and passed the same. Then the council, as a council, passed same by a two-thirds vote, viz., that a five year's contract be entered into with the Electric Light Company.

1. Has the council power after the matter was voted on first time to take the matter up again and pass same. Also there having been nothing done to rescind the first motion to not enter into the contract.

2. There is a very large amount of grease, oils, etc., constantly floating down the Gananoque river here, deposited from some of the numerous factories, and as said river empties into the Thousand Isle Lake of the St. Lawrence River, it pollutes that river also. The grease and oils float all over and have a very offensive smell and spoil the paint on the boats in the town river limits, etc. As our town is a great summer resort, the grease and oils referred to constantly continuing have become detrimental in many respects to the interests of every one almost. Please inform me what we as a council can legally do for the abatement of such public nuisance?

3. Moved by Councillor Sheppard, seconded

by Deputy-Reeve Wilson, That a three plank sidewalk be built this year on Stone street, from the northern end of the present sidewalk, near Mr. Davis Wing's place of residence to the boundary line between the Township of Leeds and the Town of Gananoque.

This motion was ruled as out of order because the roads and bridge not reported for north ward. Please was it out of order?

1. Yes.
2. Consult with Dr. Bryce, secretary of Provincial Board of Health.
3. Without by-law regulating the proceedings of your council provides otherwise, the resolution was in order.

Location of Road.

255.—L. M.—A lives on one side of a side-line and B lives on the opposite side. A claims that his fence is on the line, and has been picking stones off his farm and piling them along the fence. Even here of late, since difficulty has arisen about fence, B claims that the first fence put up on his (B's) side is not on the spot, taking away some of his land; therefore, he went to work and moved his fence to where he thought, and also was advised, to be the line. In doing so he was blocking the road completely. Council sent two men to investigate the matter. He (B) removed part of his fence to allow travel to continue until the matter would be settled. Government money has been expended on said road. Should council, or is council obliged to, settle that question? If so, what would be the proper steps to take, or should it be settled between A and B? If council has to settle that case, how would it be, by getting surveyor and having lines drawn over? Could council compel the wrong man or both of them to pay a share or the whole?

If the road in question is a public highway, the remedy is to have the trespasser indicted. A surveyor will be necessary to satisfy the council that A or B is trespassing upon the highway, before taking any proceedings, but the council cannot compel either A or B to pay part of the expense of such survey. The council ought not to interfere at all except it is in the interest of the public to do so.

Teamster's License Only.

256.—J. N. C.—Our council passed a by-law licensing teamsters, etc., under section 510a, Consolidated Municipal Act, 1892. See section 255 of our by-laws.

1. Does this cover persons ploughing and seeding gardens within the town for hire?
2. Can a person do such work without license?
3. Does the act give municipality power to prohibit persons from doing such work without taking out a license? If it does, and the present by-laws do not provide for it, what change would you suggest be made in by-law?

1. No.
2. Yes.
3. No.

School Debenture By-Law

257.—O. L.—In the case of a by-law passed by the Township Council for issuing school debentures under section 70 of the Public School Act, 1896, the proposal for such loan having first been submitted to the trustees and sanctioned at a special meeting of the rate-payers of this section called for that purpose.

1. Is it necessary to publish the by-law before or after the final passing thereof?
 2. Will the by-law require to be approved by the Lieutenant-Governor-in-Council?
 3. Or is it only necessary to have by-law registered and notice of registration published?
1. No.
 2. No.
 3. Registration and notice are sufficient.

Non-Resident Tenant—Voters' List.

258.—H. H. B.—In question drawer department of May issue, No. 228, you state that a non-resident tenant should be placed on Voters' List Part 2. How can you reconcile this statement with section 79, sub-section 1, paragraph "Secondly," Consolidated Municipal Act, 1892, where it seems plain to me that a tenant must be a resident of a municipality to be qualified to vote at municipal election.

If you will look at the oath provided by section 103 Consolidated Municipal Act, 1892, you will find that the voter is not required to swear that he was a resident of the municipality at the time of the revision of the voters' lists. Suppose A was a tenant of property of sufficient value to entitle him to a vote, but was not at the time of the revision of the voter's list, a resident but moved into the municipality shortly after the revision and continued to reside there until the election and that he had been a resident for a month next before the election. If he had been put on the voters' list he would be entitled to vote. If your constuction is adopted he would be deprived of his vote.

Long Date Debentures.

259.—J. H.—Your answer to question re "Forty-year Debentures" states that a corporation cannot issue debentures for forty years. How does that statement tally with R. S. O., chapter 190, section 17, sub-section 6?

What I wanted to know was the amount of sinking fund to be raised annually to pay off a debt of \$1,700, at 4½ per cent. for forty years; interest payable half-yearly.

In view of the fact that sections of the Municipal Act limiting debenture terms include the purchase of parks and improvements, we overlooked the special act in answering your question.

If sinking funds are invested to realize 3 per cent., the amount to be raised annually is \$22.55; 3½ per cent., \$20.11; 4 per cent., \$17.89; 4½ per cent., \$15.89.

Tax Mill on Highway.

260.—ALGOMA.—1. Party has built mill on shore. Is it exempt from taxation on account of being on allowance for roads, etc., or is it under the jurisdiction of the municipality?

2. If so, is not the assessor in error calling it personal property?

1. It is not exempt. It is under the jurisdiction of the council.
2. The assessor is right.

Gravel.

261.—Q. W. W.—Has a municipality power to take gravel from the bottom of a creek, it being accumulated there by the wash of the creek?

Yes, if the gravel has accumulated upon a road allowance or land of the municipality, otherwise the municipality must acquire right by by-law under sub-section 8 of section 550, Consolidated Municipal Act, 1892.

Sewers.

262.—S. D.—The local Board of Public Health recommended to the council by a vote of ten out of the eleven members composing the council, affirmed at the regular meeting thereof, as described in clause 4 of section 616 of the Municipal Act, "That it is desirable and necessary to the public interest to construct a sewer for sanitary and drainage purposes, for

draining a certain locality (naming it as mentioned and described by the Board of Health), as a local improvement."

1. I desire to know have the persons whose property would be benefited and would be taxed for the cost of the sewer, the privilege of petitioning against the proposed work being done? and if they should petition, should the council give heed to such petition?

2. Is not the only voice they have in the matter that of objecting to the assessment for the costs if they complain and attend at the court of revision as in clause 4 of section 616 above referred to.

3. The distance from start to finish of the sewer is 1,100 feet and the estimated cost is \$400, one half of the distance would be large sewer pipe, 12 inches in diameter, and be considered a trunk sewer; sewers from branch streets draining into it at some future time. What proportion of the cost should the town council provide from the funds of the municipality for the work on the trunk and for draining the surface of their streets?

4. I would further ask, are the council by their action taken in the matter bound to carry out the work, and if they do not carry it out can they be held responsible for neglecting to comply with the recommendation and request of of the Board of Public Health? The nuisance complained of being an accumulation of waters from an hotel kitchen, work house and stable yard running on a public street and also lying inside of the property and which has been allowed to be there for many years and has been constantly complained of.

1. No.
2. Yes.

3. Section 613, Consolidated Municipal Act, 1892, provides "the special rate to be assessed and levied shall be an annual rate according to the frontage thereof upon the real property fronting or abutting upon or extending to within six feet of the street or place whereon or wherein such improvement or work is proposed to be done or made. The latter part of sub-section 5 of section 612 shows what part of the expense the council has to provide. The whole cost of the sewer must be charged to the property benefited in the manner provided by section 613 because it is a sewer having a sectional area less than four feet.

4. The council is not bound to go on with the work.

Derrick Assessment.

263.—J. W.—Our council at last meeting had quite an argument on quarry derricks. What is your opinion?

1. The power which drives them, if separated from derrick rope, is personal property.

2. The mast, which is held up by wires made fast to a loaded platform of stones and holes drilled in rock and bolted so as to keep it there, is supposed to be real property.

3. What would you call the whole outfit when together? personal property or real estate?

1. Yes.
2. All things affixed to the land are realty. See sub-section 9 of section 2 Consolidated Assessment Act, 1892.

3. It does not matter what the whole outfit is called, the kinds of property must be assessed separately.

Transient Trader

264.—A. B. C.—A and B are merchants in this town who have carried on business for, say three years. They sell their entire stock to C, a non-resident, who, if he carried on the

business himself, would without doubt, under the town by-law, be liable for a transient traders' license? C advertises the stock in his own name for sale by retail, but, finding that he would be liable for a transient traders' license before doing any retail business, takes (or is supposed to have taken) A into partnership with him in the business.

Will the fact of his having taken A into partnership with him, under the circumstances, relieve him from taking out the license?

If this relieves him it would be a very easy matter for any transient trader to evade the license by simply taking into partnership with him, any ratepayer at a very nominal percentage of profits from the business?

Yes.

Every transient trader who occupies premises in the said municipality and who is not entered upon the assessment roll, or who may be entered for the first time on the assessment roll, of said municipality, in respect of income or personal property, and who may offer goods or merchandise of any description for sale by auction, or in any other manner, conducted by himself or by a licensed auctioneer or by his agent or otherwise, before it shall be lawful for him to offer any goods or merchandise for sale as aforesaid, shall first pay to the treasurer of the said municipality, as a license fee, the sum hereinafter fixed as such license fee.

(Here follow the provisions mentioned in the municipal act relating to the license fee being applied on taxes and also relating to insolvent stocks).

Taxes—Algoma.

265.—ENQUIRER.—There is a contention in our municipality as to the legal way in which to assess the goods of a general store. Some claim they should be personal property and the building as real estate, and others contend that a business tax should be imposed, taking their authority from section 31 of the Consolidated Municipal Act, 1892, and as different meanings are construed from said section, would you kindly set forth in what way the council can levy and get taxes from merchants in Algoma, also define the meaning of section 31a of the Consolidated Assessment Act, 1892, and whether applicable in Algoma. It clearly says the council may pass by-law and impose business tax not to exceed 7½ per cent. of annual value of premises in which business is carried on. Does that mean the assessed value of buildings, and take that value and levy on stock not exceeding 7½ per cent.?

The goods should be assessed as personalty and the building as real estate. We are of the opinion that the section referred to applies to Algoma. See section 18, chap. 185, R. S. O. 1887. Section 31a appears to be plain enough. Seven per cent. of the assessed value of the premises, that is the land and buildings, gives the annual value of the premises for the purposes of this section and the treasurer's tax shall not exceed 7½ per cent. of the amount of the annual value ascertained in that way.

Public Library.

266.—J. L. E.—1. Would it be legal for the council of a town to pass a by-law changing a mechanics' institute into a free library without submitting the by-law to a vote of the ratepayers?

2. If it would be legal, what majority of the council would it require?

Under the Public Libraries Act of 1895,

section 10, the council may appoint a public library board, and under section 11, on petition of a majority of the directors of any mechanics' institute, a municipal council may appoint a board of management. Sub-section 4 of section 11 provides that no special rate shall be levied by any municipal council for purposes of a public library organized under sections 10 and 11, until the by-law has been first approved by the electors.

Section 3 of chap. 57, Ontario Statutes, 1896, provides that it is lawful for any corporation to contribute to the maintenance of a public library as such corporation may deem expedient. In appointing a public library board a majority vote is necessary, the same as an ordinary resolution of the council.

Municipalities Liability for Bridge.

267.—W. H. S.—Can the ratepayers compel the council to build a bridge that has been away one year? Said bridge has been built and in use fifteen or twenty years, and road is open for public travel. Said road is on road allowance. The bridge is an expensive one, and our council did not build it. Last year they fixed a driveway through and across the stream, so it was reasonable in summer, but not passable in fall or spring.

The course to be taken is to prefer an indictment before the grand jury against the corporation for not maintaining the bridge in an efficient state for public travel, unless there is some other road which can be used. If there is another road reasonably convenient, which can be used, the council cannot be compelled to incur an expense which in its judgment it does not deem proper in the public interest to be incurred.

Taxes on Mortgaged Real Property.

268.—CLERK, ALGOMA.—If a collector fails to collect taxes on mortgaged property, on which there were goods and chattels, can taxes be held against the property?

2. What are the exemptions from seizure for taxes?

1. Unless the municipality, by its own tactics, has put it out of its power to collect the taxes by distress, they may be returned against the property. It by no means follows that because there happens to have been goods upon the land out of which the taxes might have been made the collector can be charged with negligence.

2. The same as the exemptions from execution. For a list of these see page 22 of Glenn's Collectors' Guide.

Not a Transient Trader.

269.—CLERK.—A town has a transient traders' by-law passed. A merchant comes from another town with butter and eggs, which he sells to the stores, hotels and private houses. Is he liable to the transient traders' license?

No.

Toll Bond.

270.—J. B. B.—Who is responsible for the following: The toll-gates in this township are sold every year by auction, and the lessee has to give bonds for the payment of the rents. In the year 1895 one toll-gate was leased for 1896. The bail bonds were drawn up and signed by the lessee, but the men who were to bail him never signed the bond because they never were asked to. The council claim it was

the clerk's fault; others claim that it was the council that was to blame.

The council certainly did not do its duty. Whether the clerk was at fault depends upon whether he got instructions from the council to see that the bond was executed by all the parties, who were the sureties who were to be responsible for the due accounting of the tolls.

Personal Property or Business Tax.

271.—T. B.—Are store goods assessable and a tax levied upon them the same as other property, or is it lawful to impose a business tax on the storekeeper not exceeding 7½ per cent. on the premises, in which he carries on the business?

2. And would it require a special by-law to impose a business tax or can it be inserted in the by-law, imposing the annual rate?

3. I contend it is lawful to impose a business tax; some of the members of the council and other ratepayers, among whom is the postmaster who speaks very loud in the matter, contend it is lawful to assess the premises and the goods equally alike on the cash value as goods in a building is premises?

1. Store goods may be and ought to be assessed on the basis of their actual cash value. It is personal property, but the amount owing for the goods is to be deducted from the cash value. See sub-section 21 of section 7 and section 26 Consolidated Assessment Act, 1892.

2. A business tax may be imposed. A special by-law is necessary.

3. You are both substantially right. The only difference to be borne in mind is that the liability against personal property is to be deducted from its actual cash value, whereas no deduction on that account is made in the case of real estate.

h Statute Labor—Joint Assessment.

272.—TOWNSHIP CLERK.—1. A owns five houses, in one of which he lives; the other four he rents. They are assessed at the rate of \$200 each, but all grouped together, A as owner and the four tenants jointly assessed with him. The statute labor, under this arrangement, amounts to five days. Were they assessed separately the statute labor would amount to ten days. Should these properties not be separately assessed, or if assessed as they are at present are not the tenants liable for a poll tax?

2. C owns a block of three stores, which are all rented. The back part of this block has rooms rented to D. The whole block is assessed to owner and tenants, grouped together, at \$1,000. Should each tenant part of block be assessed separately and the statute labor calculated on each? If allowed to remain as they are is each tenant "not otherwise assessed" liable for a poll tax?

3. In case of railway employees, such as station agents, section boss, living on property belonging to railroad company. If not assessed as tenant and railroad company as owner for the particular part of railroad property, they occupy separate from other railroad property, are they not liable for poll tax?

1 and 2. We are of opinion that the property has been properly assessed, and that the tenants are not liable for poll-tax.

3. If the railway employee is assessed along with the railway company for the land occupied by him he is not liable for poll-tax.

Union School Section—Organized and Unorganized Townships.

273.—F. N. M.—In union school section where part of the section is in an unorganized township, how are the provisions of section 66

of the new Public School Act to be carried out? Can the trustees of such a section require from the organized municipality the full amount of the general school rate and then levy a rate on the unorganized portion equal to the sum of the general and special rates in the organized, or should it not be that the total revenue of the school from the rates should be in proportion to the total assessment of the different parts forming the union? which makes a great difference when the assessment in the organized portion is low.

The School Act does not appear to provide for a case of this kind. Section 66 does not apply to this union section. Section 26, sub-section 1, authorizes trustees to appoint an assessor. An appeal from the assessment is to the secretary treasurers of three sections or the inspector, according to circumstances (see section 25.) The assessor appointed by the school trustees should act with the assessor of the organized township in equalizing the assessments as provided by section 51. The total amount required for the purposes of the section is apportioned according to the assessor's award. The council of the organized township is to levy and collect the amount required from the portion of the section within the township, and the trustees under section 28, appoint a collector to collect from the portion of the section situated in the unorganized township.

Clerk Not on Committee.

274.—M.—At last meeting of our town council a committee of assessment was appointed being composed of three councillors, the reeve and clerk of the council. Can the clerk legally act as a member of that committee?

No. The council cannot delegate their powers to others than members of the council.

Number of Town Councillors.

275.—ENQUIRE.—Gananoque has a population of nearly 4,000. Shall we elect for 1898 only a mayor and six councillors? or a mayor and eleven others as at present, or what is the legal number?

See section 69, Consolidated Municipal Act, 1892. You do not give us the number of wards in the town:

Police Villages and Telephone Companies.

276.—P. K.—Has a police village power to make telephone companies set their poles back to sidewalk, they being too far out in the street to look well, and can the said company be stopped from cutting the branches of shade trees along their line, such trees being planted in accordance with a by-law of the township, which sets apart six feet foot-paths and the planting of trees?

We do not think a police village has power to make telephone companies set their poles back. Telephone companies have no right to cut the branches of trees and they render themselves liable in damages for so doing.

County Pupils High School Fees.

277.—D. J. W.—The county of Frontenac comprises a high school district (except one township withdrawn). The city of Kingston is a separate district, having a Collegiate Institute established therein. There are many pupils who reside nearer the city than they do to the county high school, and attend the city Collegiate Institute.

1. Is the county compelled to pay for those pupils who attend the city Collegiate Institute? If so, in what proportion, or how much per pupil per month?

2. Have the trustees of the city Collegiate Institute power to fix a monthly fee on each pupil, and how high can they charge?

3. Can the county council compromise with the trustees of the city Collegiate Institute and pay so much per month, or can the city Collegiate Institute trustees compel pupils attending from the county to pay so much per annum to cover all cost of their tuition?

1. If the trustees of the city Collegiate Institute have notified the county clerk that the Institute is open to county pupils on the same terms as high schools in the municipality not separated from the county, the county must pay the cost of maintenance of county pupils attending the Institute, which may be mutually agreed upon or settled by the county judge. See sub-section 6 of section 31, High Schools' Act, 1896.

2. If the Institute has been declared open to county pupils as provided by sub-section 6 of section 31, the trustees have no power to fix fees at all. That power rests with the county council. See sub-section 10 of section 37.

3. The trustees by declaring the Institute open for county pupils as provided by sub-section 6 of section 31 may insist upon payment of the cost of maintenance of such county pupils. The amount to be paid in that case may be settled by mutual agreement.

Road Wanted—Power of Council.

278.—C. A. S.—1. A located lot two years ago, and has no road out. C claims he can close public road, said road having been travelled twenty years, if council open side line.

2. Can A compel council to give him a road out?

3. Can C close public road if council opens side line?

4. Have council power to give concession or side line in lieu of given road, said road having been travelled twenty years?

1. Whether C can do so or not depends upon whether the road has become a public highway or not. Twenty years' use does not necessarily make it a public highway. Without a fuller statement of the facts of the case we cannot say whether it has become a public highway.

2. No.

3. C cannot close the road if it has actually become a public highway.

4. See section 551, Consolidated Municipal Act which states the circumstances under which a person may become entitled to an original road.

Assessment Educational Institution.

279.—W. N. B.—There is a large property in our municipality, some thirty acres on which is erected an educational institution, twelve acres of which has been used for farm purposes. Our assessor has placed the said twelve acres among the rateable property of the village at a rate per acre.

The said assessment has been appealed against on the ground of exemption by-law. Now what I would like to know is:

1. Is there any precedent?

2. Can their appeal be sustained?

1. There is no precedent.

2. If the institution is one within sub-

section 4 of section 7, Consolidated Assessment Act, 1892, and the twelve acres are rented so that the tenant can be said to have a distinct occupation from the part used and occupied by the institution the twelve acres is rightly assessed and the appeal ought not to succeed.

County or Village Bridge.

280.—W. H. M.—1. On page 54, March number of your journal, the question is asked and answered in reference to county bridge on deviated town line, but the question does not state that the Willow Creek bridge, which is the one in dispute, is in the municipality of the village of Paisley, but the map sent to you shows that this Elora road, which is used instead of the boundary line, runs through the village of Paisley. Does the fact of Willow Creek bridge, being within the boundaries of an incorporated village, relieve the county of their liability to build this bridge?

2. Is the county bound to build bridges over streams less than 100 feet on leading boundary roads, or what is used in lieu of boundary roads, or deviated boundary lines between incorporated villages and adjoining townships?

1. Yes, if under 100 feet in width.

2. Yes.

Section 535 of the Consolidated Municipal Act, 1892, provides "It shall be the duty of the county councils to erect and maintain bridges over rivers forming or crossing boundary lines between two municipalities (other than in the case of a city or separated town) within the county."

Sub-section 2 of the same section makes the county liable for the maintenance of a bridge upon a road though it does not mark the true boundary line between the two municipalities but deviates from the true line, but which is used as a boundary line. The statute makes no distinction between different kinds of municipalities and therefore there can be no distinction between a village and any other municipality except where a bridge is over a stream over 100 feet in width and such bridge is wholly within the village. In the latter case the county is wholly liable.

Ordinary Current Expenditure.

281.—F. J. C.—In view of section 50, Municipal Amendment Act, 1897, will you give us an opinion as to what classes of municipal expenditures will come under the term "ordinary current expenditures;" also what classes of municipal expenditure cannot be classed under that head? This "ordinary current expenditure" is more than likely to get very different interpretations in different municipalities, and it is important that something uniform and definite should be understood, if possible. Have the council any authority to borrow money to pay debentures falling due in any year before the taxes levied therefore have been collected?

We are of opinion that ordinary expenditure does not include regular payments on account of debentures and coupons. (Assessments for this purpose should be levied in advance.) Ordinary expenditure would include only such items as are for the yearly ordinary business of the council.

LEGAL DEPARTMENT.

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

**Is Personation an Offence Under the
Municipal Act?**

John G. Farmer in Canada Law Journal.

By the repeal of sub-section 1 of section 210 of the Consolidated Municipal Act of 1892, by section 4 of the Municipal Amendment Act of 1896 (59 Vic. chap 51) a nice question arises as to the real effect of the repealing statute.

Does it revive that portion of section 167 of the first mentioned act relating to personation and penalties therefor, (e), which was held in *Reg. vs. Rose*, 27 D. R. 195, and followed by *Snider County Judge of Wentworth*, in *Reg. vs. Carter*, 32 C. L. J. 337 to be repealed by the above mentioned sub section 2 of section 210, of the act of 1892?

The Chancellor in his judgment in the former case, at page 197, cites and follows *Martin, B.* in *Robinson vs. Emerson*, 4 H and C, 352. "When a statute prohibits a certain act and imposes a penalty for doing it, and a subsequent statute imposes a different penalty for the same offence, the latter statute operates as a repeal of the former."

It will be noticed that the act of 1896 does not expressly revive any portion of section 167 of the act of 1892, and according to the Imperial Act 13 and 14 Vic., chap. 21, sec. 5, commonly called Lord Brougham's Act, where an act repealing in whole or in part a former act, is itself repealed, the last repeal does not revive the act or provision before repealed, unless the words be added reviving them. Does this rule apply to a repeal by application? *Mirfin vs. Atwood*, L.R. 4, Q.B. 333, is an authority that it does. It was there held that the Statute of Gloucester had been repealed by the restrictive sections in the former County Courts Act, and that 13 and 14 Vic. section 5, above referred to, prevented the Statute of Gloucester reviving on the repeal of those enactments by 30 and 31 Vic. chap. 142. Again in *Mount vs. Taylor*, L.R. 3 C. P. 645, the judges in effect held that the above rule applied in such cases by holding that it does not apply when the first act is only modified by the second by the addition of conditions, and the enactment which imposes these was itself afterward repealed, and that in such a case the original enactment would revive. *Smith, J.*, in his judgment says, "Assuming Lord Brougham's Act to apply to cases of implied repeal, it brings us back to the question whether the 13 and 14 Vic. chap. 61, did repeal the Statutes of Gloucester as regards class of cases within which the present one falls."

It would appear, therefor, that neither that portion of section 167, relating to personation, nor section 210 is now in

force. No doubt the Legislature intended to revive the repealed portion of section 167, but it is doubtful if it has done so, and it is therefore doubtful if a conviction could now be made, or sustained if made under this section for the offence of personation.

LEGAL DECISIONS.

**Reg. ex rel. Waterworth vs. Buchanan and
Cuthbert.**

Municipal Elections—Deputy-Returning Officer—Absence
During Part of Polling Day—Irregularity—Saving
Clause—Consolidated Municipal Act, 1892, Section 175.

At an election of county councillors one of the deputy-returning officers for a town in the county was absent from his booth on three separate occasions during polling day. There was no suggestions of bad faith. The first and second absences were on account of illness; on a third occasion he went out to dinner and voted in another place. The first absence was for about ten minutes, during which the booth was locked up, with the poll-clerk and constable inside in charge. The deputy swore that no voter came in until he returned. In the second and third absences the town clerk took his place. During the second no votes were cast, but during the third there were several. The town clerk placed the deputy's initials on the back of the ballots given to such voters, and the consequence was that these ballots were upon a judicial investigation identified and separated, and it appeared that during the third absence nine votes were cast for the relator and nine for the respondent. Upon the whole the respondent had two more votes than the relator, and by sec. 13 of the County Councils Act, 1896, there being two county councillors to be elected, a voter could give both his votes to one candidate.

Held, that the absences and what was done during the absences did not affect the result of the election, and applying the saving provisions of sec. 175 of the Consolidated Municipal Act, 1892, that it should not be declared invalid.

Re Hay and the Corporation of Listowel.

Municipal Institutions—Debentures for Electric Light
Works—Limitation to Twenty Years—Consolidated
Municipal Act, 1892, Section 340.

A by-law passed for the construction of waterworks and gas or electric light works made the debentures to be issued thereunder payable in thirty years from the date on which the by-law took effect.

Held, that the by-law was bad for under section 34 (o) of the Consolidated Municipal Act, 1792, 55 Vic., Chap. 42, the time for the payment of debentures for electric light works, is limited to twenty years.

Piper vs. London Street Railway Company.

Evidence—Negligence—By-Law.

Action for damages for personal injury to plaintiff through being struck by a street car, the alleged negligence of defendants being that the car was being run at an excessive rate of speed.

Held, that an agreement, ratified by municipal by-law between the municipal corporation and defendants, limiting the rate of speed, was inadmissible as evidence that a higher rate of speed was negligence.

Publications Received.

Report of J. B. Laing, Commissioner, re inquiry into the financial affairs of the County of Dufferin, for sixteen years, commencing 1880:

The total defalcations of the late Treasurer, Mr. Haun, were before his death admitted to be \$10,208.75. This was afterwards increased by \$1,272.72. The treasurer was manager of the bank in which the county account was kept and used the county's money as it had been his own. He was in a position to deceive the auditors as to the balance at credit of county accounts and the deficit was not discovered until he lost his position with the bank. The commissioner states that "what the county may have lost through paying interest on the one hand, and loss of interest on the other can never be accurately ascertained, owing to the peculiar position the treasurer occupied as both treasurer and banker." The report concludes by stating that the county has in Mr. C. R. Wheelock an efficient and faithful treasurer and that it would be in the public interest to double the remuneration of the auditors.

Proceedings County Council of Dufferin.
January session, 1887, and Auditors' report, 1896.

Proceedings County Council of Norfolk.
January session, 1897, and Auditors' report, 1886.

The total expenditure for House of Industry was \$2,508.73, the number of inmates averaged 50 during the year, making the annual cost of maintenance \$50.17 each. In addition to this the County Council maintains a number of poor in different parts of the county and during 1896 expended \$1,860.36 for this purpose.

Auditors' Report Township of Burford.

Minutes, By-laws and Accounts Township of Trafalgar for 1896.

Statement prepared by S. E. Mitchell, Esq., County Clerk of Renfrew, showing salaries of the various County Council officials in Ontario. The salaries for county clerks vary from \$250 to \$1,200, treasurers, from \$350 to \$1,600, and goalers from \$450 to \$920.

By-Laws and Auditors Report Township of Raleigh. J. G. Stewart, Clerk.

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- Form 3.—Clerk's Notice of first posting of Voters' Lists.....
- Form 4.—Voters' notice of complaint ground of disqualification.....
- Form 5.—Notice and application by voter to whom persons have transferred property.....
- Form 6.—Voters' notice of complaint.....
- Form 7.—Clerk's report in case of appeals and complaint to the judge.....
- Form 9.—Notice to be posted by clerk in his office with list of complaints.....
- Form 10.—Clerk's advertisement of in newspaper.....
- Form 11.—Clerk's notice to parties complaining.....

- Form 12.—Clerk's notice to parties complained against.....
- Form 14.—Report of clerk when applying for certificate under section 16.....

For Use of County Judge.

- Form 8.—Judge's order for appointing court of hearing of complaints and appeals.....
- Form 13.—Subpoena referred to in section 10.....
- Form 15.—Certificate of no complaint.....
- Form 16.—Statement of alterations by Judge on full sheet.....
- Form 17.—Certificate of Judge.....
- Form 18.—Order for payment of costs.....
- Form 19.—Writ of execution.....
- Form 20.—Order of assessment of persons omitted from roll.....
- Form 21.—Application of judge against delinquent clerk.....
- Form 22.—Summons—"The Voters' Lists Act".....

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