

THE MUNICIPAL WORLD

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Calendar for August and September, 1902.

Legal, Educational, Municipal and Other Appointments.

AUGUST.

1. Last day for decisions by Court in complaints of municipalities respecting equalization.—Assessment Act, section 88, subsection 7.
- Notice by Trustees to Municipal Council respecting indigent children due. Public Schools Act, section 65, (8); Separate Schools Act, section 28 (13.)
- Estimates from school Boards to Municipal Councils for assessment for school purposes, due.—High Schools Act, section 16, (5); Public Schools Act, section 65, (9); Separate Schools Act, section 29 (9); section 28, (13.)
- High School Trustees to certify to County Treasurer the amount collected from County pupils.—High Schools Act, section 16, (9.)
- High School Trustees to petition council for assessment for permanent improvement.—High Schools Act, section 35.
5. Make returns of deaths by contagious diseases registered during July. R. S. O. chapter 44, section 11 (4.)
14. Last day for county clerk to certify to clerks of local municipalities amount of county rate.—Assessment Act, section 94.
18. Rural, Public and Separate Schools open.—Public Schools Act, section 96 (1); Separate Schools Act, section 81 (1.)

SEPTEMBER.

1. Labor Day.
2. High Schools open first term.—High Schools Act, section 45. Public and Separate Schools in cities, towns and incorporated villages, open first term.—Public Schools Act, sec. 96 (2); Separate Schools Act, sec. 81 (2.) County Model Schools open.
15. County selectors of jurors meet—Jurors Act, section 13. Last day for county treasurer to return to local clerks amount of arrears due in respect of non-resident lands which have become occupied or built upon.—Assessment Act, section 155 (2.)
20. Clerk of the peace to give notice to municipal clerks of number of jurymen required from the municipality.—Jurors Act, section 16.

NOTICE.

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The Municipal World

PUBLISHED MONTHLY

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

K. W. McKAY, EDITOR,

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

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ST. THOMAS. AUGUST 1, 1902.

Mr. John Kerman has been appointed clerk of the township of North Grimstey in place of Mr. W. H. Nelles.

* * *

The electors of the town of Barrie have defeated by-laws providing for the issue of debentures to raise \$15,000 for the construction of permanent sidewalks and roads and \$5,000 for the electric light plant by majorities of five and four respectively.

* * *

The Council of Mornington has decided unanimously to give their clerk a holiday after sitting at the council board for 37 years, two as councillor, one as deputy reeve, five as reeve, and twenty-nine as clerk, only missing two meetings during that time, one when councillor, when the mail service was not very good, when he got notice to attend two days after the meeting was over, and one last winter when the road was so badly blocked that he could not get through. The council waited on him last Thursday, and presented him with a beautiful travelling case and the following address:

John Watson, Esq., Clerk, Township of Mornington,—Dear Sir,—The members of the council of which you are clerk take this opportunity on the eve of your holiday, which you richly deserve, being clerk of the township for a period of 29 years, and have missed but two meetings in that time, to present you a small token which may bring pleasant thoughts to you during your absence. We hope you may come back refreshed in health and strength, and may long be spared to fulfill the duties pertaining to your office.

The address was signed by D. B. Grieve, J. McCloy, J. Davidson, R. M. Allingham and D. Schwartztruber.—Galt "Reporter."

Illegal Bonus By-Laws.

Two by-laws (one passed by a township and the other by a village council,) have recently fallen under our observation which are illegal on their face. It may be superfluous to observe that all by-laws granting bonuses within the meaning of the Municipal Act, before their final passing, should be submitted and assented to by the electors duly qualified to vote under the statute. The by-laws, in question, have been submitted to and apparently received the assent of the electors. Each of them made provision for the raising of money by the issue of debentures of the municipality, for two separate and distinct purposes. The ballot required to be used in voting on by-laws has two compartments, in one of which is printed, "For the By-law" and in the other, "Against the By-law." Hence a voter, when marking his ballot-paper, votes for or against the by-law (as the case may be) *in toto*. If the by-law contained provisions for the borrowing of money or the granting of bonuses for two or more different purposes, the voter must vote for or against all the schemes therein set forth. He has no other alternative as the statutes contain no provision enabling him to divide his vote. Notwithstanding the fact that he might be favorable to one of the schemes embodied in the by-law, and opposed to the others, he would be compelled, in supporting one, to also vote for the others, although they do not meet his views, or to refrain from voting altogether. An emergency of this kind might very easily arise as the purposes for which moneys are now borrowed by municipalities are of an extremely varied character. Where such submission is required by law, a separate by-law should be submitted providing for each of the purposes for which it is intended to borrow money by the issue of debentures, so that a free and untrammelled expression of opinion from the duly qualified electors can be obtained, otherwise the municipality runs the risk of being put to the expense of injunction proceedings to restrain them from submitting the by-law to the electors, or, if the by-law has been submitted and carried, of proceedings to quash the by-law, for the reason that it has not properly received the assent of the electors.

A meeting of the Preston Council was held recently to honor William A. Husband, who recently resigned the position of town clerk and treasurer, which position he has filled continuously for a period of 45 years. Mayor J. E. Klotz, presided, and made an eloquent address, in which he paid a fitting tribute to the valued and faithful services rendered to the town by Mr. Husband. Mayor Klotz, on behalf of the council and municipality, then presented the veteran official with a magnificent illuminated address and a leather upholstered easy chair. Mr. Husband made a suitable reply, after which speeches of a very complimentary character were made by the aldermen and prominent citizens.

Pavements and Water Supply in Glasgow.

The material used for most of the streets of Glasgow, Scotland, consist of granite or whinstone. This material, while the most durable, is very objectionable on account of the noise, and the authorities have been experimenting with various kinds of smooth pavement, such as macadam, alcatraz, seysssel. During the past year 22,228 square yards of this material were laid, in the proportion of 17,951 yards of tar macadam, 2,283 yards of seysssel, and 1,994 yards of alcatraz. It is the opinion of many that seysssel promises the best results. The alcatraz is very satisfactory, but not so good as regards wear. On account of the climatic conditions the smooth pavements are very seriously affected, and the firms that manufacture the materials assign failure of their work to this cause. Wood paving does not seem to be in great favor, although it has been tried to some extent. The objection to wood-paving in Glasgow has been based upon the old style cedar block. If the authorities should experiment with the modern creo-resinate wood block the many advantages of that form of pavement with none of the objectionable features of the old style, would be self-evident.

The engineer engaged to inspect Glasgow's water supply with a view to increasing its output, reports that the level of Loch Arklet must be raised, and the leading of that water into Loch Katrine is necessary. The water of Loch Katrine will be raised five feet by a dam at its outlet, so that it will give a supply of 65,000,000 gallons per day. The aqueduct which carries the water to the city is large enough to convey 70,000,000 gallons a day, and added to the 40,000,000 which the old aqueduct will pass, will make a total of 110,000,000 for the city. During 1901 an average daily quantity of water taken from the Loch was 54,000,000 gallons, and assuming that the consumption of water will increase at the rate of 20,000,000 gallons per day per year, the available quantity of 65,000,000 gallons which can be drawn from Loch Katrine, will be reached in 1907. The engineer estimates that the cost of the work which will enable the city to obtain this increased supply will amount to \$725,000.—*Municipal Journal and Engineer.*

Toll Road Sold.

The Ancaster toll road has been sold by the township council to the county council. The price paid was \$10,000. Of this amount \$6,000 is to go into the general funds of the municipality, and the remaining \$4,000 is to be used in fixing up other roads throughout the township. The agreement was reached at a joint meeting of the good roads committee of the county council and the members of the township council.

Municipal Officers of Ontario.

Clerk of the Township of Bruce.

Mr. Murray was born in Sutherlandshire, Scotland, in 1833. He was engaged in business in the north of Scotland until 1857, when he emigrated to Canada and came to the county of Bruce in the following year. He taught school in the township of Bruce for seven years. From 1875 to 1869 he was absent from his township engaged in business in different parts of Ontario. In the latter year he was appointed clerk and treasurer on his return to the township of Bruce. Mr. Murray has never missed a meeting of his council since his appointment. In 1869 he was appointed clerk of the sixth division court of his county ;



MR. HUGH MURRAY.

in 1870, a commissioner for taking affidavits, a J. P. in 1874 and postmaster of Underwood in 1875

Clerk of the Town of Renfrew.

Mr. Rochester was born in 1861 at Burnstown, in the county of Renfrew. He moved to Ottawa, with his family, in 1863, and was educated in the Ottawa public school and collegiate institute, winning the gold medal for general proficiency in the annual county examinations for Carleton county in 1877. He taught school for two years and was in the western states from 1881 to 1884. He studied law in 1885 and 1886, was book-keeper in the town of Renfrew for eight years and was appointed clerk in 1893. Mr. Rochester is an issuer of marriage licenses, private banker, and does a general insurance, real estate and loan business.

Clerk Township of Marmora and Lake.

Mr. Cameron was born in the parish of



MR. J. K. ROCHESTER.

Ardnamurchan, Argyleshire, Scotland, in 1879, and came to Canada in 1883, settling in Marmora in 1885. He was educated in a public school in his neighborhood and at the Madoc high school. He has taught school for two years and



MR. ARCH'D CAMERON.

was appointed clerk of Marmora and Lake in January of the present year.

Clerk of Town of Milton.

Mr. Coates was born near Milton in 1836. He was educated at the

institutions of learning in his neighborhood and taught school successfully for twenty-six years. He is an active sabbath school worker, has officiated very acceptably as a local preacher of the Methodist church since 1872, and is ever interested in every good work. Mr. Coates was appointed clerk in 1891 and is also librarian of the public library. He is prominently identified with the Masonic order.

Opposing Municipal Ownership.

There is to be a strong effort made on the part of London capitalists against municipal and state ownership of industries. An organization composed of moneyed men to be known as the "Industrial Freedom League" has been launched to advance the idea that public ownership is not a good thing, and an active opposition to the popular doctrine is to be at once begun. The league



MR. ROBT. COATES.

claims that the indebtedness of British municipalities which have undertaken to run public utilities and are now supplying the people with public service at low prices, is increasing, and they are greatly alarmed for the public welfare. If it is a fact that municipal indebtedness increases under public ownership because of the low cost of service to the people, then it is plainly the duty of the municipal authorities to increase the cost somewhat. Service at a very low rate would naturally be popular with the people, but it ought not to be furnished at rates so low as to increase the public indebtedness. — "The Municipality."

Mr. G. M. Harrison, who has been clerk of the village of Glencoe for the past twenty-seven years has resigned owing to ill-health and Mr. George Wilson has been appointed to succeed him.

COMMUNICATIONS.

OTTAWA, 14th July, 1902.

Editor MUNICIPAL WORLD,—In your issue for the current month appears an article with regard to school lands and buildings forming no part of the assets of a municipality.

In this city, on the 31st December, 1901, there were outstanding debentures of the municipality amounting to \$278,700.00, issued for the purpose of acquiring school lands and erecting schools. These are a liability of the municipality, the money obtained for which was, supposedly, spent paying for these lands and buildings, surely the lands and buildings are liable with the other property of the municipality for its debts, and so long as debentures are outstanding and unpaid for debts incurred in acquiring such lands and premises to the extent of the face of the debentures, less what sinking funds may have accumulated, some assets must be forthcoming to represent the debt.

It may be as you say, that the Board of Public School trustees can dispose of and give a title to, any or all of such property, but would not that board be compelled to provide for existing debts, incurred in acquiring such lands, etc.

The quandary in which I found myself when making my first audit for this municipality, was this, a large amount of debentures, such as I speak of were in existence, they were not taken into account either by the municipal corporation or the Board of Public School trustees as a liability; on examining into the matter I found the debentures were those of the municipality, just as any debenture for municipal purposes, except that it was recited that they were issued for school purposes, the interest was payable by the municipality, and at the end of the term the face value was payable by the municipality, in other words, the school board did not appear in the matter at all.

The school Board claimed to own the property without any liability appearing against it, as the municipality was responsible for the debentures, thus showing a very large asset and no corresponding liability.

As you will observe by reference to pages fifty-eight and fifty-nine of my report for 1901, which I enclose, the assessed valuation of the school lands and buildings is only \$247,250.00, and the debentures outstanding are \$276,700.00.

On going into the matter further, I found that the school trustees had been in the habit for many years of charging all sorts of repairs, etc., to their "Building account," and even giving them credit for everything they had charged to such account, they had spent many thousands of dollars for current expenses, for which they claim credit as being spent on buildings, but which had been charged up to proceeds of debentures.

I do not think there is any question but that, to any extent, over and above debenture debts, the school lands, etc., are in no way an asset of the corporation, but how it is possible to deal with the debenture debt as has been done by simply ignoring it and the assets which it has purchased, can scarcely be said to be good accounting.

Yours, etc.,

W. H. CLUFF,
City Auditor.

ED.—We cannot agree with our correspondent's ideas on this subject, as they are at variance with the legal status of the two corporations in question (municipal and school) and with the statutory provisions relating to the matter. It must be borne in mind that the municipal council and public school board are two different corporate bodies created by statute, whose rights, duties, privileges and obligations are separate and distinct. School property of all kinds is vested by the statutes in the school board. The municipal corporation has no ownership in or control over it, and therefore the latter cannot include such property amongst its assets. The municipal council is required to levy and pay over to the school board such sums as the latter asks for for its lawful purposes, but has nothing to say as to its investment, or any right to interfere in the transaction of the business of the board. The council occupies the same relative position as regards its liability for the payment of debentures issued for moneys raised for the purposes of the school board as it is placed in when it issues debentures for moneys expended in local improvements, or for drainage purposes, or any other debentures whose payment is provided for by special local assessment. It will no doubt, readily be granted, that an allegation that the works in which the moneys in these latter cases is invested are assets of the municipality, is not tenable. The asset in all these cases, as well as in the case of school debentures, is the special levy that the statutes authorize the council to make from year to year to meet the debentures as they mature, and not the works or property in which the money raised has been invested.)

CAIRO, JULY 21, 1902.

To the Editor of the Municipal World:

DEAR SIR,—Your article in July number, re assets, is well worth reading and I am pleased to see the matter discussed.

My experience is that auditors do not all agree as to what are assets and liabilities, and because they differ so in their opinions and methods, it is very awkward to compare auditors' reports so as to know whether the councils are running business satisfactorily.

One set of auditors treats all liabilities, outstanding interest and all, as a liability; another omits the outstanding interest, while another goes so far as to omit all outstanding, the maturing liabilities only

being considered, and in our township this year considerable of the maturing liabilities were omitted.

As to assets, generally speaking, they are usually looked after because the larger the assets the better showing for the council who employ the auditors. However, there is a difference of opinion here also.

This, to my mind, is a subject well worthy of consideration and I would be pleased to see an explanation as to what the auditors should and should not take into consideration; the different methods of treating the outstanding and maturing liabilities; whether or not the outstanding debenture interest, that is, interest not yet earned, should be treated as a liability; whether expenditures made by the council for drainage, etc., to be levied at some future date, are assets, etc., etc.

Hoping to see more along this line,

I remain, yours truly,

G. A. ANNETT.

(ED.—The subject matter of this communication will have our attention in a future issue.)

Carnegie Libraries.

The Toronto *Globe* enters this protest against the importunity with which some Canadian towns beseege the United States millionaire, hat in hand, like wayside beggars in the East, clamoring for "backshish."

"When Mr. Andrew Carnegie was handing out free libraries to the cities and towns of the United States and of Scotland there was occasionally to be found among the recipients, some with the Oliver Twist disposition who asked for more even when they had not that precocious young person's justification. The pangs of literary hunger, however, were so strongly felt that when Mr. Carnegie ladled out \$50,000 or \$100,000 they handed the plate back promptly for another helping. We, in Canada, laughed at these things when the suppliants were American municipalities, and very naturally quoted the proverb about not looking a gift horse in the mouth. The laugh, it must be confessed, turns to the blush of shame when we find Canadian cities and towns not only asking Mr. Carnegie for money for library buildings but going back, like the American cities, for a second donation. Surely there is enough civic pride, enough public spirit, among Canadians to prevent them from scrambling for Mr. Carnegie's money like small boys who afford amusement to a magnificent stranger by tumbling over each other in the dust for the pennies he throws among them. There is nothing degrading in accepting a gift from Mr. Carnegie for library purposes if it is tendered and received in the right spirit, but to follow Mr. Carnegie around with outstretched hand and the cry of "Give! Give!" is scarcely living up to the traditions of the race and is more suggestive of Naples or Cairo than of Ontario.

Engineering Department

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

The Road and the Farm.

A good road is not a luxury. The road over which a load of farm produce passes is just as necessary as the wagon which holds the load or the horses which draw it. "The road," the opponent of road reform will argue, "need not necessarily be a good one. A track through the fields would serve." On the same principle the wagon, horses, harness, need not be good. To follow the argument to a conclusion, they are not needed at all, since it would be cheaper to use a wheelbarrow, thereby saving the purchase of wagon, horses and harness. Bad roads are cheaper than good roads in just the same way that a wheelbarrow is cheaper than a wagon and a team of horses. If it pays to buy wagons, horses and harness it will pay to build good roads. The road is a part of the farm machinery just as much as is any other implement the farmer uses. Bad roads should be relegated to the age of primitive field culture. We are living in the days of self-binders and steam threshers, and we trust that it will soon be the period of good roads.

For cities, towns and townships bad roads are a great evil. The farmer, however, feels the influence most directly, interfering as it does with all his social and business relations. During certain seasons of the year he is isolated, in a measure, even from his nearest neighbor. He cannot attend church nor the public meeting, his children cannot reach the school, with the result that farming is generally regarded as dull and monotonous. Very much has been said, for a number of years, of the undeveloped resources of Canada, and the need of action in this regard. So long, however, as the roads of this country remain in their present condition, we need not go to Northern Ontario nor Ungava to find resources that are not developed. Surrounding us and at our very doors are farm lands yielding but a moiety of their hidden wealth. Bad roads are not solely responsible, but they are a factor, a very powerful factor, in locking up the riches of the farms.

The farmers realize, and they do not realize, the importance of roads. That they realize it is evidenced by the fact that in the ten years, 1887-1896, there was spent on roads by township and county councils, according to the reports of the Ontario Bureau of Industries, nearly ten million dollars. In addition to this, there is placed on the roads eleven million days of statute labor, the united money and labor having a total value of twenty-one million dollars.

On the other hand, this energy is spent with little forethought, without system, as

is evidenced by the condition of the roads. It is scattered and misapplied, and lends emphasis to the statement that the value of good roads is not sufficiently realized by the majority of the people of the country.

The bettering of the country roads, while of as universal importance as railways and canals, must be looked at, in the main, from the farmers' standpoint. To be able to haul a fair load in all reasonable weather, to be able to drive out on business whenever necessary, on roads that permit travelling at a fair speed, are no doubt the chief requirements of the Ontario farmer. This means that we need a distinct class of roads suited to the requirements of traffic. We do not need English roads, nor French roads, nor the roads of Massachusetts. Ontario roads are needed, such as are suited to moderate travel, and a not thickly congregated population.

It is not proposed that an expensive plan of construction should be undertaken. From the figures quoted above, it is evident that a considerable expenditure is already placed on the roads. What is needed more than additional expenditure is that we make the best use of the annual expenditure now being made.

The total production of Ontario farms has a value annually, it is estimated, of \$200,000,000. All this must first pass over the common highways before reaching the markets. It is the basis of Ontario's wealth.

The amount is far in excess of that needed for home consumption, and the only resource is to obtain a market in foreign countries. This market is available only so far as we can sell more cheaply and produce a better quality than other competing countries.

It is not the effect of present conditions which constitutes the evil of bad roads; but it is in the conditions which they prevent that the loss lies.

It is on the principle that with every means provided for easy, quick and good transportation, a market would be created for two loads, where we now sell but one. Many links in the system of transportation are being perfected, but the chain will not be complete without cheap transportation over the first part of the journey, the common highways.

Bad roads, whether dusty, muddy, rough or from any cause heavy, change what should be one of the advantages of farm life into one of its most disagreeable features. It is the reason why so many of the brightest of the younger generation press into the towns and cities in order to escape the dullness of the country. As has been said, one of the greatest pleasures of country life, driving and travel,

remains as one of the serious drawbacks—bad roads.

Farming is a business which can be carried on as successfully and in as intelligent a manner as the industries of the towns and cities, but the difficulties of travel repel rather than attract. Distance does not constitute the difficulty. It is absence of proper means to overcome it. With good roads the agricultural community will discover a means of attracting rather than repelling population.

No farming country ever had a good appearance, however fertile and productive, when looked at from a road that is rough or dusty, or a river of mud. Appearance, even in farm lands, is of as much importance as in a house or carriage. It is a well known fact that a properly designed street transforms the appearance of city property, and greatly increases the value. A good appearance is a source of pleasure to the owner, and a good many dollars in the eyes of the purchaser. Good roads affect the appearance of farm land in a way that is startling, and those who have any doubt of the matter cannot do better than make the experiment. When a bad road is made good, those who use it have an opportunity to turn their eyes away from ruts and mud, to look at features of far greater attractiveness which no locality of Ontario is without.

This increase in the value of property arises too from the greater profits accruing as the result of the saving in the cost of transporting of farm produce. There are many ways of rendering a business more profitable. One is by decreasing the cost of production. Cheaper transportation by means of good roads means, in effect, that the cost of production and the consequent increase of profit will guarantee a larger and readier investment in the farm.

The value of the farm is further enhanced by the increased opportunities that arise through good roads. The farmer is not impeded in any season of the year in the sale of his produce, and can in consequence reach the market when prices are highest, with perishable produce—fruit, certain vegetables, milk, which, if it cannot be taken to the consumer in the town or city with the least possible delay, is unsaleable or can be disposed of only at a reduced price. Good roads bring farm lands ten, twenty, forty miles away into available distance of a city market, whereas, one mile of really bad road may render otherwise fertile land useless. Distance with respect to the farmer and the market is not measured by miles so much as by the time and labor it takes to transport his product.

Among other branches of agriculture which demand good roads, dairying may be referred to as a specific instance. Cheesemakers tell us that, in order to secure the best quality of cheese the milk should be transferred to the factory as quickly as possible, with the least possible amount of jolting, and that the cheese should be manufactured in large quanti-

ties. The effect of changing the roads from bad to good in a dairying district is at once plain. The milk is carried over smooth roads expeditiously from the dairy to the factory, with the least possible exposure to the sun, and least amount of churning in transit. The milk can be drawn from a larger area, the cheese made in larger quantities, factories fewer but larger, and manufacturing expenses thereby reduced, while a uniform quality of cheese is produced.

There is difficulty in arriving at exact conclusions with regard to the economic value of good roads, because of the absence of complete and reliable data. There are impediments to our reaching a complete solution, in the fact that the different benefits of good roads will combine, act and react upon one another so as to materially alter relative conditions. Ease of traction, longer hauls, more rapid travel, fewer horses, saving in wagons, harness horseflesh; increased rural population; less congestion in the cities; increased land values; greater profits on the farm; better business and social facilities, will all unite toward the one end in enabling us to live well and more wisely. The people of the American continent have, to an abnormal extent, turned for their ideals to city life. The greatest ultimate benefit which good roads can confer is to bring us back from the towns which men have made, where brick walls, stone pavements and odors of filth have shut out our remembrance of field, forest, stream, sky and nature's God—this is not the least desirable of economic results.

Culvert Tile.

The use of Portland cement in building construction is of growing interest to the engineer. New applications are constantly being suggested, and its adaptability to varied circumstances is one of its most valuable characteristics. Wireless telegraphy, the Rhontgen rays, and many other of the later discoveries have been flashed upon us unexpectedly, out of the darkness. Unlike these, the wide range of applications of Portland cement have grown before us slowly, out of a gradual experience, until, massing them all together, this material has become one of the wonders of the day.

While the broader view of the situation brings to us something of amazement, it is in detail that we as builders must, for practical purposes, consider it.

Its use in roadmaking affords a view of some of its most remarkable qualities, but it is to only one of these applications this article will draw attention, a seemingly very humble use—the making of tile culverts. The number of these culverts on country roads varies greatly. Ordinarily half a dozen are needed to each mile of road if proper drainage is provided. The result has been that in constructing and maintaining a large number of wooden openings under the roads, very many

townships have annually spent a considerable portion of their expenditure available for road purposes. These small culverts are themselves constantly out of repair, forming an obstruction to travel and the free use of the roads. The end has therefore been two-fold, in that they absorb so much of the money available for road improvements, and at the same time display almost human ingratitude by their obstructionist tactics. There are not a few townships in the province which annually spend on small culverts one-half or two-thirds of their annual road appropriation. It is not the least of the good offices of Portland cement that it promises to aid highway improvement very largely in this respect.

The manufacture of concrete tile for culverts is a very simple matter, and can be undertaken by the municipalities themselves, although in a number of cases they are now manufactured as a private enterprise.

The implements required are of the simplest kind. The most important are two steel, spring cylinders, one to set inside the other, leaving a space between the two equal to the thickness of the finished concrete pipe. By "spring-cylinder," it may be explained, is meant such a cylinder as would be formed by rolling a steel plate into a tube without sealing the joint. With the smaller of these cylinders the edges overlap or coil, slightly, but are so manufactured that the edges may be forced back and set into a perfect cylinder. With the larger, the edges do not quite meet, but may be forced together and fastened. Accompanying these molds are bottom and top rings, which shape the bell and spigot ends of the pipe.

The two cylinders, with joints flush, are set on end, the one centrally inside the other, and on the bottom "ring," which in turn rests on a firm board bottom. The concrete made of first-class cement and well screened gravel in the proportion of one of cement to three of gravel, is then tamped firmly into the space or mold between the two cylinders. The tamping-iron used to press the concrete into place is so shaped as to fit closely to the cylinder.

The concrete is allowed to stand in the mold for a short time, when the cylinders are removed; the outer and larger cylinder by removing the clamps, and allowing the edges to spring apart; the inner cylinder by removing the fastenings, so as to allow the edges to again overlap, returning to the shape of a coil. The outer cylinder having thus been made larger, and the inner one smaller, they can be readily taken away, and the concrete pipe is then left until thoroughly hardened. For the larger sizes, the two halves of the outer cylinder are usually hinged, and can be more carefully removed than when allowed to "spring" from the concrete.

Just such a number of pipe as are actually required for the season's work

need be manufactured; the implements required are inexpensive, and the pipe may be made by the municipality for actual cost, which, after a little experience, can be reduced to a small amount.

The concrete adheres closely to the metal, and to overcome this it is necessary to keep the molds well oiled. This should be done after each tile is made, and when the molds are by this means kept clean, a smooth and uniform pipe of good appearance is obtained. A good mixture for oiling the molds is composed of two parts of machine oil to one part of coal oil.

To secure a durable pipe, it is necessary to exercise much care in mixing the concrete. Portland cement should be used. If gravel is used, it should, first of all, be clean. Any earthy material, clay, or vegetable mould, will certainly create a flaw in the pipe which will lead to an early destruction, and durability is the quality most desired. The gravel should be of such a size that it will pass through a one-half inch screen and should be of varying sized grain, in such proportions as to make a compact mixture. The gravel forms the greater part of the mass of concrete, and it is evident that the result will depend very largely on the quality of the gravel.

The materials should be mixed in the proportion of one part of Portland cement to two parts of gravel. They should be first turned over in a dry state until thoroughly intermixed and of a uniform color. Water should then be added. This, like the gravel, should be clean, and there should be just enough to moisten the mass of concrete. An excess of water tends to injure concrete in various ways, and is especially to be avoided in the manufacture of tile, as the tamping cannot be properly performed, when too much water is used. When the water has been added, the mixture should be made uniformly moist, by turning it over about three times with a shovel. The concrete is then ready to be placed in the molds, in which it should be firmly and vigorously tamped.

Just enough concrete should be mixed, as can be put in the molds before the process of setting has commenced, and it is therefore of importance to know how long a cement can be worked before setting begins. Ordinarily it is best to mix just such a quantity as will fill one mold at a time. Remnants of concrete which have commenced to set should be thrown away, and under no circumstances should they be worked up again and used, as they are certain to cause a defective pipe. Defects which do not appear until after the tile have been placed in a culvert and covered with earth, cause not merely the loss of the pipe, but a considerable outlay for labor which is wasted. The concrete should be handled quickly. Two men are needed, one to shovel it into the molds, and the other to tamp it.

Until the concrete has hardened sufficiently the molds should not be disturbed.

When the pipe has attained sufficient strength, which it should do in from four to six hours, according to the temperature and the kind of cement used, it can be turned end for end, thereby taking it off the bottom rings, and the molds may be removed. To enable the pipe to set satisfactorily they should be dampened every day for several days, if the weather is dry, and they should be protected from the direct rays of the sun in hot weather. They should not be used for some time after being made, but should be allowed to season for from four to six weeks.

The molds for manufacturing these tile may be obtained in various sizes, the more common being, for tile ranging from ten to thirty inches in diameter. The ten-inch tile is made about one and three-quarter inches thick; the twelve-inch tile, about two inches thick; the fifteen-inch tile, about two and one-eighth inches thick; the eighteen-inch tile, about two and one-quarter inches thick; the twenty-four inch tile, about two and one-half inches thick; and the thirty-inch tile, about three and one-half inches thick. Molds for making twelve-inch pipe cost about twelve dollars per set; for fifteen-inch, about fourteen dollars per set; for eighteen-inch about seventeen dollars per set; for twenty-four inch, about twenty-one dollars and fifty cents per set; and for thirty-inch, about twenty-six dollars. The molds are such as to manufacture pipe about two and one-half feet long. One set of bottom rings, those for forming the bell of the pipe, go with one set of molds, but it is advisable to have about four sets of bottom rings for each pair of cylinders to permit the maximum number of pipe to be made in a day.

The Importance of a Water Supply.

After a serious fire, which there was little means of combatting, the town of Port Perry is considering the installation of a system of public waterworks. This has been very largely the incentive to the construction of waterworks in the majority of towns in the Province. It is unfortunate that so costly a lesson is needed to arouse public sentiment in this regard, and yet it seems to be the case that, without some such striking example of the necessity of a public water supply, a councillor in many towns will place his public office in jeopardy should he advocate such a measure.

Water is one of the most useful liquids, and on it depends our existence. For example, in 1848, the French village of Bozel, which used water from wells, contained 1,472 of population, of whom 900 were goitrous, which is a disease showing glandular enlargement of the neck. To cure this a water supply was laid into Bozel from the town of St. Bon, when the disease decreased so rapidly that in 1864 there were only thirty-nine people having traces of the complaint. In one of the North Yorkshire towns in England low

fever and general lassitude was chronic with the population of the place. After a searching enquiry by the government the water supply was changed, and afterward the people brightened up, and their general health became good. There are many such cases as these recorded, which proves that it is of the first importance that the water we use for domestic purposes should not only be plentiful and convenient, but also of the softest and purest quality. We often give half a dollar for a good meal; a good bath improves the health and vigor of the body more than two meals, and those who have a plentiful supply of soft water may have their own private bath appliance, and enjoy a daily dip for less than five cents each. To be compelled to wash in hard water, or in dirty rain water after it has done duty in washing the filth from the roof of the house, and even then, the only quantity allowed being about three pints to each washing, is cruel and sinful, because the Creator has given abundance, and expects us to supply energy enough to pipe the water to our houses, and use it without stint and without waste.

The Great Lines and the Greater.

Many municipalities in the province have expended large sums of money in constructing large and expensive drainage works. They are in some cases miles in length, and have cut through considerable elevations of land. They are canal-like in their dimensions, and serve as outlets for networks of smaller drains which intersect the cultivated fields, carrying away sub-soil and surface water from a large area. The huge trunk drains are, it is true, a main factor in securing the general result, but they are not all, in spite of the immense sums they have cost. In themselves they benefit but a limited territory, and that to a limited degree. Not until the smaller lateral drains are made, is the chief benefit realized. The greater drain, the outlet, is but the servant of the aggregation of the smaller channels which, intersecting the fields, collect the water and empty it finally into the main drain. The efficiency of the drainage is not dependent upon the capacity and perfect grade of the outlet drain, but fully as much upon the measure in which the small lateral drains have been extended over the watershed.

In Ontario millions of dollars have been expended upon the construction and equipment of steam railways. These are now the trunk lines of travel and transportation. Their capacity and speed are, in most cases, all that present circumstances require. Like the drainage outlets their effectiveness is dependent on lateral channels along which traffic may flow to them, the main highways. The steam railways are, in point of completeness, far in advance of the network of subsidiary lines which they are able to serve. New lines of steam railways may still be needed in some districts, but the

great need of the entire province is better roads.

Reflecting upon conditions in Ontario, the trunk lines are such as to excite surprise and admiration. The common roads leading to them are also such as to excite surprise, but not admiration. Attention has too long been directed from the common roads and there is now need of a vigorous effort to bring to a corresponding degree of efficiency the network of common roads from which the trunk lines derive sustenance. The arteries of national life and vigor are the common highways along which flow commerce and the products of industry.

County Roads.

The Good Roads Convention held in Ottawa in March last was productive of much good at the time. A complete report of this convention has been published and widely distributed by the Ontario Commissioner of Highways and it forms a most valuable addition to the literature of good roads, having put in permanent form what would otherwise have had a mere temporary and local value. Among the subjects discussed at length was the question of county roads a matter which is being actively canvassed in numerous municipalities at the present time, due largely to the influence of the recent Highway Improvement Act, granting one million dollars for road improvement.

County councillor, James McEwing, referring to county roads in Wellington, said:

"The proportion which we in Wellington county expect to get is something more than \$30,000. In our county there are some like myself, canny Scotchmen, who hesitate a great deal before entering into large enterprises unless they know where the money is coming from. Notwithstanding the fact that we have expended only \$27,000, we have good roads built by the township. We have eighty miles of good gravel road, besides what were built by the county. I believe this matter of good roads is a good thing. We have about 140 odd miles of county road now. We have at the present time a large portion which was built some years ago running through the north part of the county. That portion consists of loose soil. When the roads were built, owing to the immense traffic, they were built on a broad principle. They were built wide. We find that the continual traffic is gradually wearing the centre downward. We feel that a great portion of the road must be remodelled in the near future. We have been spending more than \$10,000 a year on those roads. We do not like to raise our taxes to any great extent. Our scheme is something like this:—We want to draw that \$30,000. There are two or three townships which have not a fair percentage of roads at the present time. But they have to contribute their shares in the maintenance of

them. We propose to expend about \$12,000 a year on these roads. We have nearly all the heavy bridges built in the county now. They will cost very little during the next ten or fifteen years. We propose to set aside \$3,000 a year for the maintenance of these roads. Then we propose to set apart the sum of \$9,000 to be expended annually in remodelling and resurfacing these roads. We believe that without increasing the taxes of the people we can put more than 170 miles of county roads in first-class shape, and draw our proportion from the government treasurer to improve these roads. I believe that, by following along the same lines, a great many of the counties can do work of a similar kind. We propose purchasing modern, up-to-date machinery. I was just a little surprised at some of the remarks of some of the speakers as they talked about the tendency of the people to flock to the cities because of the bad roads in the country. Perhaps there are fewer people in the country than there were years ago. But it is because there is not so much need for manual labor on the farm. The people are not leaving the country because of the bad roads. I think if we use good judgment in our expenditure and seek proper information, we shall make great improvement in the next five years, and that without raising taxation."

County councillor, John Edwards, of Leeds and Grenville, said:

"Last year we discussed this matter in common council. We had fifteen municipalities represented there by the Reeves, and at that conference we received suggestions of great value to us. We designated the roads through the county to the amount of 312 miles, costing us \$190,000. Debentures were issued for \$150,000. We have every confidence in the township councils that they will pass this by-law. I know several who have been favorable to this scheme. Of this \$150,000 we appropriated a portion for the purchase of toll roads. With regard to the matter of constructing the road, and as to whether it should be done by the county or by private control, we believe we get better value for our money by letting it out to private individuals. We know that the roads to-day are not so good as they were twenty years ago. We have also heard with regard to our cheese industry. The boxes have been badly broken. I think this is due to the fact that we have bad roads."

Rural Telephones.

Farm telephones are multiplying, says the *Farm, Field and Fireside*. They save many a long, hard drive in the cold at this season. One farmer arranges to go to the post-office, store, or railway station for the neighborhood; and so a half day's work or more is saved to many, for men and animals. It is economy in time, in wear and tear of carriage, in the exposure

and use of horses, and in ways too numerous to catalogue.

But one of the chief uses of the farm telephone is in its social benefits. It brings the people in touch. What one knows of importance can be known by all. If there is a Farmer's Institute, a lecture, a meeting, a party, or social event of any kind, the fact is easily communicated. This gives a real, live, friendly, social touch. You are no longer an isolated family, left out in the cold—you belong to a community. You are not withering away or rusting out in a rural or pioneer home, but you are in healthful contact with those who sympathize with you, and are ready to lend a helping hand if you need it. You may not need it, but the knowledge that you can have it, and that you are a living part of a modern, civilized Christian community is a source of comfort and of equanimity which has its own value.

Dollars and cents do not make up the whole of life. Why do farmers flock to the cities? One reason is that they feel the need of the social contact and the various privileges which come from community life. If farmers' wives and daughters will be made happier, and if the killing isolation can be overcome and families be brought more into organic connection with the great, live world, it will be worth more when a life's history is written than anything that can be computed in money.

By the introduction of cheap telephones farmers, more than any other class of workers, will be benefitted. When the mails are delivered in farm homes, as they now are in all city homes, and when benefits of publicly-owned electric roads and telephones are secured, farm life will be a good deal more cheerful than now.

In New Jersey.

In New Jersey the state government contributes one-third the cost of constructing good roads, the remaining portion of the cost being contributed by the municipalities and the parties specially benefitted.

So many counties are taking a part in road building that the difficulty is to secure funds to meet the portion contributed by the state. Since New Jersey entered upon the policy of improving its highways the value of its taxable property has increased by \$27,000,000, an increase which is attributed largely to the construction of good roads. The commissioner reports that there are several localities where the improvement of the roads has been instrumental in attracting from one to four millions of wealth during the last few years. There is no doubt that the proximity of New Jersey to some of the largest cities of the United States has made the outlay on good roads especially advantageous, but there is also no question that, in this province, good roads would furnish an abundant return upon the outlay.

Ditches and Guard Rails Along Highways.

The following opinions recently given by Mr. Donald Guthrie, K. C., to the council of the county of Wellington, will be of much interest to municipalities generally:

FIRST QUESTION.—At what depth may open ditches be maintained along county roads without erecting guard rails?

In answer to this question Mr. Guthrie says that, in his opinion, there is, by law, no particular or specified depth to which ditches may be maintained along county roads without erecting rails. The law is that guard rails must be maintained wherever necessary to protect travellers upon the roads from accidents, that is, travellers who use ordinary care; accidents which are the result of the travellers' own carelessness the county would not be responsible for.

In other words, it is the duty of the corporation to provide guard rails or fences wherever these are necessary to make roads and bridges safe for public travel. If the roads are kept in such a reasonable state of repair that those requiring to use them may, using ordinary care, pass to and fro upon them in safety, the requirement of the law is satisfied, otherwise not.

SECOND QUESTION.—Is the county required to maintain ditches along county roads deep enough to carry off the water from underground tile drains? If not, then how deep may farmers and others living on county roads make and maintain open ditches for the purpose of carrying off water from such tile drains?

In answer to this question Mr. Guthrie says that his opinion is, that unless under an award made in pursuance of the Ditches and Water Courses' Act, or the laws relating to municipal drainage, the county is not bound to maintain open ditches along county roads deep enough to carry off the water from the underground tile drains upon the neighboring farms. If the second part of the question implies that farmers living on farms adjacent to county roads have the right of their own motion, or as they see fit to make and maintain open ditches upon the county roads for the purpose referred to, then no person without the authority of the county, or without the authority of a lawful award under the Ditches and Water Courses' Act, or Municipal Drainage Act has any right whatever to make or maintain open ditches upon the county roads. If any person, without lawful authority, interferes with a county road by making excavations therein or thereon, and such excavations render the road in any degree dangerous to the travelling public, the person who so makes the excavations is, in Mr. Guthrie's opinion, liable to be prosecuted under the criminal law, for having committed a public nuisance.

The electors of the town of Amherstburg have assented to a by-law granting aid to the extent of \$10,000 to the Sandwich, Windsor & Amherstburg Electric Railway Co.

Question Drawer.

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

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

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

Assessment of Farm Land in Villages.

359—J. S. E. 1. Kindly let me know what action the council can legally take in the matter of the following petition and how to go about it:

The Municipal Council of the Village of T:

GENTLEMEN: Whereas certain land-owners in the village of Tiverton have by their petition set forth that their lands in the past have been subjected to burdensome taxation, in respect of certain rates levied by the municipal council of the said village, and have prayed that the said council might grant relief to such owners of farm lands from such burdensome taxation.

Therefore we, the undersigned petitioners, humbly pray:

1. That a three-quarter rate of the general rate of the present assessment be levied on all farm lands comprising the following numbers situated in the said village.

2. That the said rate shall remain in full force during each and every year for the term of ten years.

Signed by A, B and seven other owners of lots within the limits of the corporation.

2. Has the council power to give them a reduction in the "county and school rates," or are they only confined to the "general or village" tax?

3. Is the time for taking action in the matter limited to any particular time other than any time before striking the rate, which is done in September usually?

1. As we understand it, this is a question of the assessment of farm lands within the limits of an incorporated village. Section 8, of the Assessment Act, provides that such lands shall be assessed as farm lands, according to the principles laid down in section 29, of the Act. See clause (b) of sub-section 1. This section applies only to lands in blocks of not less than five acres. If the lands of each of the parties signing the petition contain more than five acres, the assessor should assess them as farm lands as above, and if he has not done this, the parties should appeal to the Court of Revision pursuant to section 71, of the Act, to have this omission rectified. If the parties neglect to appeal to the Court of Revision within the time and in the manner required by the Assessment Act, we do not see that they now have any remedy, as the COUNCIL has no legal right to grant the prayer of the petition.

2. The council has no legal right to grant these parties any exemption from any rate, other than taxation for the expenditure for the public improvements mentioned in sub-section 2, of section 8. The council is required to pass a by-law for the purpose, at least, three months before striking the rate of taxation for the year.

Regulation of the Sale of Bread in Villages.

360—W. J. W.—I am instructed by this municipality to ask you in regard to sale of bread in incorporated villages, as to weight, if any by-law is required. We have two dealers in bread in this place. One bakes and sells his own make, the other does not bake anything whatever, but imports bread for sale of one and a-half and three pound loaves, and sells same for five and ten cents respectively. Our baker makes in two and four pound loaves and sells at same price. The baker asks the council to have the importer sell the same weights as he does. Can the council make legal by-laws to have all bread sold by the two and four pound loaves?

A by-law passed in accordance with the provisions of the Municipal Act is required to regulate the sale and weight of bread in an incorporated village. Sub-section 4 of section 550, empowers councils of such villages to pass by-laws "for preventing the use of deleterious materials in making bread; and for providing for the seizure and forfeiture of bread made contrary to the by law." Sub-section 11 of section 580 "for seizing and forfeiting bread or other articles when of light weight or short measurement," and sub-section 1 of section 583 "for regulating the assize of bread." In the case of Regina vs. Nasmith (2 O. R., 192) a by-law of the City of Toronto was held valid, which provided that (1) all bread sold or offered for sale in the city of Toronto shall be in loaves of one pound, one and one-half pounds, two pounds and four pounds respectively; (2) the weight of every loaf of bread sold or offered for sale in the city of Toronto shall be stamped thereon; (3) all bread offered for sale of any less weight than the weight fixed by this by-law shall be forfeited."

Assessment of Railway Bridge.

361—T. P. M.—An international railway bridge joins the township of A, and the state of M. U. S. A. Will you kindly advise me if the bridge or a part of it can be assessed?

It is only the land occupied by the railway company that is assessable and not the superstructure. A bridge is part of the superstructure of a railway and is, therefore, not assessable. See Great Western Railway Co. vs. Rouse, 15 U. C. Q. B., 168; London vs. Great Western Railway Co., 25 U. C. Q. B., 570; Grand Trunk Railway Co. vs. Pt. Perry, 34 C. L. J. N. S., 239; and section 31 of the Assessment Act.

Collection of Tenant Defaulter's Statute Labor.

362—SUBSCRIBER.—Last year A had a farm rented from B with the understanding that A would perform the statute labor for same. He

neglected doing so. The amount of his labor was not charged against him in his taxes in the fall, the pathmaster failing to return the labor list to the clerk within the time specified by law. The pathmaster has since returned A's labor undone. A has gone out of the country and B is this year working the farm. Who is liable for the amount of the labor?

We are of the opinion that the road in this municipality should not lose the benefit of the statute labor. In settling with his tenant prior to his leaving the place, B should have seen that A had performed the statute labor, or if not, that he should be allowed by A sufficient to indemnify him for his loss and trouble in having to perform it. The amount of this statute labor should be placed on the collector's roll for the municipality for the year in which default was made, or the year following, against the lands of, and collected from B.

Vote Necessary to Carry By-law to Build Sidewalks in Village.

363—J. M. A. W.—Would you kindly inform me what is necessary to carry a by-law for raising money to build sidewalks in villages? Our council submitted a by-law for that purpose. The total number on the list entitled to vote is 208. The number of ballots cast was 99. There were 93 for and 5 against and one spoiled ballot. Would this by-law be defeated?

Since this is not a bonus by law, its carrying is not dependent upon the conditions mentioned in sections 366 and 366a of the Municipal Act (the latter section was enacted by section 8 of the Municipal Amendment Act, 1900). The assent of a majority of the electors voting on the by-law is sufficient, therefore we are of the opinion that, so far as the electors are concerned, this by-law is carried.

Compelling Stationing of Watchman at Railway Crossing—Power of Council to Sell Burying Grounds.

364—R. C.—1. What steps can the council take to compel the G. T. R. company to place a watchman at a dangerous crossing on one of the principal streets?

2. The council has a deed of each of two old burying grounds, in which burials have been prohibited, (a cemetery just outside of the village limits having been opened). What steps can the council take to have the bodies removed, or can they, the members of the council, remove the headstones to the cemetery? The council requires these two places for parks, and would like to fit them up. The council procured a piece of the cemetery in which to bury remains of those who do not wish or care to obtain plots.

1. If the council and the railway company cannot amicably agree as to the placing of a watchman at the crossing, the council should report the matter to the railway committee of the Privy Council, urging upon the latter the dangerous condition of the crossing, and that a watchman is necessary in the interests of the public safety, and we have no doubt that the railway committee will see that this element of danger is removed.

2. We presume that these lands were acquired by by-law of your council, passed in accordance with the provisions of the Municipal Act then in force. The Municipal Act, as far back as 1868, has con-

tained a provision that "such by-law shall not be repealed," the same as is now to be found in sub-section 1, of section 577, of the Municipal Act. This being the case, your council cannot dispose of these lands or appropriate them to other uses, (such as parks, etc.,) unless authorized by the legislature so to do. If these grounds had not been used for burial purposes, the municipality would be in a position to dispose of them pursuant to the latter part of the subsection quoted.

Liability for Building of Farm Crossings—Law as to Building of Snow Fences.

365 G. W. T.—1. In this municipality certain roads upon which the township road grader has operated this spring has necessitated the building of several culverts or crossings leading from peoples' lanes to the road. Some of these parties have asked council to pay for building these crossings. It has generally been the practice in former years for interested parties to build their own except in case of a crossing being taken up by the corporation for grading or otherwise. Would you kindly state if a municipality is liable for building these crossings and also the keeping of them in repair? Kindly give sections or decisions, if any, bearing on the case.

2. We have a by-law passed in connection with the Pounds Act allowing cattle, horses, sheep and swine to run upon the highway and also stating what a lawful fence shall be. Some road fences may perhaps not quite comply with the by-law and roads drift badly in the winter. Has council the power to say to such owners, with fences causing bad drifts, to remove them and build such other kind as will comply with the Pounds By-law and lessen the drifting on roads also? We have a by-law for people to take advantage of to build wire fences at 35 cents per rod where the council sees such fences are necessary.

1. A township municipality cannot be compelled to construct an entrance, road or bridge leading from a man's farm, etc., to a road adjoining it. In the case of *McCarthy vs. Oshawa* (19 U. C. Q. B., 245) Mr. Chief Justice Robinson says at page 247: "Then, as to other grounds of action introduced by the amendment, viz., the neglect by the defendants of an alleged duty, to provide a bridge or crossing from the plaintiff's land and house, no authority has been shown for asserting that to be a duty incumbent on the corporation, and we do not think it is." The case you submit, however, appears to come within the principle laid down in *Yeomans vs. the Corporation of the County of Wellington*, where the law is thus propounded: "The owners of property abutting on a public highway are entitled to compensation from the municipality under the Municipal Act, for injury sustained by reason of the municipality, having for the public convenience raised the highway in such a manner as to cut off all the ingress and egress to and from their property abutting on the highway which they had formerly enjoyed, and to make a new approach necessary. According to this decision, it appears that where a man's approach to a highway is destroyed by work done on the highway for its improvement so as to require a new approach, he is entitled to compensation.

2. Section 2 of chapter 240 of the Revised Statutes of Ontario, 1897, empowers the council of every township, etc., to require owners or occupiers of lands bordering upon any public highway to take down, alter or remove any fence for and to cause an accumulation of snow, or drift so as to impede or obstruct the travel on the public highway, or any part thereof; and where such power is exercised they shall make such compensation to the owner or occupants for the taking down, alteration or removal of such fence, and for the construction of some other description of fence approved of by the council in lieu of the one so required to be taken down, etc., as may be mutually agreed upon. If a mutual agreement as to the amount of such compensation is not arrived at, arbitration, in the manner provided in the Municipal Act will have to be resorted to.

Placing of Arrears of Taxes on Collectors Roll in Towns.

366—J. C.—In reply to my letter in the *WORLD* for July, 1902, on page 121, do you consider that section 158 applies to "towns"? Section 157 to which section 158 applies refers only to every township and village and not to "towns," and if it does not apply to "towns," then it does not apply to us. Section 158 "In case it is found by the statement directed by the last preceding section to be made, etc."

We are of opinion that the provisions of section 158, of the Assessment Act, apply to towns as well as townships and villages. Section 224, of the Act, provides that, "In cities and towns arrears of taxes shall be collected and managed in the same way as is hereinbefore provided in the case of other municipalities, and for such purposes the municipal officers of cities and towns should perform the same duties as the like officers in other municipalities."

Power of Council to Give Deed of Road Allowance.

367—E. M.—Have municipal councils the right to give absolute deed of original road allowance the consideration being another road in another place?

Yes—if prior to the closing up and sale of the road the council has passed a by-law for the purpose pursuant to the provisions of section 637 of the Municipal Act after having first taken the preliminary steps set forth in section 632. What we have said must be considered in connection with subsection 11 of section 640 and section 641 of the Municipal Act.

Lands Wrongfully Sold for Taxes.

368—J. A. R.—1. A is the owner of lot No. 9 on Flatt street. B is the owner of lot No. 5 on Flatt street. Assessor in 1897 assessed both lots as No. 9. A pays his taxes, B does not pay. B's lot was returned for non-payment, but as No. 9, and was sold and tax-deed for lot No. 9 was given to C. A is the owner of lot 9 and paid his taxes. Can the council compel C to accept his money with ten per cent. and deed back the property to A, or accept B's lot which should be numbered as 5.

2. A piece of Q's land was sold for taxes. Q claims that assessor failed to notify him of arrears and asks remuneration from the council. Is the council liable?

1. This tax sale cannot be supported, and is invalid. The case of *Beckett vs. Johnson*, 32 C. P., 301, was an action in ejectment, under a tax-deed by the assignee of the purchaser, who was the township clerk. The sale was for taxes alleged to be due for the year 1871 and 1872. In the assessment roll for 1871 the land was described as the "S. part 12, 53 acres," and for 1872 as "S. E. part 12, 53 acres;" and it appeared that the land, whether taken as the south or southeast part, included portions of the lot owned respectively by F and C, and on which they had paid their taxes; and also certain lots of a village laid out on part of 12. It was held that plaintiff's title failed, for that the assessment was illegal. Mr. Chief Justice Wilson remarking that the evidence set out in the report of the case, showed that the defendant had, as between himself and the municipality, paid the taxes upon his part of the lot. It was further held that the defect was not cured by section 155, of Assessment Act of 1868, (now section 208, of the Assessment Act.) As C acquired no title he ought to execute a quit claim deed to A in order to remove the cloud upon A's title. The council cannot compel C to accept a deed of lot 5, nor can it lawfully give such a deed.

2. This is also an illegal sale. In the case of *Deverill vs. Coe*, (11, O. R., 222,) it was held that the sale could not be supported, as the notice required by sec. 109, of the Assessment Act (now sec. 153,) that the land was liable to be sold for taxes, had not been given, and that such irregularity was not cured by secs. 155 and 156, (now 208 and 209 of the Act.) The council is not bound to pay back any of the purchase money in either of the above cases, nor is it liable in any way.

Payment of Assessors for Equalizing Union School Sections.

369—S. D.—In the *MUNICIPAL WORLD* for July, on page 115, section 322, you give answer as to who should equalize the assessment of union school sections. You say the assessors of the adjoining townships should do the work. Who pays these assessors, the union section or the townships.

We can best answer this question by quoting the contents of a letter written on the subject by the Deputy-Minister of Education to a school inspector in Chatham. They are as follows:

DEAR SIR—I am directed by the Minister of Education to state in reply to your letter that the work of the assessors becomes that of referees or arbitrators when engaged in equalizing the union school sections' proportions, and their payment should be from the funds of the union section.

Your obedient servant,

JOHN MILLER,
Deputy-Minister.

Toronto, February 20th, 1896.

See also our article on "Assessors' pay for equalizing union school section assessments," on page 160, of *THE WORLD*, for 1901, October issue, and the report of a

case involving this point, decided against the township of Douro, in the third column, on page 178, November issue.

Collection of Arrears of Taxes.

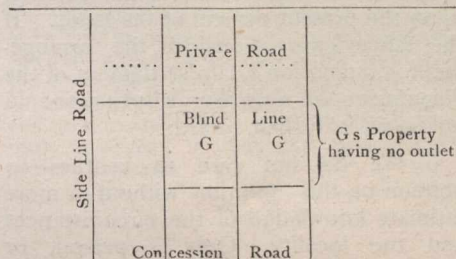
370—F. J. C.—In reply to the question I submitted to you in your July number, you use these words, "There is nothing in the statutes to render *illegal* the placing of these arrears upon the collector's roll the second time," etc. Now what I want to know is whether or not there was anything in the statutes to justify me in entering them a second time on the collector's roll. There are many things *not* mentioned in the statutes, and this seems to be one of them, and therefore I conclude there is nothing to justify me in entering them a second time. I presume you will not claim that this second entry is justified, simply because the statutes say nothing about a second, third, and any other entry necessary but only once. I have always supposed that no act could be done on this or any other matter unless the statutes gave the necessary authority, as I understand that the legislature have reserved to themselves all things that they have given no authority to be done by other persons.

Lands upon which any portion of the tax has been due for and in the third year, or for more than three years preceding the current year, are lands liable to be sold for taxes, (see section 173, of the Assessment Act,) and should be included in the list required to be furnished by the treasurer to the clerk, by section 152, of the Act. If the time for selling such lands for taxes has been extended by by-law of the council, under the authority of section 173, of the Act, and the arrears of taxes charged against these have not been paid, they will remain "lands liable to be sold for taxes," in the municipality, and should be included by the treasurer in the list mentioned in section 152. If, on examination of the assessment roll when returned, the clerk ascertains that any of the lands included in this list have become occupied or built upon, or are incorrectly described, he is required by section 155 to return a list of such lands to the proper treasurer. By sub-section 2 of the latter section, the treasurer is required to return to the clerk "an account of ALL arrears of taxes due in respect of such occupied lands, or lands built upon, including the percentage chargeable under section 169, of the Act." Sub-section 3 requires the clerk, in making out his roll, to "add such arrears of taxes to the taxes assessed against such occupied land, or lands built upon, for the current year, etc." Now, so far as these provisions of the statute are concerned, it is the duty of the clerk to place arrears of taxes on his collector's roll against the lands chargeable therewith, each and every year they are returned to him. But the latter part of section 158—"and such arrears need not AGAIN be placed upon the collector's roll for collection"—absolves him from this duty after he has once placed the arrears on the collector's roll for collection. It is to be observed that the legislature does not say that the clerk SHALL not place these arrears on the collector's roll more than once. So if he continues to place them on the roll against the lands chargeable therewith, he is not acting ille-

gally—the statute leaves it to his discretion as to whether he places the arrears on the collector's roll for collection more than once or not. You are quite right in thinking that authority must appear from some statute to do a particular act, but the right to place the arrears again upon the roll is implied from the latter part of section 158.

Council Should not Open Road for Private Individual.

371—X. Y. Z.—G has bought of each of two one hundred acre lots, fifty acres, making a total of one hundred acres, abutting upon the blind line as explained by the diagram below. Along the blind line and immediately outside of it, passing on the opposite lots, is a road bought and built by other parties for their private use. G, having the rear half of two lots, cannot use the private road, passing along the blind line and has no lawful communication to the concession road at the front. Can the council be forced to open up a communication to the concession road for G, and what powers has G against the council, concerning an outlet to and from his property?



The council cannot be compelled to open up a road from G's land to the concession road simply for the accommodation of G. If G requires such a road he will have to acquire and open it up at his own expense, as the general public do not appear to be in any way interested in the matter. G has no right of action or cause for complaint of any kind against the council for refusing to construct this road for him. It is to be presumed that when G purchased the property mentioned he was aware that there was no ingress or egress to or from it, and he cannot reasonably complain now. If he did not know this, he has himself only to blame.

Placing Arrears of Taxes on Collectors' Roll.

372—F. J. C.—I have carefully read your letter of the 12th inst. In the latter part of it, on page two, you use these words "it is to be observed that the legislature does not say that the clerk shall not place these arrears on the Collectors' Roll more than once." The legislature seldom, if ever, says that a work shall not be done, but in order to authorize a work to be done, it says the clerk shall or may do the work. Now if there is any statute that says the clerk shall or may enter a second time upon the roll the arrears of taxes, I am very anxious to know where to find it. I presume you do not hold to the doctrine that we may do anything and everything that the statutes does not say we may do and for one I fail to find any authority whatever to authorize me to enter arrears of taxes more than once on the Assessment Roll for collection, and your implied authority to do so seems to be very questionable indeed.

Where would our authority end if we had a right to do anything and everything not authorized by the legislature?

We hold to no such doctrine as you mention, nor can any indication that we do, be read into our replies to any of your questions on this subject. In our answer to your last question we confined ourselves to giving you the law in the matter as it is found in the statutes, and they have been our only guide. The sections of the Assessment Act under review, particularly sub-section 3, of section 155, all authorize a municipal clerk, in fact, REQUIRE him to place arrears of taxes on his collector's roll until they have been paid, or the lands chargeable therewith have been sold to realize the amount. Had the latter part of section 158, or a similar provision not been enacted, it is clear that this would be an imperative duty, so far as the clerk is concerned, but the latter part of section 158 renders the one entry of the arrears sufficient in cases where the lands chargeable therewith are not sold to realize the amount at the earliest legal opportunity, and the time for sale has been postponed by by-law of the proper council, and the arrears have not, in the meantime, been paid.

Pauper Relief—Duties of Fenceviewers and Owners Under the Line Fences Act.

373—X. Y. Z.—1. An old man without friends in the municipality and means of support was accidentally mortally injured by a team he was driving while working for a farmer. Farmer called in physician. Physician and farmer notified reeve that man was dangerously injured and that the municipality would have to provide for his care, etc. Is municipality in such a case liable for his care and physician's bill and for conveyance of injured to hospital?

2. In this case, reeve conferred with other members of council and engaged men to nurse the injured man. When engaging A, A asked reeve "what do you propose to pay a day?" Reeve said "we are giving Bone dollar per day and board." A said "you don't expect a man to work day and night for that?" Reeve said "certainly we don't expect any one to work day and night. You can't do it," which appears to be all the conversation that took place. A helped to take care of injured for four days, got his board and slept at house where patient was sick, and now refuses to take pay at the rate of one dollar per day as did the other two men, who assisted a longer time, but claims \$1.50 per day and the same per night for four days and two and a half nights and threatens to sue for that amount. He has accepted a cheque for \$4.00 as part payment of my account for nursing the late. . . . We are informed that A was occasionally wakened up to help use the catheter. Is municipal council liable for more than \$4.00?

3. How many days has owner before he must notify Clerk of Division Court that he intends to appeal against fenceviewers award after he received copy of award? Within five days?

4. If owner notifies fenceviewers and other interested persons that he intends to appeal and the time expires in which to build the fence—the Clerk of Division Court has not been notified—can other party notify the delinquent party to build fence, and if not built in time mentioned in statute, can he build and collect expense of building?

5. A property has been sold, half to A and half to B C, who owns property abutting, calls on fenceviewers. If fenceviewers find a previous agreement and division of fence, not filed with clerk and that C had built of wire and post a fence across the half bought by A, can they legally award that A shall make and

maintain twenty-one rods at north end, C to make and maintain the next thirty-seven rods running southerly and B to make and maintain the remaining twenty-four rods, that owing to C having built the twenty-one rods awarded to A that A shall furnish C with wire and posts for twenty rods of fence that C will have to build between C and B?

6. At meeting of fenceviewers, A had posts and wire lying on his own property and offered them to C through the fenceviewers, but now talks of appealing because the fenceviewers gave him more than twenty rods to maintain and put two-thirds of costs on him. He refused to do anything until he found out that the fenceviewers would be on. The fenceviewers made award of above nature as there would be only one piece of nineteen rods to build. A will have to repair his award part, as some posts are rotted off. A and B's parts are on level land and C's on hilly land. If A appeals, would his appeal be likely sustained under those facts?

1. No. Although subsections 1 and 2 of sections 588 of the Municipal Act authorizes councils of townships to grant aid, by by-law, to destitute persons as mentioned in these subsections. In re McDougall and the township of Lobo (21 U. C. R. 80) the court refused a mandamus to compel a township to provide for the support of an indigent laborer. In Kaiser vs. the township of East Whitby, a division court case tried before the late County Judge Dartnell, the plaintiff, a physician, sued the municipality for medical attendance upon a family of indigent poor, resident in the township. The claim was based upon the grounds: (1) That the municipality had received benefit from the services rendered, in being probably saved the expense of one or more pauper funerals, and (2) that the township council had specified in their estimates for the year, a sum for poor relief and had included it in the tax-rate. In the course of the judgment given, the judge said: "It is contended that a sum was set apart for poor relief and that the defendants are therefore bound to distribute it for that purpose." *This is a fallacy.* The by-law is for the purpose of raising, by a general rate upon the taxpayers, the sums required for general municipal purposes; but it does not follow that because a sum for the relief of the poor was included in the estimates upon which the by-law is founded, the defendants are therefore bound to distribute it. It is still within their discretion to determine whether they shall expend all or any or more than the sum thus estimated. There may be no poor requiring relief. Supposing that at the time when, as the plaintiff contends, the defendants became liable to him, the amount estimated had been fully expended, would his position not be the same as if there had been no by-law?"

2. There does not appear to have been any contract entered into between the COUNCIL and the man, but the council appears to have ratified what was done by the reeve and councillors, as individuals, by paying him the \$4 for his services. We do not think the council is liable for anything more.

3. The statute (subsection 2 of section 11 of chapter 284, R. S. O., 1897) does not specify the time within which this notice is to be filed by the party appealing, but it should be within a reasonable time after he has received notice of the award, and to ensure a speedy consideration of the appeal, it would be advisable to serve it at the same time as the notice mentioned in subsection 1.

4. If the time fixed by the award for building the fence has expired and the party appealing has not proceeded with the prosecution of his appeal or built his portion of the fence, we see no reason why any party to the award should not take steps to enforce it as provided in section 9 of the Act.

5. It is not stated whether A and B (or either of them) were parties to the old agreement, but we assume they were not. This agreement, not having been filed or registered in accordance with section 14 of the Line Fences Act, is not binding upon the present owners of the lands. If the fenceviewers consider the arrangement you mention a fair settlement of the dispute, we see no reason why they should not so fix it in their award.

6. We do not care to venture an opinion on this question without a more intimate knowledge of the circumstances and the locality. Only a person, or persons, who heard the evidence of all parties to the dispute and reviewed the locality of the fence, would be in a position to express himself with any degree of certainty in the matter.

Clerk Cannot Place Names on Voter's List—Expropriation of Gravel—Time for Opening Nomination Meeting.

374—J. F. C. - 1. Has a clerk any authority after the Court of Revision to put a man's name on the voters' list, who is not entered on the assessment roll, but who has since the holding of said court bought a farm in the township, and one interested in election matters requests the clerk verbally to place said party's name on voters' list?

2. In what way, if any, can a council or roadmaster take gravel from a man's field adjoining the road, who is not willing to sell it, and they have no other convenient place to get it? If he can be forced to sell it, and wants too high a price for it, in what way, if any, can he be compelled to sell it at a reasonable rate, and who has authority to take action in the matter?

3. Is it lawful to open a nomination meeting for township councillors any time between twelve and one o'clock noon, and how long after opening can the clerk lawfully receive nominations? Please give law clearly on this point.

1. No.

2. The council of a township is authorized by subsection 10 of section 640 of the Municipal Act to expropriate lands upon which gravel is to be found, and unless the council and the owner of such lands can mutually agree upon the price to be paid therefor, and the right of entry thereon, the matters in difference between them must be settled by arbitration under the provisions of the Municipal Act. See section 448 and following sections of the Municipal Act.

3. Unless the council of this township has passed a by-law pursuant to section 122 of the Municipal Act, the meeting for the nomination of councillors should *open at noon* on the last Monday in December annually (see section 119 of the Act), and by section 8 of the Municipal Amendment Act, 1902, it is provided that all the nomination papers mentioned in subsection 1 of section 128 of the Municipal Act shall "be filed with the returning-officer or the chairman within ONE HOUR from the time of opening of the meeting."

Qualification of Member of School Board—Postponement of Regular Meeting.

375—A. C. W.—1. Is it legal for a member of a school board to live and work in another town, his family only residing here?

2. Can he hold the chairmanship of the board when he is only present once in three months to attend a meeting?

3. Is it legal for the other five at a special meeting to postpone a regular meeting?

4. If so would the chairman have to be recorded as present, if he came to attend on the regular meeting night?

1. Since the chairman's family reside in the town, of the school board of which he is a member, and he comes home from time to time, we are of the opinion that he has not "ceased to be an actual resident" of the town within the meaning of section 104 of the Public Schools Act, 1901, and that the fact of his living and working in another town in the meantime, does not vacate his seat on the school board. In the case of R. v. North Curry, 4 B. and C., 959, it was judicially remarked that the word "residence," where there there is nothing to show that it is used in a more extensive sense, denotes the place where an individual eats, drinks and sleeps, or where HIS FAMILY or his servants eat, drink and sleep.

2. Yes. His seat is not vacated unless he absents himself from the meetings of the board for three consecutive months. (See section 104 of the Public Schools Act, 1901.)

3. If the postponement of the regular meeting was the business, or part of the business, for the transaction of which the special meeting was called, such postponement could be effected at that meeting, otherwise it could not.

4. If the regular meeting was legally postponed at the special meeting, no member who attends on the date originally fixed for the regular meeting can be recorded as present at the regular meeting, but all members not present at the special meeting should be notified by the secretary of the postponement. It would be otherwise if the regular meeting was not legally postponed at the special meeting.

A Drainage Assessment—Costs of a Drain Under the D. & W. Act and Drainage Debentures Township Assets.

376—Student.—1. A (a township) constructs a drain, under the Drainage Act, which has an outlet in B (another township) B was served

with a copy of the Engineer's report, estimating B' portion as follows:

Cost of constructing drain.....	\$66 00
Cost of printing and publishing by-laws.....	5 00
Clerk's fees.....	5 00
Registering by-law.....	2 00
Engineer's expenses.....	22 00
	<hr/>
	\$100 00

RATE OF ASSESSMENT.

Jno. Brown, Lot 1.....	\$40 00
Edward Smale, Lot 2.....	40 00
Jas. Smith, Lot 4.....	10 00
Township of B.....	10 00
	<hr/>
	\$100 00

B adopted the report and passed a by-law authorizing the reeve to borrow the amount by issuing debentures bearing interest at five per cent. payable in two years. Said by-law was passed and debentures issued March 20, 1900. The debentures were sold September 1, 1900, at four per cent. interest. The cost of digging the drain was \$42.00. The reeve received \$1.00 for selling the debentures, the clerk \$2.00 for executing the debentures. The reeve and clerk of A and B had a joint meeting December 1, 1901 to adjust accounts and at this meeting the above drainage account was settled and the order given for payment. The estimated cost was collected in 1900 and 1901, but nothing has been paid back to the ratepayers. The reeve and clerk each received \$2.00 for attending the joint meeting. Please give a statement showing the amount due Jno. Brown July 20, 1902. The Council of B did not pay the money over to A within four months but put it in the treasury.

2. On December 15, 1901 the council issued an order for \$20.00 in favor of the township engineer for serves on the T Award Drain. This will be entered on the roll for 1902. The auditors treated the \$22.00 as an asset in 1901 report. Is that correct? If so, please state reasons.

3. The council issue two drain debentures of \$50.00 each, payable February 1, 1902 and 1903. Should the auditors for 1901 include only one debenture in the liabilities or both?

1. The cost of construction of this drain, and the actual amount received by the reeve and clerk are given but it is not stated what the publishing of the by-law and the services of the engineer actually cost. It will be necessary to have definite information as to the latter before the difference between the amount realized from the sale of the debentures and the total amount expended could be arrived at. When this difference has been ascertained John Brown is not entitled to receive the share of it coming to him from the council in cash, but it shall be applied by the council of the municipality until wholly paid out, *pro rata* according to the assessment, in payment of the rates imposed by it for the work in each and every year after the completion of the work. See the latter part of sub-section 3, of section 66, of chap. 226, R. S. O., 1897.

2. The auditors were quite correct in considering this sum an asset of the municipality. Section 27, of the Ditches and Watercourses' Act, (chap. 285, R. S. O., 1897,) directs the council to pay such a sum as this at the time and in the manner mentioned in the section, and if not paid forthwith by the persons awarded or adjudged to pay the same, it becomes a charge upon the lands of such persons to

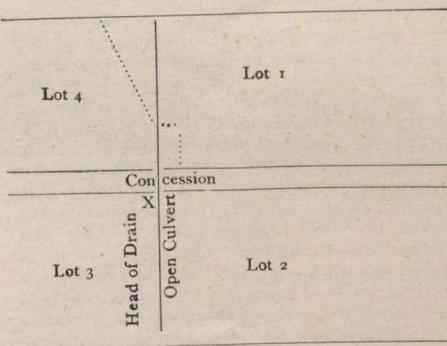
be placed on the collector's roll, and collected as directed in this section. From the time it is lawfully paid out by the council until it is repaid by the parties liable, it is an asset of the municipality.

3. Both these debentures should be included in the liabilities of the municipality.

Poundkeepers' Fees—A Dam Illegally Placed

377 SUBSCRIBER.—1. When there is a by-law in force in a township, stating that the owner of all impounded cattle over three years old shall pay forty cents per head, and all cattle under three years shall pay twenty cents per head, as well as the damage done by such cattle. What amount of this must the poundkeeper return to the township? Must he return the whole amount and make his charges extra, or has he a right to keep the whole amount?

2. The following diagram will show you a disputed drain constructed under the Ditches and Watercourses' Act. You will notice the head of the covered drain begins on the south side of the road at the line between lots two and three, and continues across the concession north, where an open culvert has been left to receive all high water. The tile has not been put in the lower ground, but on the east side of the line between lots one and four. The owner of lot four knowing this, went on the concession and built a dam on his side of the road across the ditch which was made to grade the road. Is he liable for any damage done to lots two and three caused by the water being dammed back, on account of such dam being built by owner of lot four.



1. By sub-section 4, of section 546, of the Municipal Act, municipal councils are empowered to pass by-laws "for determining the compensation to be allowed for services rendered in carrying out the provisions of any act with respect to animals impounded or distrained, and detained in the possession of the distrainer." The poundkeeper is entitled to retain only such sums as are allowed him as fees for services performed, by by-law, passed pursuant to the authority of above sub-sec. Fines can be imposed by by-law of the council upon the owners of animals running at large contrary to law, to be collected in the ordinary way by information laid before a Justice of the Peace, but we know of no authority for requiring such owners to pay these sums of forty cents and twenty cents, respectively, additional, to the amount of the damage done by the cattle impounded, and the lawful fees and expenses, but we do not mean by this that a by-law in apt terms cannot be passed declaring that a reasonable compensation, based on percentage, shall be allowed for services in carrying out such by-law. We cannot express any opinion as to whether

your by-law is such a by-law or not, as we have never seen it, but we infer from your question that the compensation is not solely for the purpose of compensating the poundkeeper for his services, and if that is so it goes beyond what is authorized by this section.

2. The owner of lot 4 has no legal right to place the obstruction in the drain on the road, and can be compelled to remove it. He is also liable to pay damages to any person injured by reason of its having been placed there.

Drainage Across Railway Lands—Drain Should be Carried to Sufficient Outlet.

378—M. S. B.—1. Our council has adopted the engineer's report in regard to a certain municipal drain. Said drain runs under the Grand Trunk Railway through a culvert. The engineer reports that said culvert will have to be lowered twenty-two inches. Now providing that the Grand Trunk Railway will not make the desired excavation free of cost, as the soil is sandy, would it be legal for the council to have the balance of the drain completed, and leave the water to wash out a channel through the culvert. The engineer says the water would wash out a sufficient channel. Or would we have to go according to section eighty-five of the Municipal Drainage Act? Please state as fully as possible which would be the right way to proceed in the case. Would the council be personally liable if they proceeded with the rest of the drain and left the water to wash a channel through the culvert?

2. There is a dam at the end of said drain, but the engineer reports that there will be sufficient outlet for the drain when it reaches the backwater of the dam, and some interested parties contend that in case the dam gives way when the drain is completed, that the owners of the dam can get compensation for their loss from those ratepayers interested in said drain. The engineer says that it is a fact in hydraulics that the overplus of water does not weaken the dam any, or will not cause a greater strain upon it. Providing the dam gives way, would owners be able to obtain damages from the township?

1. The council has no authority to construct a drain to the lands of the railway company, and allow it to work its way through or across these lands. It could be restrained by the company from so doing, and would be liable for any damages or injury the company thereby sustained. Section 85 prescribes the course to be pursued. We also refer you to chap. 286, R. S. O., 1897, which, however, applies only to railways in this province over which the Ontario Assembly has legislative jurisdiction. The councillors cannot be held personally liable in this matter by simply taking part in the passing of a by-law for the purpose stated.

2. It is the duty of the engineer to carry the drain through to a sufficient outlet, and if he reports that he has done so in this instance, since he is the best judge of the matter, we are not in a position to say anything to the contrary. If, however, any owner of lands above or below the dam should hereafter suffer injury by reason of the construction of this drain, he will be entitled to compensation from the municipality, or if the work was negligently done, and he thereby sustains damages, to a right of action against the

municipality for the amount of such damages.

Payment of Cost of Excavating and Filling in When Building Granolithic Walks.

379—TOWN CLERK.—Our corporation is building a block of granolithic sidewalks. The town is to pay 75 per cent. of the cost and the properties to be benefitted are to pay 25 per cent. The natural bed of the sidewalk is very uneven, some of it must be excavated, and other portions of it must be filled in to a depth of from two to ten feet, to bring it to a level.

1. Should the cost of excavating and filling in, *within the block*, be paid for (the 25%) by the owner according to the frontage proportion, or

2. Should each owner pay for the work which was necessary in front of his own property?

1. The excavating and filling in necessary in building these sidewalks is part of the whole work, and should not be separated, for the purpose of collecting the cost, from the remaining portion of the work. The cost of ALL the work, including the excavating and filling, should be paid for by the town and the private parties, in the relative proportions mentioned.

2. No. The whole portion of the cost of the work payable by the property owners must be apportioned among them according to their frontage.

Cleaning Out River—Gift of Gravel—Payment of Assessor for Attending Court of Revision.

380—J. M. K.—1. In reference to questions in June number concerning drainage by-law No. 296, clauses No. 2 and 5, I herewith enclose you answer which cover them.

2. Can a council, from township funds, upon a motion expend \$1,000 or \$10,000 in clearing brush and rubbish from the bed of a river, which drains principal lands?

3. Can a council give gravel to a school to be placed in school yard?

4. Is it lawful for an assessor to get pay for attending court of revision?

1. We will publish your enclosure in a future issue. We gather from Mr. Wilson's letter that he had full information as to the facts, and all papers relating to the matter before him, when he gave his opinion. We entirely agree with it, and have several times expressed ourselves in similar terms under like circumstances in these columns.

2. No. If these obstructions have been occasioned by the intentional or wilful act of riparian proprietors, sub-sections 12, 13 and 14, of section 562, of the Municipal Act, empower councils of townships to pass BY-LAWS for preventing the obstruction of streams, etc., by trees (tc.), and for clearing away and removing such obstructions at the expense of the offenders or otherwise, for levying the amount of such expense in the same manner as taxes are levied and for imposing penalties upon parties causing such obstructions. If, however, the obstructions are the result of processes of natural decay causing dead trees, limbs and leaves to fall into the stream and impede the flow of the water therein, the council may in its discretion pass a by-law providing for the clearing of such obstructions from the stream, pursuant to the provisions of section 3 of the

Drainage Act, on the presentation of the petition required by subsection 1 of this section.

3. It is not stated whether this gravel is on a road allowance or not, if it is, the council may pass a by-law under the authority of subsection 7 of section 640 of the Municipal Act providing the SELLING of gravel to the school section, but whether it be on a road allowance, or in a gravel pit belonging to the municipality, the council is not authorized by the statutes to GIVE it away to a school section or any other persons or person.

4. The statutes make no provision for the payment to the clerk of extra fees for attending the court for the revision of the assessment roll of his municipality (which, we presume, is the court of revision you refer to) nor is he entitled to any unless some agreement for payment of such was made with him by the council at the time of his hiring or at some other time. The performance of this duty devolves upon him as clerk of the municipality.

Maintenance of Bridge—Constructing Boulevards—Distribution of Cost.

381—X. Y. Z. 1. A bridge is built on a township boundry line, both townships lying wholly within the county. The bridge is one that is built and maintained by the county. The said bridge is built over a winding stream, that is gradually shifting its course during heavy freshets. The concession roads of one of the townships crosses this stream or river in several instances. The ditches as they are deepened and made more marked are leading large quantities of water into the stream and thus causing greater and more violent rushes of water and, as is always the case, has the effect of making the banks of a winding stream more crooked or winding. One of these curves happens to be so close to the boundary line that the rush of the water against the bank is undermining the abutment of the bridge on that bank and in time if something is not done to prevent the cutting away of the bank, in the adjoining farm, the site of the bridge will have to be changed to suit the changed conditions, as it is impossible for the county to protect their bridge or its abutment from damage, on account of the trouble being caused through the river's course being changed as aforesaid and is being changed more rapidly now than in former years. What I want to know is who is responsible for the damage to the county bridge? (There is not room on the road allowance to build anything to save the abutment.) That is to say:

1. Is the township or the private owner responsible for the damage done to the county's property?

2. What course should the county pursue to protect their property as well as the travelling public?

3. What is the proper routine to observe, where property owners desire the corporation to construct boulevards as a local improvement?

4. Please state whether any proportion of such work can legally be paid out of the general funds of the municipality.

This clause applies to the method adopted by this municipality for all local improvement work. The corporation undertakes all local improvements under the initiative plan, section 669, and have and are operating under this section with subsequent amendments observed.

5. The case that I wish you to give your opinion on is this:

The Engineer's estimates were open for inspection in the office of the Clerk for certain

local improvements. Said improvements were advertised in two newspapers the prescribed time. Personal notice was also served under the 1901 amendment, adding section 1 a. A Court of Revision advertised for and held, no appeals being made. Tenders were then called for and the lowest tenders were recommended by the committee to the council to be accepted and were accepted by a resolution to adopt the report. It was found that the tenders of the contractor were more than twice as much as the figures given by the engineer as the probable cost of the work and it is held by some that the council cannot go on legally with this work as the property owners have had no opportunity of appealing against a frontage tax that will be twice as much as they were led to believe it would be.

Can the council proceed with this work under the circumstances.

1. No.

2. The county is responsible for the maintenance of this bridge and should construct and maintain at this point such a bridge as will insure the safety of the travelling public. What steps the county should take with this object in view it is impossible for us to say. The services of a competent engineer should be obtained, and he will, no doubt, advise the council as to the proper course to pursue. See subsection 3 of section 640 of the Municipal Act.

3. The preliminary steps to be taken to accomplish the boulevarding of any street in a municipality are the same as those the statute requires to be taken in the case of instituting and carrying out any other local improvement under the local improvement clauses of the Municipal Act. (Sec. 664 and following sections.)

4. By subsection 7 of section 673 of the Act, "Real property adjoining and fronting on any park, square, public drive or BOULEVARD, shall be specially assessable for and in respect of the improvements, etc., made, etc., upon or in such drive or boulevard in like manner as real property fronting on a public street, etc., and where the lanes on one side of such drive or boulevard are a public park or square, or for other reasons are exempt from taxation, at least one-half of the cost of such improvements, etc., shall be borne by the municipality generally." We do not, however, suppose that this section applies to the case in hand.

5. We do not think the council can legally proceed with this work without again taking the preliminary steps proscribed by the Municipal Act. The parties interested who are to be assessed for the cost of the work, have the right to know, with a reasonable degree of certainty, what that cost is to be. This knowledge is material in enabling them to determine whether they will exercise their rights under the Act to appeal to the court of revision or not.

Sale of Land for Arrears of Taxes.

382—S. A. R.—In 1898 A agreed to buy from B four adjoining village lots, being assessed for same in 1899, but left village before taxes were due, only part of said taxes have been paid to date as I will explain. The arrears for

1899 ought to have gone to sheriff in 1900 but he said "your village becomes a town in January 1901 so why should I enter them in my books, to have to send them back in January next?" So the arrears for 1899 were not sent. The treasurer was instructed to collect same. He notified B of the arrears who answered, that only three of the lots were his and one belonged to C; he would forward to his agent three-quarters of the amount of the arrears." C paid his one-quarter share of arrears. In the meantime B sold the three lots to D, whose lawyer collected the arrears from B's agent and handed the amount to D who said he would pay them himself; D was notified unless 1899 arrears were paid the three lots would be sold this year. He asked advice and his lawyer said that the lots could not be legally sold, giving the reason, that the arrears on the four lots had been divided, part being accepted from C, and other reasons which I did not hear. The question is: 1. Can the three lots be legally sold for their share of arrears and costs?

2. If not, can the amount be recovered and how?

3. If the arrears of 1899 taxes are placed upon collectors roll this year, will it require an authorization by-law to extend the time of sale to next year? As the sale could not take place till then?

1. The fact that the treasurer had received part payment of these arrears of taxes would not invalidate a subsequent sale of the lands to realize the balance of the arrears. The treasurer is authorized to receive payments on account of arrears of taxes by section 13 of the Assessment Amendment Act, 1899. But the omission to return these taxes to the sheriff of the district in 1900 would be held to invalidate a subsequent sale for taxes. See *Deveril vs. Coe*, 11, O. R., 222; and *Donovan vs. Hogan*, 15, A. R., 432. In these cases it was held that the observance of the provisions of the law as to returns of taxes in arrear required to be made by municipal officials were imperative, and that the non-observance of these statutory provisions would render a subsequent sale to realize the amount of the arrears invalid.

2. The municipality would appear to have no remedy for the collection of these arrears.

3. These taxes could not properly be returned to the clerk pursuant to section 152 of the Assessment Act to be placed upon the collector's roll as arrears against the lands chargeable therewith until 1902 (before the first day of February). The sale cannot, therefore take place until after the return of the collector's roll for that year and no by-law is necessary to extend the time until then. But, if the sale be not held next year, then it will be necessary to pass a by-law pursuant to section 173 of the Act providing for extending the time for holding it.

Treasurer's Bond Should not be Given up or Cancelled.

383—R. G. B.—When the resignation of a treasurer or other officer of a corporation is accepted and his accounts found correct, so far as is known, are his bondsmen entitled to have the bond returned to them, or does the bond paper remain the property of the corporation?

The council should not cancel or surrender a treasurer's bond. As soon as it is signed by the treasurer and his sureties

and delivered to the council, it becomes one of the municipal records, and should be retained in the custody of the clerk for the time being, as such, for all time to come. If this treasurer had performed all his duties in a legal and proper manner, and had duly accounted for and paid over all monies due to the municipality from him at the time of filing his resignation, neither the late treasurer nor his sureties can be in any way prejudiced by the retention of the bond by the council. If, on the other hand it should hereafter be discovered that there is a shortage in the treasurer's accounts, as has often been the case, the possession by the council of the bond uncanceled would likely prove to be its only means of recovering the amount.

Payment of Cost of Polling Booths at Provincial Elections

384—Treasurer.—Is a municipal treasurer justified in paying for polling booth at Provincial election on deputy returning officer's order, or should the account be presented to council and passed by them before being paid?

Section 203 of the Ontario Election Act (R. S. O., 1897, chapter 9) provides that "the fees in schedule B to this Act, mentioned, in respect of the matters therein contained, and no others shall be allowed to the general officers therein mentioned respectively, for the services and disbursements in the said schedule specified." Item 18 of this schedule is as follows:—"For each polling booth, actual cost not exceeding four dollars, to be paid by the township treasurer on the order of the Deputy Returning Officer, unless the township council provides suitable polling places at their own expense."

Council Should not Open Road for Private Parties.

385—J. D.—Is a township council bound by law to open a road for three ratepayers when the location of the Government road allowance is in dispute, and likely to cause a law suit, which would cause much expense on township and only benefit those three ratepayers.

No, it is discretionary with a township council, as to whether it opens a road allowance or not. It should not do so, unless the necessities of the general public require it.

Duties of Assessor Under Section 51 of the Assessment Act.

386—A. B.—1. Is it the duty of the assessor to call at the house of each person when he is assessing?

2. B and C are owner and tenant of a cleared 100 acre farm on which they continuously reside. The assessor did not call on them at all, but assessed them at a neighbor's place and sent no schedule, but told the neighbor he would leave the schedule with him to give to them. Result, B and C did not get their schedule in time to appeal and find now that they are wrongly assessed. B's name being omitted from the roll and C's statute labor being one day too much and assessed for a dog which dog he did not own, neither was there one on the premises for at least a year. What redress have B and C?

3. Can they legally be compelled to pay tax on said dog and pay for the extra day's statute labor?

4. Would it not be wisdom for the council to settle with them?

1. The assessor has the right to exercise his judgment in this matter. If he has sufficient knowledge of the property to be assessed, and of the particulars required by law to be entered by him in his assessment roll, to enable him to make the assessment, without inspecting the premises or interviewing the owner, he is not bound to call at the house of the person to be assessed.

2. Section 51 of the Assessment Act provides that "every assessor, before the completion of his roll, SHALL LEAVE for every person named therein, resident or domiciled, etc., a notice according to the form given in schedule D. to this Act." It is to be observed that the assessor is not required by this section to serve this notice of assessment PERSONALLY upon persons resident or domiciled or having a place of business in the municipality or to leave such notice at the office or place of business of such person in the municipality as he is required to do by section 52 in cities which have passed by-laws under section 59 of the Act, therefore, we are of opinion that the leaving of the notice of assessment with the neighbor to be handed by him to B and C, was a sufficient compliance by the assessor with the provisions of section 51. It is presumed that owners of property know that they should be assessed therefor, and pay taxes thereon, and that the assessor is required to file his roll when completed with the clerk, where it is open to inspection by any person interested. If ratepayers who have not received the notice of assessment mentioned in section 51, do not think it worth while to attend and examine the roll to ascertain whether they have been assessed or not, and if so, the amount of their assessments, they have very little reason to complain afterwards. In any event section 72 of the Act provides that "the roll as finally passed by the court and certified by the clerk as passed, shall, except in so far as the same may be further amended on appeal to the judge of the county court, be valid and bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll, or any defect, error or misstatement in the notice required by section 51 of the Act, or the omission to transmit or deliver such notice."

3. Yes.

4. Since this is not a case falling within the provisions of section 74, of the Act, the council has no legal authority to now interfere in the matter.

Supply Limited.

"This is tough luck," said Ham, mournfully, as he leaned out over the side of the ark. "What's wrong now?" queried Shem. "Why, all this water to fish in," he replied, "and only two fishin' worms on board."—Ohio "State Journal."

Electric Railways on Highways.

The following communication and our answers thereto will prove of interest to municipalities through which electric railways are about to be constructed :

Clerk's Office, Tp. of Pelham,
Ridgeville, July 1, 1902.

Editor Municipal World, St. Thomas :

Dear Sir;—The article on the use of highways by electric railways in your June issue was timely, as this township now has an application from a company asking permission to locate a trolley line upon our most main-travelled highway clear across the township.

Can you say what the verdict is of those townships like ours, wholly rural, which have permitted electric lines upon their highways? Of course the railway in all cases is a great convenience; but are there any drawbacks? Do any of these townships regret that they allowed such a use to be made of their highways? Are accidents from frightened horses very frequent? Is it preferable to locate the railway in the centre or at one side of the road?

Our road on which a right of way is sought is a given or trespass road considerably less than the standard sixty-six feet in width. While it is a country road, it passes through three or four villages in each of which there are from a dozen to two or three dozen houses, and between these villages there is seldom a half mile without a residence.

To accommodate the railway if possible we are trying to arrive at and agree upon a width of road for vehicular traffic which we might safely reserve for the public, allowing railway the use of the remainder. But we are quite at variance among ourselves as to what width we ought to reserve in order to properly protect the travelling public, whose rights must not be endangered. The horses of those of us who live along the road ought soon to get used to the cars, but not so those living back from it. It is a much travelled road; every hour both day and night. In but one or two places is there room to locate track between the side ditch and the fence.

What width of roadway for public should we reserve (a) when we put railway track at one side of road; (b) when track is located in centre of highway?

Awaiting your reply,

Yours,

J. C. CROW, Clerk

ED.—In reply to the above communication, we beg to say that electric railways have been found of greatest benefit in fruit growing sections, although in almost every case they are a great advantage. The only drawbacks arise from the interference with the use of the highway for ordinary travel. If there are any town-

ships which regret having granted a franchise over their highways to an electric company, the circumstances will be found to be, as a rule, exceptional. Carelessness in drawing up agreements at the time of granting the franchise would account for the majority of these cases. If the company is governed by proper regulations as to the speed of cars, liability for accident, maintenance of the highway, and the numerous details which would arise, the inconvenience is reduced to a minimum, and is far outweighed by the advantage from an electric railway service.

Accidents from the frightening of horses are apt to occur during the first two or three years after construction. Farm horses quickly become accustomed to the cars, and in a short time accidents are of very rare occurrence. The average farm horse, after it has passed a car two or three times, will give no further difficulty.

The most suitable location for an electric railway track is between the side ditch and the fence. If for any reason it cannot be placed there, it should be located, if possible, on the side of the road, as it will cause less interference with vehicles than if placed in the centre of the road. A suitable width of roadway must be determined by the circumstances of every case, and to properly locate a track demands careful study of the highway to be traversed. Cuts and fills, obstructions to a clear view of the road, curves in the road, and similar circumstances, all require special treatment. In cities the roadway reserved is sometimes very narrow, often not allowing more than two or three feet to come and go on. On country highways, however, greater allowance must be made, and under any circumstances, at least eighteen or twenty feet should be reserved for vehicles. If the highway is very narrow in places, as you suggest, it would be well to require the company to widen it to allow a safe margin.

As to what a safe margin will be, will depend, as we have pointed out, wholly on the circumstances of the case. In the case of a narrow road allowance, special attention must be paid to the regulations governing the operation of cars, care in passing vehicles, liability of the company in case of accident, etc. If proper care is exercised in operating the cars, this will offset to a considerable extent the narrowness of the road allowance.

The Court of Appeal in the case of McCready vs. the Gananoque Waterpower Company, which was an action tried in the fall of last year, before Mr. Justice Lount, recently affirmed the judgment in favor of the plaintiff, and dismissed the defendant's appeal with costs, omitting, however, the injunction. The action was instituted by a number of farmers in Lansdowne against the Gananoque Waterpower Co., for flooding their lands in the month of June, 1900, by means of a dam at the outlet of Charles-

ton Lake, which they opened after the plaintiff's lands had been sown. The defendants claimed that the act under which the drain was constructed gave them the right to do the acts complained of. The court, however, refused to concur in this view, and held that they were responsible for the damage caused by flooding.

In his last annual report Mr. Laing, the Provincial Municipal Auditor, recommends the following directions regarding the duties of municipal auditors, which councils should see carried out :

1. Compare assessment roll with collectors' roll to see that the assessed values on which the rates are levied are correctly entered.

2. Compare school section entries with school section map and check valuations on which school rates have been levied.

3. Check all entries and additions on the roll.

4. Verify the correctness of all rates and taxes levied by by-laws, proceedings of council, engineer's drainage, ward and certificates, statute labor lists, fence-viewers' awards, county treasurers' accounts, school trustees' requisition or other authority.

5. The collector's account with the treasurer should be examined, and also settlement of roll, which should be verified under oath and in accordance with sections 147 and 148 of the Assessments Act.

6. Every stub of the treasurers' receipt book and every document or roll audited should be properly stamped as required by the act of 1898.

7. The treasurers' vouchers should be carefully examined to see that each payment was authorized by proper authority and that a proper receipt is attached.

8. The auditors' report should refer to the condition of the treasurers' security, and also to the insurance on corporation property.

9. The auditors should show what cash balance, if any, is due from treasurer to municipality—and where such balance is deposited.

10. If any source of revenue has ceased to exist, or if the last payment has been made on any special assessment, the auditors should make a report to that effect in their report.

11. It is very important that the auditors should make themselves familiar with the by-laws of the municipality, and it is incumbent on them to make a special report of any payment made contrary to law.

A by-law providing for the granting of a bonus of \$15,000 to W. J. and H. E. Copp, of Hamilton, to enable them to locate a stove, range and foundry works in that place, has been carried by the electors of the town of Fort William by a vote of 379 for the by-law, and 23 against it.