The Municipal Miscellany.

VOL. I. ARNPRIOR, ONTARIO, JULY, 1891. No. 7.

The Municipal Miscellany, devoted to the dissemination of useful information relating to Municipal and other local Institutions, published monthly, at $1 per annum; six copies for $5. Address all communications to G. E. NEILSON, publisher Municipal Miscellany, Arnprior, Ont.

Calendar for August, '91.

1. Last day for decision by court in complaints of municipalities complaining of equalization.
   Estimates from Public and High School Boards to municipal councils for assessment for school purposes due.
   Notice of trustees to municipal council respecting indigent children due.
11. Last day for service of notice of appeal from court of revision to county judge in Shuniah.
    Last day for receiving applications for admission to training institutes.
14. Last day for county clerk to notify clerks of local municipalities amounts required for county purposes.
    Last day for overseer of highways to return as defaulters to clerk of municipality who have not performed statute labor.
17. Rural Public and Separate Schools open after summer holidays.
18. Normal Schools open.
24. In cities, towns and incorporated villages Public and High Schools open after summer holidays.

QUESTION DRAWER.

In reading your article on "the voters' list" appearing in the June number of the MISCELLANY, I notice that you direct Municipal clerks to include non resident tenants in Part II. of the voters' list. Will you kindly point out the section of the Municipal Act or other Act which entitles non-resident tenants to vote at municipal elections.

J. A. G.

The two words "or tenants" was a mistake that escaped our notice in reading the proof sheets.

DOGS AND SHEEP.—By R. S. O. Chap. 214, Sec. 2 (1) Councils have power to dispense with the levy of the tax on dogs. The council of the county of Carleton did pass a by-law, dispensing with the levy of the dog-tax. This section is repealed by 53 Vic. Chap. 62. Will this in any way affect the before-mentioned by-law? X. Y. Z.

In our opinion the by-law passed by the county council of the county of Carleton under the provisions of Chap. 214, sections 1 and 2, became void and of no effect, because Chap. 62 repealed those sections and the latter Act came into force on the 1st of January last. It is quite competent for the Legislature to grant certain powers to municipalities and to repeal or withdraw those powers. The Legislature enacted that a tax be placed on dogs by section 1 of chap. 214, and by the second section gave the county council the power to pass by-laws to dispense with that tax. The moment the new Act came into force repealing both the first and second sections of chap. 214, the by-law of the county council ceased to be valid just because the clauses of the Act itself which gave that by-law force was done away with. It is an important matter at the present time, as clerks will soon be preparing the collectors' rolls, and we are glad "X.Y.Z." has brought it up for discussion. There may be many other counties similarly situated with the county of Carleton in respect to by-laws dispensing with the dog-tax, and if the county councils have not passed new by-laws under the provisions of chap. 62, we cannot help thinking that it would be the imperative duty of clerks to place the dog-tax on the roll notwithstanding any former by-law to the contrary. We consider this matter of sufficient importance to give a synopsis of the amendments in another column.

Our council would wish information on the following question through your "Drawer" if you can spare space. A by-law has been passed restraining all animals running at large in part of township according to Act for Unorganized Territory. Fence-viewers have been appointed for whole of township. Some members of our council contend that there is no use for them (fence-viewers) where by-law (restraining cattle) has been passed, while other members of council think that line-fences have to be built independent of any by-law of council. Can a by-law be passed for part of township? It seems like a monopoly to me.

M. N. T. F.

The above was received just as we were preparing to go to press with this issue of THE MISCELLANY, and we have not had time to give the matter as full consideration as we could wish. Our correspondent speaks as if the by-law for restraining animals from running at large was passed under the authority of the "Unorganized Territory Act." So far as we know that could not have been the case. The "Unorganized Territory Act" has reference mainly to court procedure, magistrates' powers, etc., but does not confer on municipal councils any authority whatever to pass by-laws or anything else. It speaks of damages sustained by cattle roaming at large, and says that the courts shall not award damages in such cases unless such cattle were running at large in contravention of a municipal by-law, but does not give any authority for passing such by-law. We must therefore look elsewhere for such authority, and we find that the township from which our correspondent writes is situated in the district of Nipissing, and the council of that township has the same authority as is given by the Municipal Act to other townships in all counties in reference to cattle running at large, regulating the height of fences, and the appointment of fence-viewers. No municipality so far as we see, is authorized by the Municipal Act to make such by-laws operative in part only of the township. The municipalities of the district of Nipissing have also power to pass certain by-laws which in the Municipal Act are in the jurisdiction of cities, towns and villages only. These latter refer to drainage, prevention of fires, appointing fire wardens and fire companies, and some other matters of what might be considered of a localized nature, and these by-laws are the only ones which may be localized and made operative in a portion of any township in the Nipissing district. This is as we understand the matter at present. We will look further into it, and if we conclude that we have taken a wrong view will take the matter up in our next. We may say that when we refer to the district of Nipissing, that the same applies to Algoma, Muskoka and Parry Sound districts, as they were all established and given municipal powers under chap. 185 R.S.O. 1887.

THE TRUANCY ACT.

As early as 1846 in a report to the Government by Rev. Dr. Ryerson, the founder of our excellent educational system, he used these words: "The branches of knowledge which it is essential that all should understand, should be provided for all, and taught to all; should be brought within the reach of the most needy, *and forced upon the attention of the most careless.*" This principle laid down by him and which, without doubt, meets the views of all Canadians who have given the matter due consideration, is that a nation to become strong, progressive and virtuous must see that the youth of the land are educated and enlightened. Therefore the property of the country has been made responsible for the education of the entire youth, and having thus become responsible compulsory education follows as a natural and proper result. Our school laws had already made provision for compulsory education within certain limits, but left the matter of enforcing the laws largely at the option of the trustees. It has been found that this duty has not been performed, and the Minister of Education by the Truancy and Compulsion Act of last session has provided other machinery to enforce the law. The municipal councils of cities, towns and villages are now required to appoint truant officers, whose duties are laid down in the Act, and the Department of Education have in a circular just issued also laid down certain rules for the better guidance of these officers in their work. The Act makes it compulsory on all children between eight and fourteen years of age to attend school, and imposes penalties on parents, guardians or others who keep or receive into their houses any children between those ages, during school hours, unless such children have satisfactory reasons for non-attendance. What constitutes a satisfactory excuse for non-attendance is also laid down, such as that the child is under efficient instruction at home or elsewhere, or is unable through sickness or other unavoidable cause from attending school, or no school within two miles if the child is under ten years of age, or three miles if over that age; or want of sufficient accommodation in the school the child has a right to attend; or if the child has passed the entrance examination to High Schools; or has been excused by certificate of a justice of the peace or principal of the school for the reason that such child was required to assist in husbandry, or necessary household duties, or for the necessary maintenance of such child or of some person dependent upon him. In the latter cases, the certificate of the justice of the peace or principal of the school will only hold good to relieve such child from attendance at schools during six weeks of each school term. Subject to these exemptions, any person employing any child under the age of fourteen years during school hours shall be liable to a penalty of twenty dollars.

In townships the trustees have power to appoint truant officers, but it is not compulsory to do so.

Truant officers are compelled to perform their duties, and for neglect are liable to a fine of not less than $25 nor more than $50 for each offence.

Parents, guardians or other persons having legal charge or control of any child, who shall neglect or refuse to cause such child to attend some school after being notified by the truant officer, shall on conviction be liable to a fine of not less than $5 or more than $20, or the justice may require such persons to give approved bonds of $100, conditioned on his causing such child to attend school as required by the Act.

So far as municipal councils in cities, towns and villages are concerned, this Act throws upon them the duty of appointing truant officers forthwith. This means additional expense on the municipality for his salary, and as many people feel themselves over burdened with taxation already, this additional expense will not be altogether palatable. The new Act and regulations have added work to the reeves, clerks, assessors and trustees, but is silent as to remuneration although not silent as to the penalties.

The principle of compulsory education is all right, as is also the appointment of an officer to enforce the law, but we see no good reason why the duty of making the appointment and other work connected therewith should not have been placed altogether in the hands of the trustees and their secretary to whom such work would appear naturally to belong.

COLLECTORS' ROLLS.

Immediately following the preparation of the voters' list comes the work of making the collector's roll, which must be finished and in the hands of the collector not later than the 1st of October. Section 119 of the Assessment Act says "the clerk of every municipality shall make a collector's roll or rolls as may be necessary, containing columns for all information required by this Act, to be entered by the collector therein; and in such roll or rolls he (?) shall set down the name in full of every person assessed, and the assessed value of his real and personal property and taxable income, as ascertained after the final revision of the assessments, and he (?) shall calculate, and opposite the said assessed value as therein described of each respective person," etc. The wording of the above section is somewhat ambiguous. A stranger to the duties and positions of the respective offices of clerk and collector would readily interpret the directions there given to mean that the clerk was to prepare the roll or book with necessary blank columns, but on the collector devolved the duty of filling in all the particular information required, such as the names of the assessed parties, values, rates, etc. This cannot be the intention of the Legislature, as the assessment roll from which the information is to be obtained is in the custody of the clerk, and the whole tenor of the Act, apart from the faulty construction of section 119, goes to show that the clerk is the proper person to fill in the columns of the collector's roll, as he has to certify to its correctness when completed. The "columns for all information required by this Act, to be entered by the collector therein," no doubt refers to the blank columns for entering date of demand or notice to be given by collector to each taxpayer.

We do not know that we can be of much service by way of explanation of the work of preparation of the collectors' roll. It is not only particular and tedious work, but must be very correct. It is not always possible to get convenient fractions that will bring the exact amounts equired to a cent, but our experience has been that frac-

tions of tenths are the most convenient to use throughout, and the results will be sufficiently close for all practical purposes. The county clerk will have sent in a statement of the amount required to be collected from the municipality for county purposes, and the school trustees are required to have their requisitions in not later than 1st August. There are standing yearly liabilities for debentures, schools, etc., and to all these the council is to make an estimate of the amount necessary for local purposes during the year, such as salaries, improvements, etc. They should always add a trifle for extras, which are sure to crop up during the year. The total assessed value having been ascertained from the assessment roll, the several sums required can be ascertained and made up without difficulty by means of mills and fractions or tenths of mills, and the same fractions will be used in making up the rating of each individual. We have also found a great help in expediting the work by making a sort of ready-reckoner on a sheet of paper with columns for county rate, village rate, debenture rate, Public School rate, Separate School rate, totals, etc., to correspond with the collector's roll, and down the margin we place the sums most often to be found in the assessment roll against the individual total assessment, ranging from $25 to $1,000 or over, as the case may be. The sums once made out correctly and placed under the respective headings in the ready-reckoner opposite the amounts in the margin can be copied into the collector's roll for all similar amounts of assessment, and thus save the time which would be consumed in making up the several items each time. Some of our readers may have a "still more excellent way," and, if so, they would confer a favor on all concerned by making it known through the columns of THE MISCELLANY.

THE SCHOOL ACT.

Township clerks and councils will require to take a new element into their consideration this year in striking their rates for school purposes. In addition to the various individual school section rates, there will in future be a general Public School rate to be levied of all Public School supporters in the township in order to make up a sufficient sum to pay to each school section out of this general fund the sum of one hundred dollars. In a section where additional teachers are employed, an additional fifty dollars has to be paid for each teacher employed. Of course the amounts thus paid to the school sections will be deducted from the total requirements of such sections, and the local school rate reduced to that extent, so that it does not follow that the total school taxation of a township is to be increased by the new system, but there is no doubt that it will increase the school taxes in some of the wealthier sections of the township and correspondingly reduce them in the poorer sections. Or better still, it will enable some of the poor sections to improve the educational facilities for their children by this assistance from the general funds, without unduly burdening themselves. There is nothing to find fault with in this new departure so far as we see. It is in perfect harmony with our boasted educational system which claims to provide free schools for every child in the province. The children of the poor should be considered, and therefore this equalization of school taxation on all the school sections to a certain extent is carrying out the principle of providing education for all. There is no doubt, however, that the new regulation will meet with some adverse criticism in many quarters, as it is in the nature of man to look to self first, and unfortunately there are those in every community who nurse this natural tendency.

WM. H. RADENHURST, ESQ., Perth, has been appointed to fill the vacancy in the town clerkship caused by the death of the late Mr. Brooke. Mr. Radenhurst is a barrister of considerable experience, and will no doubt fill the office with credit to himself and satisfaction to the public.

* * *

WHEN any of our subscribers who in reading the newspapers comes across anything pertaining to municipal matters on questions brought before the courts for decision, they will confer a favor by sending us a clipping or a written statement. We would like to keep our readers posted on what is transpiring in municipal circles, and it is impossible for us to take all the newspapers.

* * *

MR. J. W. MOTHERWELL, publisher of the Perth *Expositor*, has been appointed clerk of the county council of Lanark at a salary of $400, in room of the late Thomas Brooke. Mr. Motherwell's father was for many years an energetic reeve of the old and wealthy township of Bathurst, and no doubt his son will take on the municipal harness in the most natural way, having in a manner been born to it. He has our best wishes.

* * *

OWING to unavoidable circumstances it was late in the month of January before the first number of THE MISCELLANY was issued, and we purposed gaining on the time so as to get the numbers out at the beginning of the month. We have not yet been able to do so, but will manage it soon. In the meantime we would be pleased if correspondents would send in their communications for the Question Drawer as early in the month as possible.

* * *

IN section 489 of the Municipal Act, provision was made by which the clerk of the municipality might if the building named in the by-law fixing polling places was not obtainable or was unsuitable, select another nearest suitable building for holding the poll, but had to post up notices in the building fixed in the by-law and two other conspicuous places directing voters to the place chosen. By what would seem to be an oversight, this power was previously given only in cities, towns and villages, but at last session townships were also included. This is such a necessary privilege that we do not believe that had clerks of townships at any time heretofore changed the polling place, for good and sufficient reasons, and gave public notice of the change so that voters were not misled, that the courts would have interfered with the election.

We would be glad to hear from some of our readers on the matter of the publication of the treasurer's accounts in the month of December. Opinions of the usefulness of such publication, (so shortly before the auditors' report has also to be published,) will no doubt differ, but all will agree that taking the Province as a whole there is a large extra expense entailed on the ratepayers by this extra publication of municipal accounts, and that some better system that would accomplish the purpose intended by the Legislature could be devised. What is your opinion, reader?

* * *

William Moffat, Esq., of Pembroke, who has been the very efficient treasurer of the county of Renfrew for many years, has recently received the appointment and dignity of high sheriff of the county of Renfrew, in room of the late Sheriff Morris. We are always pleased when we hear of any of our municipal officials being advanced to further honors, and in the present case especially so, as we had a personal acquaintance of over thirty years with Mr. Moffat, and are therefore in a position to say that he will fill the office with credit to all concerned. If we mistake not, the new sheriff as well as his father before him, has filled the warden's chair in this county in times past.

* * *

The Division Courts Act, 1889, section 19, makes it compulsory on all municipal clerks to furnish the division court clerk of the division in which the municipality is situated, with a copy of the voters' list immediately after the publication of the same each year. This is to enable the division court clerk to select jurors for the court should any be ordered during the year, for the same persons now liable to serve as jurors in the county and high courts are liable to act for the local division courts, but the selection is different having to be made in the latter case in rotation as they appear on the voters' list, and as near as may be commencing where left off for the next court at which a jury is called for.

* * *

The Voters' List Act of 1889 requires that the clerk of the peace and the clerk of the municipality having the custody of the list of voters of a municipality or part of a municipality or place, shall furnish a certified copy of the list, then last revised and corrected, or any parts thereof, to any person who may require a copy or part, on being paid for the same by such person at the rate of four cents for every ten voters whose names are on the voters' list or part. If these officers furnish printed copies of the voters' lists they are entitled to a fee of six cents for each copy. If there have been any alterations made in the list by order of the judge, these officials are to write their initials close to the alterations, but if the alterations or interlineations exceed one hundred, written copies in full must be furnished by these officers.

* * *

In the Division Courts Amendment Act of 1889, section 16, where it is provided that executions shall not be issued until fifteen days after entering judgment, unless otherwise ordered by the judge, it is clear that this has no reference to judgments entered by the clerk, but some division court clerks have been in doubt as to whether it means that they cannot issue an execution until fifteen days after the time given by the judge, allowing that he gives time for payment, as he sometimes does even to thirty days after date of entering judgment. What we think the meaning is that although the whole of the fifty days' limit from date of service may have expired by court day, and the judge has in consequence given judgment ordering payment to be made forthwith, that to enable the debtor to make provision to pay the judgment without unnecessary additional expense, he is now given fifteen days from the time of entering the judgment notwithstanding the judge's order for payment forthwith, or in five or ten days as the case may be. If any person has reason to fear that the delay will prejudice his claim on a judgment in his favor he can apply to the judge for an immediate order for issue of execution. Another reason, we think, for the recent change is to enable the debtor to make application for a new trial, as by law he is entitled to do within fourteen days after judgment. In some cases it would be but poor consolation to have fourteen days to apply for a new trial, while in the meantime his goods have been seized and sold for the judgment which he still hopes to contest by new evidence. On judgments, in which the judge gives fifteen or more days for payment, there can be no doubt that an execution can issue at the instance of the plaintiff immediately that the time thus given has expired without waiting for any further order of the judge.

* * *

Chapter 214 R.S.O. 1887, provided that in every municipality in Ontario an annual tax of $1 on the owner of each dog and $2 for each bitch was to be imposed. Power was, however, by section 2 of that Act given to county councils to dispense altogether with that tax by passing a by-law to that effect. In very many counties such by-laws have been passed, as farmers generally think they should be allowed to keep at least one dog, both as a protection and for use, and that they should not be taxed for that animal any more than for a horse or cow. Sections 1 and 2 of the above Act were absolutely and unqualifiedly repealed by chap. 62 of 1890, and therefore it is no longer under or by virtue of chap. 214 that such a tax on dogs can be imposed, nor are any by-laws of the county council relating to the said tax of any further power or effect. Chapter 62, however, section 1, re-enacts the tax on dogs, and in addition to the "owners" it makes the "possessors and harborers" also liable for the tax. Section 2 does not give any power whatever to county councils to pass by-laws to dispense with such dog-taxes, but instead it places the power in the hands of each local municipality, whether city, town, village or township to pass by-laws to dispense with the dog-tax if so disposed, but only so after being petitioned for by 25 ratepayers. As the law now stands, where no by-laws have been passed since 1st January last to dispense with the tax provided by section 1 of chap. 62, the clerk of every city, town village and township must place these taxes on the collector's roll against the owners, harborers and possessors of every dog or bitch as returned on the assessment roll by the assessor. The Act says on every dog, etc. in the municipality, but the clerk has no means of knowing what other dogs are in the municipality

except such as are on the assessment roll, nor is there any other machinery provided to ascertain or make a return of the number. It is therfore important that the assesesor should have taken pains to make his roll complete in that respect, in order to prevent great grumbling on the part of those who pay but find that their neighbors are allowed to escape through the assessor's oversight. In townships or other municipalities where the people wish to dispense with the dog-tax, immediate steps should be taken to get a by-law passed to do so, otherwise the clerk has no option in the matter. Query—Under sub section 15 of section 489 of the Municipal Act, giving powers to all municipalities to levy a rate on dogs, etc. by by-law, and which section has not been repealed, and where a town or village council for instance has, as therein authorized, passed by-laws to levy a rate in some cases much higher than laid down in chap. 62, will it be necessary to add the amount laid down in the latter chapter as well, or will the rate provided by the existing by-laws cover the whole ground and comply with chap. 62 as well as section 489 of the Municipal Act?

* * *

THE Municipal Act of 1891 has made a change in respect of the voters' lists to be used at municipal elections. Section 132 of the Municipal Act required the clerk to furnish for each polling sub division a copy of the voters' list according to Schedule C. properly filled in with the names of voters, additions, etc. As Schedule C. is not arranged in the same order, and has other information and columns differing from the voters' list, it became necessary at each election for the clerk to make out for each polling sub division a new voters' list with the names taken from the printed list. In copying there is always a certain liability of errors creeping in, especially if the clerk did not take the precaution to get an assistant to compare copy, besides it entailed a great deal of additional labor on the clerk within a very limited time, as he could not tell until after the nominations whether the election was to be contested or not. We often thought that this extra work might be avoided by using the printed voters' lists, and allowing the poll clerk at elections to fill the names into a poll book according to Schedule C. This we are pleased to see has been done by the Legislature at last session. In future, therefore, the copying will be done away with, and the printed lists taken as the guide to the deputy returning officers as to who are qualified voters, his poll clerk having to enter the names of voters as they vote. The deputy returning officers must in future before signing his name or initals on the back of the ballot paper place a check or mark opposite the name of the voter on the printed voters' list to signify that such voter has been entered on the poll book and attended to vote.

* * *

THE local medical health officers, a majority of whom, we believe, perform the duties appertaining to the office without remuneration, are not expected to make themselves very officious except when something more than ordinary requires it. It is so with the local boards of health in villages and townships. As a rule there are no prevalent diseases of a dangerous, contagious nature, and excepting as a wholesome check on those who might be disposed to endanger the neighborhood through filth, local boards of health, sanitary officers, and medical health officers in municipalities outside of the towns and cities are not overburdened with labor, and municipal expenses connected with that branch of the service have not heretofore been a great cause of complaint.

By an amendment of the Public Health Act passed at the last session of the Legislature, the local medical health officers get a slap in the face for their lack of activity. The new clause recites that "whereas it may be desirable in the interest of the public health, that there should be instituted a system of health inspection more thorough" than at present, "owing to the expense attendant upon the appointment of *an active and efficient medical health officer* for every municipality, any county council may appoint one or more county or district medical health officers." Where a county council appoints a county health officer or officers, the powers now possessed by medical health officers within the county or portion of a county for which such county health officer is appointed, shall be deemed to be thereby transferred to and vested in such county health officer or officers, and all sanitary inspectors within the jurisdiction to be defined in the by-law appointing a county health officer shall be subject to his direction and control.

It will now be in order for medical gentlemen who may be aspirants for this new office to commence to pull the strings. The appointment of county medical health officers as yet is not compulsory on county councils, and we doubt if a majority of the reeves in rural counties will be willing to add another salaried officer to the list of county officials. The next amendment will probably be one of a more compulsory nature in this respect, as very likely the promoters of this new scheme will see that their plans are not frustrated by any dilitoriness on the part of county councillors. There are, no doubt, some good arguments in favor of county medical officers, the chief of which so far as we see is that it removes the responsibility from local men who in many cases are averse to risk their popularity with their immediate friends and acquaintances, and on that account do not enforce the law rigorously.

* * *

Section 340 of the Municipal Act authorized corporations to pass by-laws for contracting debts by borrowing money and for levying rates for payment of such debts. These rates are to be based on the assessed rateable property as appears by the last revised assessment roll. The by-law has thus to specify a sum to be raised annually for the payment of the annual interest, and also a certain sum to be raised annually for the payment of the debt when it falls due. This latter annual sum is called the sinking fund, and is to be kept on hand or in bank or otherwise invested so as to be forthcoming when necessary to be paid even if not due for twenty or more years. As by the increase of rateable property in a municipality it is generally found that the rate provided by the by-law will, as the years pass along, raise a very much larger sum than will be required to pay the debt when due, many councils have in the meantime used this sinking fund for other purposes so as to lighten the burden of taxation on the ratepayers. Indeed the increase in property has been such in some

municipalities that the rate required by the by-law would during the last four or five years of the term raise a sufficient sum to wipe out the debt altogether, and it is therefore not to be wondered at that some councils have thought it unnecessary to keep piling up the sinking fund. We refer more particularly to by-laws passed some years ago under former statutes, because later amendments provide for changing the rate so as to raise only the amount actually necessary to provide the sinking fund. Auditors of municipal accounts have in discharge of their duties found that the sinking fund as required by law to be on hand, was not on hand, and have frequently reported that fact. The Legislature at last session took very effective steps to put a stop to the system of using the sinking fund for any purpose whatever other than to meet the debt when due. The council may invest in certain securities laid down in the Act, but must not divert it to other uses. There was no specific penalty, however, attached heretofore in the case of using such monies for other corporation purposes and, as we said before, very many councillors finding the money in the treasury thought proper to use it instead of borrowing money to meet other expenditures. They looked upon this money as if it could be used for general purposes, and thus applied it. In a certain sense the ratepayer was not injured by this misappropriation of the sinking fund, as the rates for other purposes were thereby reduced, but the holders of debentures had an interest in this fund, and their rights under the law must be respected. They relied on the security of the cash on hand, as well as on the taxable property of the municipality to meet the debentures, and in this way had an increased security for their investment. By an amendment last session the following sub-sections have been added to section 373 of the Municipal Act, and councillors will in future have to be very careful how they deal with the sinking funds :—

(2) Provided always that any moneys levied and collected for the purpose of a sinking fund shall not in any case be applied towards paying any portion of the current or other expenditures of the municipality, save as may be otherwise authorized by this or any other Act.

(3) In the event of the council of any municipality diverting any of said monies for such current or any other expenditure, save as aforesaid, the members who vote for the diverting of said moneys shall be personally liable for the amount so diverted, and said amount may be recovered in any court of competent jurisdiction ; and the members who may have voted for the same shall be disqualified for holding any municipal office for a period of two years.

AS OTHERS SEE US.

These are busy days with municipal clerks, and along with that it is the heated term when even the iron bound editor gets too warm to work after hours. Therefore to fill a gap in this paper this month without too much mental effort we take the liberty of copying the following extracts from a few of the scores of similar letters received during the past three months. We do this also as some justification for what might appear our temerity—or perhaps what some who declined to take our paper would term "cheek"—in undertaking such a publication. Knowing that the MISCELLANY has many well-wishers who would like to know how we are succeeding in our circulation, we may mention that our most sanguine expectations have been exceeded in that respect. We had figured the matter up, and thought that it was quite possible to get a circulation of about five hundred, which would be necessary to make it a paying concern. Some of our respected friends and advisers thought that we would not get half that number. Whereas we have already a circulation of what we consider good *bona fide* subscribers to the number of eight hundred. These are scattered throughout every county and district in the province from the Ottawa river to Rat Portage, and new subscribers are still coming in, fully one-half of our readers being municipal clerks and councillors residing west of Toronto. Even the city clerks in a majority of cases have not considered it beneath their dignity to help along this new enterprise in the journalistic line by becoming subscribers, and one of the oldest, most experienced, and widest known of these, lately said of the MISCELLANY when speaking to a gentleman from Arnprior : "You are from Arnprior, why I get a little paper from there called THE MUNICIPAL MISCELLANY, *and it is as good as gold.*" This was too generous, but a little taffy always goes down better than a dose of salts, and as our Arnprior friend vouched for his sincerity, and a further proof was that the aforesaid city clerk sent us along with his own subscription an additional one from the county treasurer, we must at least feel grateful to him though we may not share his golden opinions of the merits of THE MISCELLANY. Our only wish is that we were better able to "fill the bill" in a manner that would satisfy ourselves. Correspondence on municipal matters would be welcome, and surely in the army of municipal officials there must be many who could assist to make the paper more interesting and useful. Information is one of the few possessions a man may freely give without being any poorer for the giving.

T. P. C., Winthrop :—"I think THE MISCELLANY will be a great help in municipal transactions."

D. K., Brampton :—"Dear Sir,—With this I enclose you $1 for THE MUNICIPAL MISCELLANY. Trusting your effort will be successful," etc.

J. J., Bobcaygeon, wrote in May, when enclosing $5 for six copies for self and council. "Glad you have taken up the subject in a paper like THE MISCELLANY."

W. D., Rosseau :—Dear Sir,—"The municipal council of the township have instructed me to order THE MISCELLANY for 1891, for which I enclose $1."

Alex. S., Desboro, says of THE MISCELLANY when giving the names of persons he wished sample copies sent to :—"Undoubtedly a boon to many municipal officers."

D. C., Hanover, when enclosing $1 for MISCELLANY, wrote :—"Don't miss your monthly calendar ; it is invaluable, and is alone worth double the subscription price."

J. McC., Guelph :—"Sir,—THE MUNICIPAL MISCELLANY to hand. I think if it continues as commenced it will be a great benefit to municipal officers. Enclosed is $1 for subscription for 1891. I gave the January and February numbers away for perusal. Would you kindly send these numbers, as I wish to keep them for reference. With best wishes for your success.

"As a number of clerks and others have given the period of their incumbency, I might also say that my father was appointed clerk of Guelph township in Nov., 1858, and held that office until his death in Nov., 1858."

A. C., Chelmsford :—"Received sample copies of THE MUNICIPAL MISCELLANY, and think it a much needed paper. Enclosed find one dollar for which send it regularly for one year from Jan. last."

J. I., Chatham, wrote :—"I herewith enclose $1 for one year's subscription to THE MUNICIPAL MISCELLANY. Wish you success in your undertaking, as I am sure it will supply a want that has existed only too long."

E. B., Burke's Falls, said : "I duly received sample copies of your excellent paper. In my opinion it is just the sort of medium required for the interchange of ideas and opinions on municipal questions."

John Argue, Esq., of Huntley, when enclosing subscription writes, "I am well pleased with the numbers of the MUNICIPAL MISCELLANY sent me. I believe it to be worthy of the patronage of all municipal officers."

T. A. C., Fonthill :—Dear Sir,—"Enclosed you will find the sum of $1 for subscription to your valuable paper, THE MUNICIPAL MISCELLANY. I find much valuable information in it, and hope it will meet with much encouragement."

W. S., Ethel :—"Dear Sir,—I am in receipt of THE MUNICIPAL MISCELLANY, and am very much pleased with it. Enclosed find the sum of $1 for one year's subscription. Send sample copies to the following persons," etc.

W. C., Kenilworth :—"Dear Sir,—Enclosed please find $1 being my subscription to THE MUNICIPAL MISCELLANY for one year. It supplies a long felt need and should be encouraged. Wishing you success in your enterprise."

E. M., Delhi, changed his mind and thought he must have THE MISCELLANY, for he wrote in May last, and we appreciate his letter, in which he said : "Some time ago I refused your paper in the post office. Send it on again, also April and May issues."

S. J. L., Zurich :—"Dear Sir,—Enclosed please find the sum of $5, for which send THE MISCELLANY for one year to addresses below. Our council admire THE MISCELLANY very much, and think it is filling a long-felt want. Send back numbers."

E. B. C., Scotia, writes :—"Sir,—Enclosed please find $1 for one years' subscription to your guide to clerks and others whose duty it is to administer the affairs of a municipality. Hope you will have your subscription list doubled before the end of the year."

M. E., Exeter, says :—"Dear Sir,—Enclosed please find one dollar subscription for MUNICIPAL MISCELLANY. Am much pleased with it and am of opinion that it will be eminently useful and become one of the indispensables of municipal corporations and officers."

A. M. F., Amulree, wrote some time ago when enclosing subscription :—I am much pleased indeed with the paper. It will undonbtedly supply a long felt want by municipal officers generally, and especially municipal clerks, by whom it should be liberally supported financially and with a view to make it interesting. Wishing you abundant prosperity in your venture.

J. B., Waterdown, writes :—"Dear Sir,—I am in receipt of several numbers of THE MISCELLANY, and am pleased with its contents. I think the information contained in its pages will, in very many cases, prove helpful and valuable to municipal clerks, councillors and others ; and, as a medium for the interchange of views and opinions of those connected with municipal matters, it will supply a long-felt want. Please find enclosed the sum of one dollar, my subscription for THE MISCELLANY for the current year."

A. A., Hazledean :—"Enclosed please find $1 for subscription to MUNICPAL MISCELLANY, sample copies of which you kindly sent me. Trusting it may be well patronized as it truly deserves."

J. C., Annan :—"Sir,—Please find enclosed $1 for THE MISCELLANY. I have received several numbers and am well pleased with them. It will supply a long-felt want. The 'Question Drawer' is a special feature that will be a great boon to many clerks. Wishing you every success in your undertaking."

M. Nelan, clerk of the Township of Ferris, who recently sent us $1 and ordered the back numbers, writes :—"I have just received the copies of the MISCELLANY sent me, and I cannot say how thankful I was for the June number and the explicit directions it gave concerning the voters' lists. As I am a novice in the work of the clerkship you will easily understand how it seems like an old and posted friend to be called on at any time. I am sure when our council see the copies of your paper with each month's duties so fully explained, they will take advantage of your offer of six copies for $5."

S. J. H., Charing Cross, wrote us as follows :—"I duly received your MUNICIPAL MISCELLANY and was much pleased with its contents, finding some very useful and trustworthy information. I have been treasurer of the township of Raleigh since January, 1870, now twenty-one years. The land being flat and nearly level, our council have been deeply engaged in drainage, last year expending over $23,000 for that purpose alone. You will no doubt be able to give us occasionally, among other useful information, some valuable hints in regard to our system of drainage. Wishing you every success with THE MISCELLANY, I enclose you $1 for 1891."

BY an amendment to section 436 of the Municipal Act, power is given to the board of commissioners of police in cities, and to the council in towns, to regulate or to "prohibit the playing of bands and of musical instruments on any street, highway, park or public place in the city, but this shall not apply to any military band attached to any regular corps of the militia of Canada when on duty under the command of its regular officers." The above would appear to give power to councils of towns to regulate or prohibit in city streets, but says nothing about town streets.

* * *

THE owners of adjoining property where there are trees, shrubs or saplings growing on the public streets, squares or highways, are given a certain interest in the ownership of these trees, for although councils have power to remove such trees when such removal is deemed necessary for the purpose of public improvement, yet before doing so ten days' notice to the adjoining property owner must first be given of the council's intention. And if the adjoining property owner has planted the tree, shrub or sapling, he can claim compensation for his trouble and expense connected therewith. No owner of adjoining property, not even a pathmaster or other officer nor any other person, will be allowed to cut down or injure any tree, shrub or sapling, on pretence of improving the street or public road, unless by express permission of the council having control of the street or highway.

REPORT OF COMMISSION ON MUNICIPAL INSTITUTIONS.

(EXTRACTS CONTINUED.)

The powers of the town meetings thus limited were not enlarged for many years. Several Acts indeed were passed in amendment of the original Act, but none of these enlarged the powers of the town meeting. One Act required the collectors of rates to give bonds, and empowered the sessions whenever a collector died or left the parish to fill the vacancy. Another authorized the holding of special elections of nine officers in the part of the county of Haldimand not yet divided into townships. Another provided that collectors of taxes should pay all they had collected to the treasurer of the district every quarter or oftener if required by the sessions. For some reason not stated the town of Prescott was excepted from the operation of this Act. Another amendment changed the day of the annual town meeting to the first Monday in January. Another authorized each township to elect three additional overseers. An Act prescribed a form in which the assessors should make up the list of the inhabitants, and the manner in which the assessors should be notified of their election, and enter upon their duties. The Clerk of the Peace was required to make out a general return of the population of the district from the assessors' returns, and the remuneration of the assessors was increased by three pounds for every hundred pounds on the assessment roll. Another Act, passed in the same year, provided that "the Justices of the Peace, in, and for the several districts of the Province, shall have power . . . . to appoint a surveyor of streets, in and for each town within their respective districts, and to remove any such officer so appointed at their will and pleasure. So far as related to such towns the power of township meetings to elect overseers was taken away. Another amendment authorized the townships to elect as many as thirty overseers, and three pound-keepers at their annual meetings.

From this it will be seen that the inhabitant householders of the townships were for many years permitted to do little more than elect a few officials, who, even in the discharge of their merely local duties, were for the greater part under control of the Quarter Sessions.

The control of the construction and repair of highways was in Upper Canada in those days, as in Great Britain almost to the present day, one of the chief functions of the Quarter Sessions. The Act of 1810 provided that the justices of the peace in General Quarter Sessions assembled may appoint one or more surveyor or surveyors of highways in each and every county and riding within their respective districts, to lay out and regulate the highways and roads . . . . in manner hereinafter mentioned. And upon application made to any such surveyor by twelve freeholders of any such county or riding, stating that any public highway or road in the neighborhood of the said freeholders now in use is inconvenient, and may be altered, so as better to accommodate His Majesty's subjects and others travelling thereon, or that it is necessary to open a new highway or road, it shall and may be lawful for such surveyor, and he is hereby required to examine the same and report thereon to the justices at their next ensuing Quarter Sessions . . . . giving at the same time public notice thereof . . . . (and) it shall and may be lawful for the said justices if there be no opposition to confirm the said report, and to direct such alteration to be made or such new highway or road to be opened. In case of opposition the justices were authorized and required to empanel a jury of twelve, who, after hearing evidence, should upon their oath either confirm or annul the said report, or so alter and modify the same as the exigency of the case may appear to require; their verdict was final, and the justices were required to "direct such highway or road to be altered or opened accordingly." The Sessions were authorized to direct the surveyors of roads to employ a surveyor of lands whenever they thought his services necessary, and by an order on the district treasury to pay him ten shillings for every day he was so employed. The surveyor of highways was paid seven shillings and sixpence a day for every day he was employed in carrying into effect the provisions of this Act. The Act described what the width of the roads, bridges and causeways should be (the bridges were to be not less than 15 feet in width); authorized the surveyor to cut down trees when necessary, to take such land as may be required, to sell the land where a road or part of a road was disused, or give it in exchange to the owner of the land taken; and prescribed where fences should be built. When claims for compensation were made, the Justices in Session were to direct that a jury of twelve disinterested persons should be empanneled, and these were to determine what sum the claimant may be entitled to in addition to the value of the land restored to him, and this sum the justices were authorized and required to direct the treasurer of the district to pay forthwith. Provision was made for enforcing the performance of statute labor, which was then mainly relied upon for the making and repairing of roads, but when "the surveyors were of opinion that any further sum was wanting to undertake any particular work of manifest general advantage on the highways" the Justices on application of the surveyor, and after ample notice and consideration, may order and direct such work to be performed, and direct the treasurer of the district to pay the amount of the same, provided it did not exceed fifty pounds.

The overseers elected at the township meetings were almost entirely under control of the Justices in Session, who were authorized to divide the townships, parishes or ridings into divisions, and allot them to the overseers, who were required to superintend, repair and keep in order the highways, roads, streets and bridges in their several divisions, and the Justices "may from time to time order any overseer to work on any highway or road within his division as they shall think necessary, and the said overseer shall within ten days after having received such order summon such persons within his division as are obliged to perform statute duty or labor, and order them to work upon such part of the road or highway as they shall be directed to amend or repair, and shall direct all persons performing such labor, to destroy as much as may be in their power all weeds that are hurtful to husbanding." Penalties were imposed upon those who disobeyed such orders. The overseers were also required to make out a list of all persons who were owners of carts, wagons, ploughs, sleds or teams within their divisions, and of all who under this Act were liable to work upon the highways, and to deliver copies of these lists to the justices. They were required to collect money compositions for statute labor and all fines and forfeitures incurred under this Act, to expend the same on the work, and to give account to the Justices. The overseer who did not apply the commutation money to the proper use, or did not account for it was liable to imprisonment. They were also required to set stakes and place beacons along the roads in winter wherever these might be necessary.

To be Continued.

Printed for the Publisher by JOHN A. MACDONALD, Arnprior.