The Municipal Miscellany.

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Calendar for November, '91.

9 Last day for collectors to demand taxes on lands omitted from the roll, under section 154 of the Assessment Act.

15. Day for closing Court of Revision in cities, towns and incorporated villages where assessment roll taken between 1st July and 30th Sept. Sec. 52 Assessment Act.

On and after this date councils of any municipality may enter lands and erect snow fences.

Last day on which hounds may run at large in localities where deer are found.

Last day for receiving applications at Education Department for admission to First-class Professional Examinations at Training Institutes.

20. Last day on which deer may be killed.

30. Last day for municipality to pass by-laws withdrawing from Union Health District.

Examinations of Training Institutes begin.

Boards of trustees to appoint auditors on or before 1st Dec. The auditors appointed shall immediately after 1st Dec. appoint a time before the annual school meeting for examining accounts of school section.

QUESTION DRAWER.

I do not agree with Mr. Lytle's interpretation of section 95 of the new School Act, as given in the last issue of THE MISCELLANY. It is true that notice of the determination of the assessors is now to be given to the secretary-treasurer of the union school section concerned; but their award must still be filed with the clerk as heretofore, otherwise how is the clerk to know the proportion of the trustees' requisition to be levied and collected in the respective school sections forming the union, the Act being entirely silent respecting the matter. Sub-section 5 of the above section shows conclusively that the award of the assessors —or, in case of their disagreement, of the assessors and arbitrator to be appointed in such case—must be filed with the clerk. The sub-section referred to reads as follows: "The assessors, or the assessors and arbitrator appointed as herein required, may, at the request of the inspector or five ratepayers, within one month after the filing thereof with the clerk, reconsider their award and alter or amend the same so far as to correct any omission or error in the terms in which such award is expressed." Hoping to see your views on the subject in the next issue of THE MISCELLANY. A. B., Singhampton.

BY an amendment of the old Public School Act it will be observed that sub-section 1 of section 91 is almost identically the same in its wording as sub-sections 1 and 2 of section 95 of the new Act, except as to the last clause of sub-section 1 where it is now provided that the secretary-treasurer of the union school section is to be notified of the determination come to by the assessors as to the relative proportions of the school taxes to be paid by the respective municipalities. If that clause were omitted, would sub-section 2 require a notice to be given the clerk in the event covered by sub-section 1? It seems doubtful. And yet that was the interpretation always given to sub-section 1 of the old Act, although worded almost the same as the present sub-sections 1 and 2, except the clause interjected referring to the secretary-treasurer, and which would not alter the meaning so far as it relates to the notices to be given the clerk. Apart from these sub-sections 1 and 2, we have to take into consideration sub-section 5 of the new Act, in which it is clear, as A. B. says, that the evident intention of the law is that notices must in all cases be given the clerks of the municipalities whether the award is agreed on by the assessors alone or by the assessors and an arbitrator. This therefore, in our opinion, settles the matter in so far as notices to the clerks are concerned. The next thing to be considered is as to whether or not notice must also be given to the secretary-treasurer of the union school board in the event of the assessors disagreeing and an arbitrator appointed. The Act only speaks of a notice to that official when the assessors have agreed between themselves as to the relative proportions to be paid by each separate portion of the union section. If it is necessary that the secretary-treasurer be furnished the information in that case, it must be equally necessary that he obtain the same information in case of an arbitration, and the only conclusion that can reasonably be come to is that the framer of the new Act intended that the information should be furnished to both the municipal clerk and the secretary-treasurer in every case.

A. B. appears to think that the clerks could not strike the school rate in the union school sections unless they were furnished by assessors with the result of their award as to the relative proportions of school moneys to be paid by each municipality. We do not see the matter in that light. Indeed we think that it would answer all purposes if given to the secretary-treasurer of the union school board for the information of the trustees. It must be remembered that the assessors have completed their assessments before they arrange about the equalization. This equalization does not require them to alter the rolls already completed, and as a matter of fact the amounts as given on the rolls are not altered by the assessors. They equalize much on the same principle as the county council equalizes the assessment of the whole county by an examination of the several rolls and making up a statement after adding a certain percentage to those considered too low. It is well-known that assessors value properties differently, some of them contenting themselves with half actual values, others two-thirds, while others again more scrupulous assess at actual values. So long as a municipality is assessed uniformly it makes little difference to the ratepayers in their taxation for local purposes, for if the assessment is low it requires a higher rate to make the moneys required. But for county rates and for union school rates it makes a difference, and the assessments must be made uniform with other municipalities paying a portion of these rates, otherwise the low-assessed municipality would escape paying their just share. As already indicated, the assessors in equalizing the union school assessment prepare a statement

of the total valuations of the portions formed out of the separate municipalities, and having added a percentage to the lowest assessed to bring up that portion, they easily get at the relative proportions of school moneys payable by each. If they find, for instance, when they have thus equalized the valuations that the total property of the union section in one municipality is but a fourth of the total property in the other municipality, their award states that the first named shall pay one-fourth of the annual requirements of the school, while the other shall pay three-fourths. The school trustees in accordance with that award make their demand on the respective councils for the respective amounts thus required. The clerk, to make the amount called for by the trustees, strikes his rate the same as he would for any other purpose. The rate on the $ will be somewhat higher in the municipality which has been undervalued, but that is all the difference the equalization makes. Thus it is seen that it is not a necessity for *taxation purposes* that the assessors' award be made known to the clerks.

Do you think it necessary that drainage by-laws should state when the debentures are payable? X.

The Municipal Act requires that all by-laws for contracting debts by borrowing, in order to be valid must conform to the restrictions and provisions therein laid down. If the by-law is not for the purchase of public works, which drainage by-laws cannot be said to be, it must name a day in the financial year in which the same is passed, when the by-law is to take effect, but if no such day is mentioned then the date of its passing should be named as it would take effect from that date. Then if the by-law is not for the purchase of gas-works, water-works, railways, or other public works, the whole of the debt and the debentures to be issued therefor must be made payable some time within twenty years. Thus it will be seen that time is a principal essence in the validity of a drainage by-law as well as all other money by-laws, and therefore the by-law requires to set out that fact by the dates when the debt commences to run and the dates when the debentures are payable to show that it conforms to the statute making such debts payable within the time allowed. Of course the by-law might possibly recite that certain specific sums are to be raised annually for so many years to discharge the principal and interest, and not state the dates when the debentures issued under it would be payable, the debentures themselves furnishing that information, but it would not be advisable to omit to recite the date or dates when debentures are payable, even if the clause referred to was inserted. These by-laws are intended to show on the face of them all that is necessary to be known by persons investing in the securities offered, and it is always better to make them as full and explicit as possible. Section 570 of the Municipal Act gives a form of by-law for drainage purposes from which it will be seen that the time when the debentures are payable is intended to be shown in the by-law—that is, we mean the limitation of time. We do not think it would be necessary to show the exact date when each particular debenture was payable, allowing that they were payable annually, but the limit of time should be inserted. There is some difference in the preliminaries required in the case of drainage by-laws as compared with some other kinds of debenture by-laws, such as not requiring to be voted on by the ratepayers before being finally passed, but these differences do not affect what is required to be inserted in the by-law respecting the time when the loan is payable. There are no doubt many of our municipal clerks who have had considerable experience in the preparation of debenture by-laws, and who have consequently a good knowledge of the law relating to such matters, and we should be pleased if some of them would favor the readers of THE MISCELLANY with their explanations of this somewhat difficult subject.

PERCENTAGE ON UNPAID TAXES.

Section 53 of the Assessment Act was amended in 1888 by giving power to councils to pass by-laws to add 5 per cent to all unpaid taxes on the collector's roll after 14th December. This was done to encourage ratepayers to pay up promptly. Considerable taxes are required in December to pay off liabilities such as school moneys, and if taxpayers are dilatory in paying, it has often been found necessary to borrow money to meet these obligations rather than force payment of taxes by distress. This entailed extra expense on the municipality for interest, which those who paid promptly felt to be an injustice to them as they had a share of the interest to pay. The passage of a by-law adding 5 per cent is therefore designed not only to encourage prompt payments but to cover any extra expenses for borrowed money, as those who required delay in payment of their taxes were the rightful persons to pay for the indulgence. The amendment, however, of 1888, did not make provision to add the per centage to the taxes of non-residents. This having been an oversight no doubt, it has been amended at last session, by bringing such ratepayers into line with residents, except that non-residents require to pay their taxes on or before 1st Nov. if they wish to escape the additional impost. The difference in the time is owing to the fact that on or before the 1st of November is the time set down when the clerk has to transmit the non-resident roll to the county treasurer, and it is his duty under the by-law to add the per centage. In no case can the five per cent be added to any unpaid taxes of residents or non-residents unless the council of the municipality have passed a by-law requiring the same to be done. In the event of the non-resident roll having been forwarded to the county treasurer before the 1st November, and the non-resident taxpayer having paid to him the taxes called for, the treasurer is to deduct the 5 per cent which had been added by the clerk, for it will be noticed that the clerk adds the per centage to the non-resident's taxes in all cases. He does not require to wait until 1st November to make his return, and the county treasurer is charged with the whole amount including the percentage. It rests with the latter to make the deduction and to satisfy the auditors that such has been done. There is a weakness just here in the machinery which is calculated to cause some difficulty. This could be obviated if all local collections and tax sales were left in the hands of the local officials, as we have always believed to be the better method.

CORRESPONDENCE.

In the July number of THE MISCELLANY you asked the opinion of your readers regarding the usefulness of publishing the treasurer's accounts in the month of December. W. M. says he cannot see much good arising from it; you endorse his views, and so far as printing the simple statement of receipts and expenditure is concerned I agree with you both. The following is the plan adopted by our township. For the past ten years we have got printed in pamphlet form 500 copies a year of the minutes and proceedings of the council. These copies are always ready for distribution at the nomination. An abstract statement of the receipts and expenditure, certified by the reeve and treasurer, is now added, since the law requires the publication of the treasurer's accounts. These printed minutes and certified statement may not exactly be according to the *letter* of the law, but I think the spirit is there, and I am satisfied the ratepayer can see and understand *how* and *where* his hard-earned money goes which he pays in taxes to the collector. At the same time he can see how the affairs of the township are administered, and it no doubt helps to guide him to give an intelligent vote at the polls. Every township clerk who uses Lytle's Ready Reckoner in preparing their collector's rolls—and everyone should—are under a lasting obligation to the compiler, for it saves time and trouble and is worth its price twice told every year to all who need it. THE MISCELLANY is a welcome visitor; it supplies a long-felt want, and as time goes on its worth will be more and more appreciated by municipal officers.

S.

RURAL SCHOOL TRUSTEES.

As rural school trustees have not always the latest statutes at hand, and as heretofore our school laws have been somewhat complicated to the average person through the intermixture of sections relating exclusively to different classes of schools, we have been requested to prepare a synopsis of the duties of township trustees in a short form, and now cheerfully comply with the request.

The legal name of school corporations in townships is "The Board of Public School Trustees for School Section ——, of the Township of ——, in the County of ——." They must have a seal, as contracts with teachers and others to be binding must have the seal attached. Three trustees are all that rural sections are to have, and they hold office three years, except those elected for the first time in a new school section. In the latter event, if elected without opposition the first proposed and elected shall continue in office for two years from the date of the next annual school meeting; the second proposed and elected holds office for one year beyond that date, and the third or last person proposed holds office until the next annual meeting. In case of a poll being taken, the trustees then rank in seniority according to the votes polled, the one having the highest vote being elected for the longest term, etc. If a tie vote, then the first nominated has seniority. After the first election one trustee is elected annually for three years, but if elected to fill a vacancy he shall hold office only for the unexpired term of the person whose place he fills. Any trustee may resign provided he gets the written consent of his colleagues in office. Any retiring trustee may be re-elected with his own consent, but otherwise he is exempted for four years. If the ratepayers at an annual meeting desire to re-elect a retiring trustee they should make sure if he is absent that he consents, otherwise the election would be informal, but we have no doubt the election would hold if he consented as soon as he became aware of his election. The persons qualified to be elected are "such persons as are resident ratepayers of the full age of twenty-one years, and not disqualified under this Act." This would include women as well as men. Those disqualified are persons holding the office of Public School inspector, or a teacher, and any trustee who is convicted of felony or misdemeanor, or becomes insane, or absents himself from the meetings of the board for three consecutive months without authority of the board entered on the minutes, or if he ceases to be an actual resident of the section, or has any pecuniary interest in or from any contract, agreement or engagement, either in his own name or in the name of another, vacates his seat, and a new election must be held. However, the secretary-treasurer may be a trustee, and may legally receive such compensation for his services as may be approved at the annual meeting of the ratepayers and duly entered on the minutes. If any person elected as a school trustee attends any meetings of the school board as such, after being disqualified, he is liable to a penalty of $20 for every meeting so attended. If on the other hand, any person chosen as trustee refuses to serve he shall forfeit the sum of $5. A person chosen as trustee and who has not refused to accept the office can be fined $20 by a justice of the peace if he neglects or refuses to perform the duties required of him.

All boards of trustees other than union boards of High and Public Schools, are to hold their first meeting in the year on the third Wednesday in January at 7 p. m., unless some other hour of the day has been fixed by resolution of the former board at a former meeting. At this first meeting in each year, the secretary presides until a chairman has been appointed. In the event of the votes for chairman being a tie, the trustee present who is the highest assessed on the last revised assessment roll is to have an additional or casting vote. The next thing in order would be the appointment of a secretary-treasurer, who may be one of the trustees, or any other person. After the organization, the chairman has always the same right to vote on any question as other members of the board, but in the case of a tie the motion would be negatived. A majority of the members of the board when present would form a quorum for the transaction of business, and a majority of such quorum is necessary to bind the corporation. In rural sections two trustees would form a quorum, hut they would have to be unanimous as there could not be a majority of votes otherwise. The secretary-treasurer is to give such security for the faithful disbursement of school moneys passing through his hands as the trustees require, and the bond has to be deposited with the clerk of the municipality. If any loss should occur in school funds through unfaithfulness of the secretary-treasurer the trustees would become personally liable for the loss unless they had taken proper security as required by the Act.

All notices of meetings are to be given by the secretary-treasurer to each of the trustees, or notice may be given by any one of the trustees to the others by notifying them personally, or in writing, or by sending a written notice to their residences. No time is laid down at which such

notices are to be given before a meeting, but the time would have to be a reasonable one so as to give all the trustees an opportunity of attending if they wished. A notice sent to a trustee when it was known he was from home and could not receive word in time would not, we think, comply with the spirit of the Act, even though the letter of the law might be complied with, and it is important for no act or proceeding of a rural school corporation will be valid or binding on any person affected thereby unless proper notice has been given. Nor would such act or proceeding be valid or binding unless adopted at a regular or special meeting at which at least two trustees are present and such resolution entered in the minutes and signed by two trustees. Trustees may at their first meeting appoint the times for holding regular meetings, and in that case the shortness of the notice or the absence of the trustee should not invalidate the legality of such meeting. Notice must, however, be given in all cases whether a regular or special meeting.

Trustees are to have possession of all school property of whatever kind, be it lands, movables or money, which is to be held, used or disbursed for Public School purposes only. They are required to keep the school-house, furniture, outbuildings and enclosures in proper repair, and to see that the well, closets and premises generally are kept in a proper sanitary condition. They are to provide adequate accommodation and a legally qualified teacher or teachers for two-thirds of the children of Public School supporters resident in the section as ascertained from the census of the last assessment roll. They are to visit the school under their charge from time to time to see that it is conducted according to law. They are to dismiss from the school any pupil whom they and the principal of the school have adjudged so refractory that his presence in school is deemed injurious to the other pupils, and where practicable such refractory pupil is to be sent to an industrial school. The trustees are to see that the school is supplied with a visitor's book, register and suitable maps, and other necessary equipment, and to procure annually for the benefit of their school section some periodical devoted to education, and to do whatever they may deem expedient in regard to procuring prize and library books for their school.

Trustees may exempt in their discretion from the payment of school rates, in whole or part, any indigent persons, but notice of such exemption must be given by the trustees to the clerk of the municipality on or before the 1st August. The trustees may also if deemed necessary provide school books and supplies for the children of indigent persons.

The trustees are to make application to the township council on or before the 1st of August to levy and collect from the ratepayers of the school section such sum as may be necessary for the support of the school and other school purposes. The teachers' salaries are payable quarterly, and if funds are not on hand to meet the teacher's salary when due, the trustees are authorized to borrow on their promissory note duly sealed with the school corporation seal such amount as may be necessary, and may pay interest not exceeding eight per cent. for the use of the money borrowed until the taxes are collected.

The trustees are required to give written notice to the inspector and to the municipal clerk before the 15th January each year, of the names and addresses of the several trustees then in office, and of the teachers employed by them.

The annual school meeting and other special meetings of the ratepayers to fill vacancies and the like, are to be appointed and called by the trustees as required. At least three public notices have to be posted within the section not less than six days before the date of meeting, containing particulars as to time and object of meeting. They have to prepare and read at the annual meeting of the ratepayers a report of the business of the year then ending, together with a detailed account of all school moneys received and expended by them during the year. This report has to be signed by the trustees and school auditors.

The semi-annual returns of the average attendance of pupils to the inspector are to be sent not later than the 15th July and 31st December, and should this be neglected the section would not be entitled to its apportionment from the school fund, but the trustees would be held responsible for the amount. There is a manifest error in the new Act relating to this matter, for sub-section 13 of section 40 makes the dates for the returns as above; whereas 206 gives the dates for these returns as the 30th June and 31st December. One or the other must be wrong, and the safer course would be to follow the date of Section 206 making the midsummer return due on the 30th June. There is also an annual return on the forms prescribed by the Education Department, to be sent to the inspector on or before the 1st of January, but should it not be sent him by the 15th January, each of the trustees would be liable in the sum of $5 per week after the latter date until it was returned.

The above contains the main features of the Public School Act as it relates to the trustees of rural sections.

We are in receipt, through the kindness of A. Stephen, Esq., clerk of the township of Sullivan in the county of Grey, of four neat pamphlets containing the minutes of council and treasurer's annual statement for 1890, auditors' report for 1890, voters' list for 1891, and township by-laws as revised up to 1886, in which is also included extracts from the statutes relating to line fences, ditches, road allowances, snow fences, health, etc. These pamphlets contain everything that the ratepayer may wish to see relating to local matters in a most convenient form for reference, and we commend the system to municipalities that have not yet adopted it. The publication of by-laws, minutes, etc., in pamphlet form is becoming somewhat general in the wealthier municipalities in Western Ontario, but we are not aware that such is the case in the eastern portion of the province. The township of Sullivan is a populous and wealthy municipality, as we should judge from the total of the collector's roll and its having five polling places. The clerk has no less than forty post offices to keep track of in preparing his voters' list, which is quite an item of work in itself.

THE 135th section of the Assessment Act, relating to the return of the collector's roll, reads as follows :

"If any of the taxes mentioned in the collector's roll remain unpaid, and the collector is not able to collect the same, he shall deliver to the treasurer of his municipality an account of all the taxes remaining due on the roll ; and in such account the collector shall show opposite to each assessment the reason why he could not collect the same by inserting in each case the words *Non-resident* or *Not Sufficient property to distrain*, or *Instructed by the Council not to collect*, as the case may be ; and such collector shall at the same time furnish the clerk of the municipality with a duplicate of such account, and the clerk shall, upon receiving such account, mail a notice to each person appearing on the roll with respect to whose land any taxes appear to be in arrear for that year."

It is seen by the above that it is the duty of the collector to prepare a statement in duplicate properly ruled off and headed, showing the names of the assessed parties, the description of the property assessed, and the amount of taxes remaining unpaid, together with a column setting out the reason of the non-collection. One copy he gives to the local treasurer and the other to the municipal clerk. The collector has also to affix to the statement furnished to the treasurer an affidavit to the effect that the sums mentioned in such account remain unpaid, and that he has not upon diligent enquiry been able to discover sufficient goods or chattels belonging to or in possession of the persons charged with or liable to pay such sums, or on the premises belonging to or in the possession of any occupant thereof, whereon he could levy the same. This oath is to be taken before the treasurer, and the latter's right to administer such oath and certify to the same is here implied, though we do not notice anywhere that he has been given express authority to administer oaths. The clerk has to mail a notice to each person appearing on the roll with respect to whose *land* any taxes appear to be in arrear for that year. Would that imply that land is liable to be sold for arrears on personal property, as many hold that it is not, or must the statement of the collector specially show those taxes in arrears that were assessed against land and those assessed against personal property? We confess that we have not yet been able to satisfy ourselves on this question as to the liability of land for the taxes on personal property, and also as to whether the owner who is bracketed with the tenant on the assessment roll is not liable to have his goods seized, if in the county, for the tenant's taxes, providing the latter has no property to distrain. If any of our readers can throw any light on these points we shall be pleased, as they are not clearly laid down. Speaking generally, the spirit of the law is that all taxes must be paid, but while personal property is made liable without a doubt for taxes against lands, it is not so clear that lands are made liable for taxes on personal property. The subject is an important one and will bear discussion.

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SOME new subscribers have requested us to send all the back numbers in order to file. Our extra supply of the May and June issues has given out, and it may be that some of our readers have these numbers and do not require them, if so, they would oblige by mailing them to us.

THE ratepayers of Smith's Falls will vote on a by-law to raise $6,000 for a market hall.

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THE council of Dundas have passed a by-law to raise money for the extension of their waterworks.

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REMITTANCES received since Sept. issue : E. R., Clarksburg, $1 ; T. L., Sydenham, 50c. ; D. C. M., Wallaceburg, $1 ; W. W., Wallaceburg, $1 ; J. E., Bradford, $2, being payment for 1891 and 1892 ; W. O., Cranbrook, $1.

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COMMENDABLE FOR BRIEFNESS.—We noticed a published minutes of council over signature of the clerk in which he condensed the motions by merely giving the names of movers and seconders as "Holland—Ryan ; following accounts ordered to be paid."

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WE received a racy and interesting letter from our friend G. S., Bosanquet, but he put us under the ban of "not for publication," because he says he is generally so pressed for time that when writing in a hurry he is apt to say what he does not mean. As for instance in his letter in the August number when referring to Lyttle's Rate Tables where he said "I can come much closer by making tables of my own" he fears that it might be inferred that Lyttle's were incorrect, which he did not mean, as he says he had not found them so, but on the contrary he thinks every clerk should have Lyttle's work, for he says, "it is like tile drains, will pay its cost the first year, not only in saving in time but in pleasure." What he meant was that the amounts to be exact sometimes required fractions different from tenths of mills, and in that case he used a table of his own. He had used Lyttle's Lables this year in making up the rates on his sixteen school sections. We agree with him as to the excellence of Lyttle's Rate Tables having used them for the first time we can now say that we would not be without that useful and labor saving work. No doubt, where an exact sum is required, it may happen that tenths of mills will not work, but for all practical purposes they will be found to answer. Our practice has been to make sure to have good measure and if there are a few dollars over the council can always find good use for it. We trust to hear again from G. S., as his former letter in the MISCELLANY was, we know, read with much interest. We would be very grateful for more assistance in the shape of correspondence from any of our readers.

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WE dislike apologies, but it is due our readers that we explain the cause of the lateness in issuing the three last issues of THE MISCELLANY. Owing to the absence of an assistant the editor had so much extra work to be attended to that he could not get the time necessary to prepare matter for the paper. Our public duties had to be the first care, and every moment seemed fully taken up in that way. THE MISCELLANY is not a large sheet, but nearly the whole of it is filled with original matter of a kind that cannot be dashed off hastily as might be done in ordinary newspaper work. Even with some knowledge and practical experience of the subjects treated, still considerable investigation and study was necessary to make assurance

doubly sure if possible. We have done the best we could under the circumstances, and have devoted late hours to work in order to keep faith with our readers. That our efforts have not been altogether unappreciated is evidenced from the numerous kind and flattering letters received. If our negotiations with a leading publishing firm result satisfactorily, the next year will show considerable improvement in the paper, but of this we will be able to speak more definately later on. In the meantime we are anxious to get the November and December issues printed earlier, as it is intended to issue next year at the beginning of each month instead of as heretofore at the end. It would help us considerably to do this if a number of our readers would send us communications of interest on municipal matters to help fill up. There are many clerks who have had experience in special departments of municipal work who could impart useful hints that would be highly appreciated, and we trust they will give THE MISCELLANY the benefit of their knowledge. Our thanks are due those who already have assisted us by their letters, or in introducing subjects by asking questions.

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IN towns, villages and townships every collector is required to return his roll to the treasurer on or before the 14th Dec. in each year, or on some day in the next year not later than the 1st Feb., but in case the collector fails to collect any portion of the taxes by that time, the council may extend the time for collection. Then by section 145 of the Assessment Act the treasurer of every township and village is required within fourteen days after the time appointed for the return and final settlement of the collector's roll, and before the 8th April in every year to furnish the county treasurer with a statement of unpaid taxes, as the county treasurer is not bound to receive such statement after the 8th April. It is clearly the intention of the law that all taxes shall be collected not later than 1st of February of the following year, although to provide for emergencies the council are permitted to extend the time. No proper provision, however, has been made to accommodate the returns to the county treasurer to suit the extension beyond the 1st February. The question might arise as to whether the time having been extended beyond the 8th April, would the county treasurer be bound to receive the statement up to the 8th April of the following year? If not bound to receive the statement at some time after the collector returned his roll, the arrears of taxes on the roll might by his refusal be lost to the municipality. We have heard of good-natured collectors carrying the rolls of two years at the same time—no doubt with the consent of equally good-natured councillors—but we believe the county treasurer would not be bound to receive or take any action on a statement sent him after the 8th April following the year for which the taxes were levied, and councillors should be careful not to extend the time beyond the 1st February in order to make sure that no flaws may occur in the after collections.

LEGAL INTELLIGENCE.

FROM the court reports in a Toronto daily of recent issue we extract these items:—"Elliott v. Biette—Judgment on motion by the defendant for prohibition to the Fourth Division Court in the county of Bruce to prohibit the enforcement of a judgment for $200.70, on the ground that the amount is in excess of the Division Court jurisdiction. The plaint was upon a promissory note for a sum within the jurisdiction, but interest was added by the judgment. Order made for prohibition, following re Young v. Morden. 10 P. R. 276." Judge Galt presided.

Before Galt, J.

Re Thrasher and Town of Essex, re Motley and Township of Gosfield North.—Judgment on application to quash by-laws passed under the Local Option Act, the objection taken being that the by-laws are illegal, and the municipalities had no power to pass them, because they are on their face entirely prohibitory. The by-laws were passed under the provisions of 53 Vic., ch. 56, sec. 18. After the passing of the by-laws the Act 54 Vic., ch. 46, sec. 1, was passed, declaring the meaning to be attached to the former Act, and referring certain questions to the Court of Appeal, among which was: "Has a council power to pass a by-law prohibiting the sale of liquors in the original packages?" etc., which question the judges of the Court of Appeal answered in the negative. The learned chief justice holds that under this decision any by-law imposing total prohibition is invalid; that these by-laws are totally prohibitory, and that the Act 54 Vic., ch. 46, does not validate them, but merely points out how they are to be construed. Order made quashing by-laws with costs; such costs to be confined to the affidavits necessary to bring the by-law before the court and to the argument.

Before Ferguson, J.

Judson v. City of Toronto. Judgment in action tried at the present sittings. Action for damages for negligence in allowing ice to accumulate upon the sidewalk on Lansdowne avenue in the city of Toronto, whereby the plaintiff slipped and broke his arm. The learned judge finds that there was upon the morning of the 5th February last on the sidewalk, at the place where the accident happened to the plaintiff, opposite an unoccupied lot, a ridge of ice running lengthwise of the sidewalk and about the middle of it from side to side, and extending a distance almost the whole width of the lot; that this ridge was about four inches high along its middle line having a base of from 15 to 18 inches wide, the slope of its side being a sharp inclination; that the parts of the sidewalk on either side of this ridge of ice were not covered with anything; that this ridge of ice was formed by people travelling along the sidewalk after snow had fallen in a sort of path or line, the snow not having been removed, this being continued or repeated after successive snowfalls, the men employed by the defendants sometimes clearing off the soft snow at the sides but not removing the ridge, which, by the operation of the weather and the walking upon it after snowfalls, and probably before the snow was cleared away from the sides, became so hard and solid that it could not be readily removed. The learned judge's conclusion from these and other facts found by him, and from the evidence, is that the defendants had full notice of the existence of the ridge, and that it was dangerous to travellers along this sidewalk; that the defendants were guilty of negligence, which was the proximate cause of the accident; that there was no contributory negligence on the part of the plaintiff; and that the defendants are liable in damages, which he assesses at $1,630. Judgment for the plaintiff for that amount with costs.

DISTRESS FOR TAXES.

At the request of a collector we devote some space to a consideration of what goods are liable to be seized and sold for taxes. There was a singular contradiction in the Revised Statutes of 1887 relating to the powers of collectors to distrain on the goods and chattels of an occupant other than the person who had been assessed. Section 124, sub-section 1, of the Assessment Act, made it legal to distrain *any* goods or chattels of any such other person occupying the premises, whereas sub-section 1 of section 27 of the Act relating to Landlord and Tenant provided that *only* such goods and chattels belonging to any person on the premises not being the assessed party were liable to distress for taxes as were not exempt from seizure or an execution. These two contradictory provisions continued without amendment from 1887 to 1890, in which latter year by an amendment to the Assessment Act they were made to harmonize by making the provisions of the Landlord and Tenant Act to prevail. Therefore as the law now stands there are no exemptions in the case of the assessed party, and his goods may be seized anywhere in the county, but if a seizure is made of goods on the premises not belonging to the assessed party, the owner of such goods can claim such exemptions as the law provides in the case of a seizure under execution for debt. These exemptions relate principally to household furniture and the like and are somewhat numerous. Thus an incoming tenant who had not been assessed, if he has goods on the premises which are not exempt from seizure on an execution might have to pay the taxes of the owner or the former occupant. So long as the owner or other person assessed has any goods in the county it would not be proper, in our view, to distrain the goods of a person not assessed even if found on the premises, especially where doing so would be a hardship on such person. If, however, no other goods are to be found, the collector would be bound to seize the goods not exempt on the premises, for otherwise he could not make the oath required when returning his roll to the local treasurer, nor would a return of such lands in default to the county treasurer be legal. A person not assessed who had to pay the taxes could sue the person assessed, or he might deduct the taxes paid by him from any rent payable. If he could not get a refund in either way, as sometimes might happen, it would be a hardship, and in such a case application should be made to the council to instruct the collector not to collect, this course being more in harmony with the eleventh commandment—"Love one another"—as it would be better that the municipality as a whole suffer the loss than that an injustice be done an innocent person.

Collectors will therefore remember that there is no exemption of the goods belonging to the person taxed, whereas in the case of the seizure of goods on the premises belonging to a person not assessed he could only distrain such as are not exempt from seizure on an execution for an ordinary debt. For the guidance of collectors we copy below a list of the exemptions, as taken from the Act respecting executions :—

1. The bed, bedding and bedsteads (including a cradle) in ordinary use by the debtor and his family.

2. The necessary and ordinary wearing apparel of the debtor and his family.

3. One cooking stove with pipes and furnishings, one other heating stove with pipes, one crane and its appendages, one pair of andirons, one set of cooking utensils, one pair of tongs and shovel, one coal scuttle, one lamp, one table, six chairs, one washstand with furnishings, six towels, one looking-glass, one hair brush, one comb, one bureau, one clothes press, one clock, one carpet, one cupboard, one broom, twelve knives, twelve forks, twelve plates, twelve teacups, twelve saucers, one sugar basin, one milk jug, one teapot, twelve spoons, two pails, one wash tub, one scrubbing brush, one blacking brush, one wash board, three smoothing irons, all spinning wheels and weaving looms in domestic use, one sewing machine and attachments in domestic use, thirty volumes of books, one axe, one saw, one gun, six traps, and such fishing nets and seines as are in common use, the articles in this sub-division No. 3 not exceeding in value $150.

4. All necessary fuel, meat, fish, flour and vegetables, actually provided for family use, not more than sufficient for the ordinary consumption of the debtor and his family for thirty days, and not exceeding in value the sum of $40.

5 One cow, six sheep, four hogs and twelve hens, in all not exceeding in value $75, and food therefor for thirty days, and one dog.

6. Tools and implements of or chattels ordinarily used in the debtor's occupation, to the value of $100.

7. Bees reared and kept in hives to the extent of fifteen hives.

The above is the list, and a debtor could be comfortably fixed and snap his fingers at a bailiff having an execution against him. The debtor or family have the right of selecting from a greater number of articles those that should be exempt, and they may elect to receive the proceeds of the sale of the tools and implements under subdivision 6 up to $100. Tools and implements as therein mentioned have been held to include a horse ordinarily used in the debtor's occupation. Growing crops, except hay, may be seized, but hay must be cut before it becomes a chattel. This is no doubt because hay grows from the soil without requiring annual sowing, and is therefore held to be a part of the soil until it is cut.

REPORT OF COMMISSION ON MUNICIPAL INSTITUTIONS.

(EXTRACTS CONTINUED.)

Although the law provided that the roads should be made by statute labor, the progress in road-making was painfully slow. The large tracts of land granted to the officers of the disbanded regiments and to the principal U. E. Loyalists, and the large tracts afterwards granted to the members of the Executive Council and others, contributed little to the construction of roads. Many of the early settlers too were not of industrious habits. Gov. Simcoe proposed to construct Yonge Street to the Georgian Bay, and Dundas Street to London, and by the Kingston Road to open a thoroughfare to Lower Canada,

and he set the troops to work on Yonge Street. But even on this comparatively little work was done. Dr. Scadding says "the perils and horrors encountered every spring and autumn by travellers and others in their ascent and descent of the precipitious sides of the Rosedale ravine, at the point where the primitive Yonge Street crosses it, were a local proverb and by-word, perils and horrors ranking for enormity with those associated with the passage of the Rounge, the Credit, the Sixteen, and a long list of other deeply ploughed watercourses intersected of necessity by the two great highways of U. Canada. The ascent and descent of the gorge were here spoken of collectively as the Blue Hill. . . . . The waggon track passed up and down by two long wearisome and difficulty slopes, cut in the soil of the steep sides of the lofty banks. After the autumnal rain and during the thaws at the close of the winter the condition of the route here was indescribably bad. At the period referred to, however, the same thing for many a year was to be said of every rod of Yonge Street throughout its thirty miles of length. Nor was Yonge Street singular in this respect. All our roads were equally bad at certain seasons every year." Troops were also set to work on the Dundas road, and from what Dr. Scadding relates of their mode of proceeding it is evident that the military were not very skilful roadmakers. He says the work of opening Dundas Street near the Lake Shore, as well as further on through the forest, was first undertaken by a detachment of the regulars under the direction of an officer of the Royal Engineers. The plan adopted, we are told, was first to fell each tree by very laboriously severing it from its base close to the ground, and then to smooth off the upper surface of the root or stump with an adze. As this process was necessarily slow, and after all not likely to result in a permanently good road, the proposal of Colonel, then Lieutenant Denison, to set his militia men to eradicate the trees bodily was accepted—an operation with which they were all more or less familiar on their farms, and in their new clearings. A fine broad open track ready, when the day for such further improvements should arrive, for the reception of plank or macadam, was soon constructed.

Of the proposed Dundas Street, Gourley says (vol. 2 pp. 310-11) :—"He (Governor Simcoe) had no money wherewith to open this; but his purpose was to grant its margin to actual settlers on condition of each making good the road as far as his grant extended. Settlers sat themselves down at different parts along the line of this proposed grand thoroughfare and fulfilled their engagements, only to be grievously disappointed. The moment that Simcoe was recalled the ungranted lands along Dundas Street were seized by the people in power, and the actual settlers up to 1817 remained in little communities cut off from each other and unable to make good the grand communication, the completion of which had at the outset promised them such advantages and tempted them so far into the wilderness. . . . Only think of a dozen or score poor men going into the woods fifty or sixty miles from connected settlement, expending their labor for four or five years clearing farms and erecting buildings, in the assurance that before long they should have an outlet to market and a reward for extraordinary exertions and privations. Only think of these people, after five or six years' perseverance and hope, being chilled with disappointment and left imprisoned in the woods."

McTaggart, writing of the state of Canadian roads so late as 1829, said, "There are few roads, and these are excessively bad and full of mud-holes, in which if a carriage fall there is great trouble to get it out again. The mail coaches or waggons are often in this predicament, when the passengers instantly jump off, and having stripped rails off the fences, they lift it up by sheer force. Coming up brows they sometimes get in, the horses are then taken out and yoked to the stern instead of to the front, and it is drawn backwards." "Old settlers," we are told, "used to narrate how, in their first journey from York to the Landing, they lowered their waggons down the steeps by ropes passed round the stems of saplings, and then hauled them up the ascent on the opposite site in a similar way."

The Legislature endeavored in several ways to bring about a better state of things. The statute labor and the small aid which the Sessions were authorized to give in cases of special importance having been found insufficient, the Legislature in 1810 voted £2,000 to defray the expenses of amending and repairing the public highways and roads, laying out and opening new roads, and building bridges. This amount was probably expended through commissioners named in the Act. In the same year they made a special appropriation for the construction of a bridge across the Grand River. In 1811 they appropriated $3,450 to making and repairing roads and bridges. In 1812 they made an appropriation, the amount of which is not stated, and passed "an Act to prevent damage to travellers on highways in this Province." This required all persons travelling on the public roads to turn to the right, and required the owners to attach bells to sleighs. An Act of 1812 also provided that when any road laid out under authority of law was not approved of by the justices in session, the charges of the surveyors should be paid by the parties who made the application. The war of 1812 prevented any more being done in this direction for some years, and at an extraordinary session, held in the summer of that year, an Act was passed, requiring the road commissioners to return to the Treasury any of the money granted in the previous session that was unexpended.

In 1816 the Legislature again turned its attention to the highways, and amended the Act to prevent damage to travellers, and £513 12s 6d was voted to reimburse amounts expended by certain commissioners. By another Act passed the same session £21,000 was given to mend the highways and bridges, which probably were in a bad condition. In 1819 an Act, to which we have already referred, was passed, fixing the amount of statute labor to be performed by each person, the rate 2s 6d per day's labor, at which it may be commuted and the rate to be paid by lands not included in the assessment roll. In 1821 £200 was granted towards opening a road from Richmond, on the Ottawa river, to Kingston. In 1828 Acts were passed to make valid such things as were done by surveyors who had been suffered to serve beyond a year without being re-elected or sworn, and to determine how the road between Ernestown and the Gore of Fredericksburg, about which the magistrates differed, should be kept in repair. In 1830 £25 was granted towards opening a road from the river Aux Perches in the Western to Townsend, in the London District. In 1830 £13,650 was granted as aid towards repairing roads and bridges. At that time the number of Districts had increased to eleven. The Act specifies the amount to be expended in each district, names the commissioners by whom the money should be expended, and the amount to be expended by each, and describes the section of road on which each commissioner should expend the amount entrusted to him. In 1831 £20,000 to be raised by Provincial debentures was granted for a like purpose, to be expended in a similar manner. To such an extent up to that time did the Legislature undertake and perform duties really municipal in their character.

The Act 50, Geo. III., c. 1, provided that no road should thereafter be more than sixty-six or less than forty feet in width

To be Continued.

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