

# THE MUNICIPAL WORLD

Published Monthly in the Interests of Every Department of the Municipal Institutions of Ontario.

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ST. THOMAS, ONTARIO, SEPTEMBER, 1898.

Whole No. 93

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## Calendar for September and October, 1898.

### Legal, Educational, Municipal and Other Appointments.

#### SEPTEMBER.

1. High Schools open first term.—High Schools Act, section 42. Public and Separate Schools in cities, towns and incorporated villages open.—Public Schools Act, section 91 (2); Separate School Act, section 81 (2).
2. County Model Schools open.
5. Labor Day.  
Make return of contagious diseases to Registrar-General.—59 V., chap. 17, sec. 11 (4).
15. County selectors of Jurors meet.—Jurors Act, section 13.  
Last day for County Treasurers to return to local clerks amount of arrears due in respect of non-resident lands which have become occupied.—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.
29. Plebiscite Vote.

#### OCTOBER.

1. Last day for returning Assessment Roll to Clerk in cities, towns and incorporated villages where assessment is taken between 1st July and 30th September.—Assessment Act, section 58.  
Last day for delivery by Clerks of Municipality to Collectors, of Collector's Rolls, unless some other day be prescribed by by-law of the municipality.—Assessment Act, section 131.  
Notice by Trustees of cities, towns, incorporated villages and township boards to Municipal Clerk to hold Trustee elections on same day as Municipal elections, due.—Public Schools Act, section 58 (1).  
Night schools open (session 1898-9).

### VOTERS' LISTS BOOKS.

AS REQUIRED BY THE ONTARIO VOTER'S LISTS ACT, 1898.

3. The Ontario Voter's Lists Act was amended at last session by adding thereto the following section:—

9a.—(1) The clerk of the municipality shall keep a book in which he shall enter particulars showing the day on which the copies of the alphabetical list were posted up by him and were transmitted to each of the persons mentioned in sections 8 and 9, and also whether such copies were delivered personally or transmitted by post. There shall be added to each such statement of particulars an affidavit or statutory declaration verifying the same.

(2) Any clerk who fails or omits to comply with the provisions of this section and of sections 8 and 9 shall for each omission incur a penalty of \$200 and shall also be liable to be imprisoned for a period of three months in default of payment.

We have prepared a suitable book for this purpose which will last any municipality for 20 years. Price, 50 Cents.

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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, LL.B. } Editors

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Box 1252, St. Thomas, Ont.

ST. THOMAS, SEPTEMBER 1, 1898.

## League of American Municipalities.

At the first national convention of the mayors and councilmen held at Columbus, Ohio, about a year ago the League of American Municipalities was organized as an agency for the co-operation of American cities in the practical study of all questions pertaining to municipal administration; to hold an annual convention for the discussion of contemporaneous municipal affairs, and the establishment and maintenance of a central bureau of information for the collection, compilation and dissemination of statistics, reports and all kinds of information relative to municipal government.

The second convention was held at Detroit during the first week in August. About 700 delegates were in attendance. Among the papers presented for discussion, the most important referred to garbage disposal, street paving, franchise for street railway, water, light and telephone companies, municipal ownership, and public water supplies. A special feature of the convention was the entertainment provided by the Detroit City Council at an expense of \$6,000. Injunction proceedings were taken to restrain the city from paying this amount. The city charter provides for an expenditure of \$2,000 for entertainment purposes during the year. The injunction was granted and sustained. The attorney who applied for the injunction stated:

"The fallacy of the whole position lies in the assumption that the common council has authority to expend the taxpayers' money ad libitum, irrespective of the provisions of the city charter. The municipal officers are simply trustees of the taxpayers' money and are authorized to expend it in such manner as the municipal law authorizes, and not otherwise. Municipal corporations were not created for the purpose of giving public entertainments. That is outside and beyond the scope of their duties.

"A question of this character came before the Supreme Judicial Court of Massachusetts at an early day. The mayor and aldermen of Lynn, Mass., had made an appropriation for a display of fireworks on the Fourth of July. It was objected that the expenditure was illegal and unlawful. The court said:

"The appropriation is neither necessary to the exercise of any power expressly granted to the city, nor is it incident to any right or authority, which, though not expressly granted, has its origin in well settled usage, and is founded upon the necessities, convenience, or even the comfort of the inhabitants. This is the extreme limit of the power of towns and cities to grant money, as settled by repeated adjudications of this court. Viewed in the most favorable light for the respondents, their vote authorized an expenditure of public money to celebrate the anniversary of a great event of national and historical interest in a manner which might serve to amuse the inhabitants, and perhaps excite in their minds a spirit of patriotism and love of liberty. But these objects, however laudible, do not come within the range of municipal powers and duties. If money in the treasury of the city can be expended to commemorate one event of interest and importance in the history of the country, so it may be to celebrate the anniversary of any and every other."

"This language is apt, and applies to the present controversy, and however laudable the action of the city fathers may be, in entertaining citizens of other states or cities, such objects do not come within the range of municipal powers and duties, and consequently are not vested in them."

\* \* \*

One of the most suggestive features of the convention was its practically unanimous approval of municipal ownership of all city monopolies except street railways, where leasing of public-owned tracks was preferred.

\* \* \*

The officers of the League for the ensuing year are: President, Hon. Samuel L. Black, Mayor of Columbus, Ohio; vice-president, Hon. William C. Maybury, Mayor of Detroit, Michigan; secretary, B. F. Gilkinson, New York.

\* \* \*

Syracuse, New York, was selected as the city in which the convention will be held next year.

\* \* \*

The success of municipal associations largely depends on the use of public money for sending delegates to the conventions. A council in a Massachusetts town appropriated money to send the mayor and aldermen to the Detroit convention. An injunction was obtained from the courts, and the delegates did not go.

The Louth Council has passed a by-law to commute all the statute labor in the township.

\* \* \*

The arrangement of the court rooms in the Stratford and Woodstock court houses is reported to be the best in the Province. The Toronto Board of Control recently visited these to obtain pointers for use in the new city buildings.

## Municipal Investigation, West Zorra.

The books of the clerk and treasurer of West Zorra have been investigated under the direction of the Provincial Municipal Auditor. The report refers to a number of irregularities and shows that an ex-treasurer and the present incumbent of the office are indebted to the township. The report concludes with the following among other recommendations:

1. That the interests of the township will be better served by a division in the offices of clerk and treasurer.

2. That all funds of the township shall be deposited in a chartered bank, and that payments thereout shall be made by joint cheque of the reeve and treasurer. (The township will have no difficulty in arranging with some chartered bank to allow interest on its daily or weekly balances if the whole business of the township be done through one bank.)

3. That if for the convenience of the public it were thought desirable to have the township cheques payable at par at a point within the township, an arrangement might be made with Colonel Munro to pay through his private bank at Embro all cheques at par, the council to periodically pay the banker a small commission upon cheques so cashed.

4. That the present system of payment by the treasurer upon the order of the commissioners be abolished and that all accounts be passed by the council in regular session, before payment, excepting of course certain fixed charges, as debentures, interest, payments on school account and other payments fixed by by-law or statute.

\* \* \*

7. That a resolution or by-law be passed strictly forbidding the letting of works or contracts on roads or bridges after the amount of appropriations have been exhausted, unless by special order of the council and that the by-law be rigidly enforced.

8. That all accounts of the treasurer for salary, expenses or for other services rendered be authorized by the council before payment; cheques to be signed in the regular way by reeve and treasurer.

9. That the council should pass a by-law defining in detail the duties being performed.

\* \* \*

11. That copies shall be written in the by-law book (certified as to correctness by the clerk) of all by-laws.

12. That a debenture register should be kept as provided by law.

\* \* \*

15. That clause 2 of section 130, cap. 224 R. S. O., 1897, be followed by the clerk in the preparation of the roll. Attention is also called to section 129 of the same chapter, which provides that separate columns shall be used for each special rate levied, also for a division as between the county and township rates.

16. That the collector of taxes enter in the roll the exact date when all taxes are paid; and that he also prepare and enter in the roll a statement of all taxes with date of payment, upon which a percentage has been collected, together with the amount of such percentage.

17. That proper receipts be taken from all school sections to which payments are made and that the orders from the board authorizing these payments be attached thereto.

18. That all contracts, agreements, order books, stubs, etc., in the hands of individual members of the council in their capacities as commissioners on the roads, bridges, drainage or other works, shall be returned to the council together with a report in each specific case and that these shall be filed by the clerk, for use of the auditors, at the proper time.

# Municipal Officers of Ontario.

Clerk, Township of Arthur.

Mr. Cushing was born in the township about 41 years ago, and received his



MR. GEO. CUSHING.

education at the public school. For many years he has been secretary-treasurer of the Kenilworth Cheese Company, and succeeded his father as township clerk in 1893.

Clerk, Township of Cramahe.

Mr. Walt was born in the county of Northumberland in 1852. He was edu-



MR. R. B. WALT.

cated at the public schools, Albert College and the Ontario Business College of Belleville. He was for some years en-

gaged in the mercantile business, and afterwards returned to the farm in 1879. In 1896 he was appointed clerk of the township, and with the assistance of THE MUNICIPAL WORLD has been able to carry on his duties in a satisfactory manner.

Clerk, Township of Burford.

Mr. Kelly was born in Burford in 1859. He was educated in the Public School, and Grammar School of Albert Coll. ge, Belleville. He took an active interest in the Grange organization in Brant County, where it was very strong. He held many important offices in this body, the last one being that of County Master.

At the age of 21 years he was elected director of the Burford Agricultural



MR. P. KELLY.

Society, and after serving six years in this capacity was elected president of the board. He was elected to the township council for eight years, during four of which he occupied the reeve's chair. He was an active member of the county council, and was Warden in 1894. When he retired from the council he was presented with an address and a gold headed cane by the ratepayers of the township. He was appointed a Justice of the Peace in 1895, and township clerk in 1897.

Clerk, Village of Point Edward.

Mr. Mitchell was born in Ireland in 1835. He came to America when about 20 years of age, and for a number of years was engaged as clerk with the Erie

Railroad and several other transportation and steamship companies. Since 1873 he has been connected with the freight department of the Grand Trunk. He was appointed village clerk in 1885.

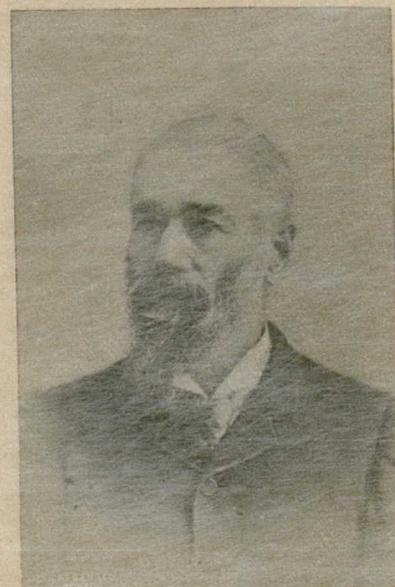
Clerk, Township of Camden.

Mr. Blackburn was born in the town of Dresden in 1867, and shortly afterwards



MR. M. S. BLACKBURN.

moved with his parents to the township of Camden. He received a fair public school education, and afterwards attended the Woodstock College and Ridgetown High School, after which he was for two years engaged as assistant teacher in the Dresden public school. In 1890 he was appointed township clerk.



MR. WM. MITCHELL.

Mr. Geo. Burrows, Clerk of Sunnidale Township, has resigned and his son has been appointed to succeed him.

### How the Paris Municipality Fights Tuberculosis.

By EDWARD CONNER.

The Municipal Council of Paris, France, has taken up the question of tuberculosis, and having put its hand to the plough, does not intend to look back. It agrees with Professor Grancher that "tuberculosis is the most curable of chronic maladies"; the remedy is found and defined. It is at the school and at the domicile that the enemy must and will be attacked. Figures attest that the scourge afflicts more than one-third of the population of the capital, and kills off one-sixth of the inhabitants. The population of the city is 2,536,834, and the number of primary, communal, or municipal schools, 380. Doctor Bronardel has affirmed that no epidemic in the century, excepting the cholera of 1832 at Paris, has surpassed in murderous results tuberculosis; it is only exceeded by the cholera in Spain, which destroyed 200,000 persons within two years. The municipality will attack the evil at the hospitals by caring for the patient, protecting the personnel and aiding the affected at their own homes. These difficulties, the latter especially, are not underrated. Doctor Bertillon shows that 331,796 of the inhabitants of Paris reside in over-crowded dwellings, fatal alike to health and morality; 17,000 families of five members occupy but two rooms. But what rooms! Too frequently mere closets, devoid of light, deprived of aeration, too often humid, and the natural breeding centres of disease germs. When a family is badly lodged, the narrow ill-ventilated apartment is improperly kept; the afflicted can receive no suitable care, and the disease is propagated more surely if the breadwinner loses his salary, and misery enters and strikes husband and child. Even among the poor, owing to their prejudice to enter a hospital, the afflicted prefers to work on and earn a pittance to support his family. If the wife be vigorous, she can perhaps nurse husband and family, and gain a little money. However, that slavery must soon pull her down; hence, the not uncommon spectacle, when the husband is buried, the first to demand admittance to the hospital is the widow-mother.

If not able to cure tuberculosis, let the effort be made to prevent its being produced. That will at least spare future generations the decimations that ours experiences. The school is a fruitful source of contagion, hence the importance to instruct children about the danger that may result from the improper habit of expectorations. In all Paris omnibuses a police decree is posted up, enjoining passengers not to expectorate inside the vehicle. Let the managers of public schools and the teachers impress on the pupils the observance of strict hygienic rules. Why should not the official medi-

cal attendant be instructed to give public conferences on sanitation? Parents ought to assist in these betterment of health efforts. Further, all dispensaries, whether public or private, ought to be informed of any case of suspected tuberculosis among children, and urge immediate relief accordingly. A slight cough in the day time, a little fever in the evening, some perspirations at night ought to at once arouse the suspicions of any mother. That is the moment when to call in the doctor, and to execute faithfully his instructions. It is at the commencement, at its first stage, that phthisis can be stopped; the bacillus is destroyed, and the tubercle in place of ulcerating becomes hard; in other words, the terrible disease is conquered. Instead, the child coughs, trots about, eschews a doctor, goes to school and contaminates comrades. The cough still sticks, the child begins to feel weary, the cough has arrived at the racking stage, and the dreadful wheezing sound is heard. Months pass; the little afflicted has become worse, is conducted to the hospital by the mother, the physician examines, auscults, and finally breaks the terrible news to her: "Bring away your child, we cannot admit the young invalid, that would require too long a residence; later, perhaps, if not cured, come again, and we will endeavor to find a bed." But a bed on which to die. And the mother withdraws in tears; she has comprehended the situation when it is too late.

Since November, 1895, school dispensaries have been created in France. There are also several founded by private efforts, independent of those organized by the municipalities. They are all urged to extend their good work to "prevent," as well as to cure tuberculosis. It is recommended to serve out liberally cod liver oil and creosote, and provide for every dispensary supplies of medicaments from the central pharmacy, and so secure their being of first quality and at wholesale prices. It is also strongly recommended to obtain healthy and cheap milk for the poor children. Another form of precaution is to make sure that the teachers be not themselves phthisical; their work is fatiguing and their profession makes great demands on their respiratory organs, which expose them to be attacked by the disease, in addition to having to come in contact with infected pupils. So great is the number of teachers of both sexes, of the primary schools, suffering from tuberculosis, that no candidate for the two normal or training colleges of Paris will now be admitted till first medically examined by the official physician. In addition, the colleges are subjected to a severe hygienic surveillance. It is proposed that in the case of teachers who have become tuberclosed they should be pensioned or admitted to a special asylum. All schools are henceforth to be frequently disinfected.

(Concluded in October issue.)

### The Dominion Franchise and Voters' Lists.

In the August number we referred to the adoption of the Provincial franchises for Dominion purposes and suggested that clerks of Ontario municipalities should supply the Clerk of the Crown in Chancery with copies of the corrected lists. Mr. W. J. Douglas, town clerk, North Toronto, acting on this suggestion, forwarded a copy of the completed list for his municipality and received the following reply:

Officers of the Clerk of the Crown in Chancery for Canada.

Ottawa, August 12, 1898.

W. J. Douglas, Eglinton Post Office (North Toronto.)

DEAR SIR,—I enclose lists sent me as the Clerk of the Peace is to furnish the certified copies of the lists. Thanking you for sending the list. Enclosing Franchise Act as requested.

Yours truly,

(Signed) SAMUEL E. ST. O. CHAPLEAU,  
Clerk Court in Chancery.

It will, no doubt, be more convenient for the Ottawa authorities to receive all the lists from the Clerks of the Peace, but there should be no objection to receiving those forwarded by the clerks of municipalities when properly authenticated. If clerks generally will make an effort to interest their representatives in the House of Commons in the matter they may succeed in securing the acceptance of their copies. They do all the work connected with the preparation of the lists and should not be deprived of the right to supply those required for Dominion franchise purposes.

That Clerks of the Peace are alive to their interests is shown by the following communication just received by a Lambton clerk:

To the Editor of the Municipal World.

DEAR SIR,—Enclosed find circular from Clerk of Peace, asking for copies of Voters Lists for 1898 to send to Ottawa under the new Dominion Franchise Act. In your August number, page 118, you gave clerks to understand they would be entitled to the fee for this service if attended to by them promptly. It seems though as if the Clerks of the Peace wish to forestall them. In my case lists are out, but there are a number of appeals that will not be disposed of for near a month yet. Surely the Clerks of the Peace will not require us to fix up lists complete after the appeals, so that they can draw the fees. The act should not have left who should send lists so indefinite.

Yours,

MUNICIPAL CLERK.

LETTER FROM CLERK OF THE PEACE.

Sarnia, August 23, 1898

RE VOTERS LISTS.

DEAR SIR,—The new Dominion Franchise Act requires me to forward to Ottawa a certified copy of each last revised voters lists. I shall therefore have to ask you to send me two additional copies of your voters lists for 1898. Please forward as soon as possible, and very much oblige.

Yours very truly etc.

## ENGINEERING DEPARTMENT.

A. W. CAMPBELL,

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

## The Essential Feature of a Good Road.

The essential feature of a good road is good drainage. This is true in all climates, but it becomes absolutely imperative in Canada where rains are heavy, at seasons almost continuous, and attended in the winter, autumn and spring seasons with severe frost, snow and slush. Every rule has its exception it is frequently said, but the maker of roads can safely follow the principle under all conditions, that drainage cannot be too perfect; that where drainage is perfect there is a perfect road.

On first sight this statement may seem exaggerated. The impression has so long existed that if we get a surface of gravel or broken stone piled on a ridge of earth we have built a road; it is difficult to adjust our minds to other principles. No doubt, working with this object, many fairly good roads have been produced, but they are in a measure, the result of accident rather than reasonable and clear-headed design. When roads are built with the fundamental purpose of doing so by securing perfect drainage we will be on the most direct and shortest route toward securing good roads. Much unnecessary labor and money will be saved, as well as much disappointment and dissatisfaction.

Doubtless the dweller in the country of sand will be inclined to think lightly of this advice, for he knows in wet weather, not too wet, his roads are at their best. He will be inclined, if he has never lived on clay lands, to think that advocacy of road building with such an object is a false doctrine. Yet even on sand lands the principle of good drainage is the principle of good roads.

An essential part of good drainage is to attend to the shape of the road surface. This must be crowned or rounded up toward the centre. The shape of the road will tend to throw off to the side, the water as it falls in rain and the water of melting snow.

In addition to being crowned, the surface must be smooth—that is free from ruts, wheel tracks, holes and hollows. If these exist on the surface of the road, instead of being thrown to the side the water is held back, is absorbed into the roadway which softens and yields readily to the wearing of wheels. Like the water poured on a grindstone, so the water on a road surface assists the grinding action of wheels. When the road is wet the holes and ruts rapidly increase in size, wagon after wagon sinks deeper, until finally the road becomes utterly bad and perhaps impassible as we so frequently find Canadian roads in late fall and early spring.

In order to provide for a smooth, rounded roadway, that will remain so in

wet weather, it is necessary that the surface of the road be hardened with some stony material, and for this we use gravel and broken stone. By resisting wear, ruts and hollows do not form readily, or when commenced they do not increase with such great rapidity.

Having now crowned the road and made it smooth, having placed on it a coating of metal to harden it and assist in keeping it so, it is necessary to provide for the water which flows from the travelled roadway to the open drains we provide at the side. These open drains must have an outlet to which the water flows readily and freely. Drains which have not a good fall and free outlet, which merely catch the water and hold it until it sinks into the earth are of little service to the road. The reason for this points to another of the main features of good drainage.

That is, it is not sufficient that we round off the surface making it hard and smooth, and carry away the surface water in open drains at the side of the road. It is absolutely necessary that the natural earth sub-soil which we crown and coat with stone shall be kept dry, for to keep it dry is to keep it firm and strong to support the load. The gravel or stone which we place on the road does not support the load, this metal as we have said, resists wear; the natural earth underneath has to support not merely the load but the surface material as well. It is, therefore, as previously stated of prime importance that the water caught by the side drains shall be carried away immediately, before it can sink into, and soften the road foundation.

More than this, not merely must the surface water be carried away quickly, before it can sink into the soil, but underdrainage must frequently be resorted to. In many sandy and gravelly localities and even in clay districts nature provides sufficient natural underdrainage, but frequently we find low, wet sections where the water-line must be lowered by means of tile drainage. A tile drain under each open drain is, in nearly every case, the best plan to pursue where underdrainage is needed.

The vast good which can be accomplished by means of tile underdrainage on the roads has been too long overlooked in Canada. Agriculturalists who have used tile underdrainage of farm lands, will be able to better understand its action on the roads. Just as there are lands which are useless for farming without underdrainage, so there are roads which are useless without underdrainage. A dry sub-soil can support any load. But with a wet and consequently weak sub-soil, the road metal is at once forced down and buried in the mud, while the mud rises to the surface. And so, for want of a firm, dry foundation, the crown of the road is destroyed, the stone is mixed with the mud and the surface becomes soft and rough, easily worn, and surface drainage is thereby interfered with.

Here, then, we have in brief the principles of roadmaking, which resolve themselves essentially into a matter of good drainage. A smooth, hard, rounded surface throws the water to the side drains and the side drains carry it quickly away. The metal covering is both a roof and floor: A roof, since it sheds the water to the side before being absorbed into the sub-soil beneath; a floor, in so far as it resists wear. The underdrainage of the roadway provides a firm, dry foundation, and so, in our structure, we have provided foundation, floor and roof, all by means of good drainage. Sand, unless in a low section, seldom requires underdrainage, but with a good road covering of gravel or stone frequently makes the strongest of roads—so also with gravel. Clay is most frequently in need of underdrainage, particularly in low and swampy districts. But in every class of soil at every season of the year the waterline should be kept three feet below the surface of the road. If nature does not do this then artificial means, the underdrains, should be resorted to.

It is by means of good drainage that we provide against the action of frost on our roads. Frost can only be destructive where there is moisture. The upheaving action of frost on soil is caused by the presence of water. Water expands on freezing and forces the soil upward; when thawing takes place the ground is left spongy and wet and the roads "break up." Keep the roads dry and they will not break up. Our energies, then, in the making of good roads, must be directed to the essential feature, good drainage.

The city of St. Thomas is in the van of progress. This year contracts have been let for two new public schools, the corner stone of a new city hall has been laid, the street railway has been electrified and much extended, a new brick pavement is being laid on Talbot street, the main business thoroughfare, plans have been accepted for a new court house and county building, a new railway, the Wabash, has entered the city, and the citizens are agitating for the formation of The Peoples' Telephone Company. The record is a good one.

The city of Glasgow owns its gas and water plants, its street railway system, a labor bureau, is bound to maintain and has charge of ten churches, provides public wash-houses and baths which are so low in price as to be almost free, owns several modern lodging houses and dwellings for working men, gives concerts during the winter at an admission of one penny, and many band concerts in summer free, has opened a peoples palace, has laid out a golf course with a 2d. a day for playing, has its own hospitals and is very much disturbed because the governmental authorities have refused the privilege of purchasing the telephone system.

## Losses from Reservoirs.

The agricultural experiment station of the Colorado Agricultural College has recently completed a series of observations on the losses from lakes and reservoirs from seepage and evaporation. The results of the experiments is of much interest, particularly to those in charge of waterworks systems, and are summarized as follows:

1. The losses from reservoirs are from seepage and evaporation.
2. The seepage losses are dependent on the condition of the reservoir sites, therefore different for different sites.
3. The seepage losses were determined on a series of reservoirs near Fort Collins, in the winters of 1895-6 and 1896-7.
4. The seepage losses may be great. In the lake under measurement, the losses in some cases were less than from evaporation alone.
5. In some cases, lakes may gain from seepage from irrigated lands, and the gain may be more than the combined loss from seepage and evaporation.
6. In the cases where loss from seepage occurred, the loss was at the rate of about two feet in depth over the area of the lake, per year.
7. This amount does not necessarily apply to other sites, and other observations are needed before general statements respecting loss from this source can be made.
8. The seepage decreases after the lake is first filled, from the effects of silting, and from having filled the porous ground underneath and connected with site.
9. Even in sand there is a limit to the amount of seepage, and the time during which the loss is large.
10. After sand-beds connected with the reservoir are saturated the losses from seepage will decrease.
- 10a. The loss increases with the depth, probably nearly as the square.
11. The losses may be lessened, though not entirely prevented by silting.
12. The silting process is more efficient with small reservoirs because of the better distribution of the silt.
13. If the loss from seepage is not more than 2 feet per annum the sites may be considered as practically water-tight. In the case of canals the losses often average more than that in twenty-four hours.

## EVAPORATION.

14. The losses from evaporation in the cases examined are greater than those from seepage.
15. The evaporation is not necessarily the same from adjacent bodies of water.
16. The amount of evaporation increases with the temperature of the water,

with the wind, and diminishes with increased moisture in the air.

17. From the standard evaporation tank at the experiment station the average evaporation for eleven years has been 41 inches.
18. Evaporation proceeds when the water is frozen, but at a diminished rate, averaging about 1 to 1½ inches per month.
19. The evaporation at night is the same as during the day, the difference being loss with the increase of the size of the bodies of water.
20. The loss by evaporation from several lakes exceeded that from the standard tank.
21. The loss from the lakes was about 60 inches per year.
22. The increase is due to higher temperature of the water and to freer exposure to the wind.
23. In some of the summer months the lakes lost twice as much as the standard tank.
24. The lower temperature of water at high elevations and the lower dew points tend to decrease the evaporation.
25. The diminished barometric pressure tends to increase the evaporation, amounting to 14 per cent. at 8,000 feet and to 18 per cent. at 10,000 feet over the evaporation at 5,000 feet.
26. Every mile of wind movement in twenty-four hours increases the evaporation by from 1 to 2 per cent. over the evaporation if calm.
27. The winter period is longer at the high elevations.
28. For the whole year the evaporation in all probability is considerably less at the high elevations than at the low ones.
29. Evaporation is lessened by any influence which diminishes the wind or decreases the temperature of water.
30. Protection of lakes by wind breaks is in many cases practicable and in small lakes sometimes desirable. In the large lakes the benefit is by reducing the wind velocity; in small lakes both from effect on wind and by lessening action of sun.
31. The deeper the lake the cooler the water as a whole, the cooler the surface; consequently, the less evaporation.
32. Assuming a loss of 5 feet in depth per annum, an area of 100 acres would require ¾ cubic foot per second for the whole year to make good the losses from evaporation; one of 500 acres would require 3½ cubic feet per second, considerably more than would be used to irrigate an equal area.
33. The net loss to the reservoir would be the sum of the above losses from seepage and from evaporation, diminished by the rainfall, a combined loss which may be considered as a depth of 6 feet in one year.
34. As irrigation reservoirs are usually full for a few months only, the loss is much less than this for the high water area.

## Civic Indebtedness.

The annual reports for 1896-7, of the several departments of the civic government of the city of Halifax, just issued, is, in the main, a statistical account of the receipts, expenditures and public works for the year. Of special interest, however, is the address of the retiring mayor, David McPherson, Esq. In regard to civic indebtedness he said:

"There is a great deal of looseness of thought and looseness of language in discussing this matter of civic debt. The increase of the debt is not necessarily an evil; it certainly does not of itself imply either waste or extravagance. It will be conceded at the outset that no community possessing proper ambition and self respect, can be content to lag behind while the rest of the world is making progress, and it will be further admitted that improvement cannot be made without money. When public opinion becomes clamorous for any civic improvement, the first question to be asked by the mayor and aldermen, the representatives of the people, is whether the proposed work or project is really required, next what it will cost, and finally and chiefly, whether the community can afford the expense. If these questions can be answered satisfactorily there need be no hesitation about the matter. Nor does it effect the argument, as has been frequently shown, that all civic improvements are not of a kind that yield an immediate money return. The advantages to be derived from good streets and pavements, from sewers, fire protection, electric lighting and the like, though real, and indeed in modern days indispensable, are yet in their nature not subjects for commercial valuation."

The report of the city auditor also contains the following with reference to public improvements and civic debt:

"Speaking generally with regard to the increase of our public civic debt, there does not appear to be any way—at least no way has as yet been discovered—by which improvements of any consequence can be effected without increase of civic liability. In the case of works of any magnitude, the benefits of which are expected to be permanent—such works for instance as the opening or widening of streets, water supply, sewage and the like, it would be obviously unreasonable to impose the entire cost of such improvements upon one generation of citizens, and no such rule has been followed anywhere so far as I can learn. It appears to be pretty well established that great public improvements and growth of public debt are convertible terms, we cannot have one without the other."

The good roads movement is not merely a campaign against dust and mud. It is an endeavor to better the condition of every class of the community, the farming element in particular, socially, morally, intellectually, and financially.

### Municipal Work in Towns.

A municipal corporation is merely a society, organized for the purpose of carrying on certain institutions and constructing certain works in a more serviceable and economical manner than would be possible for the individual member. In this Province it had its origin when the pioneer settler united with his neighbor to hew out a road through the forest. As the community increased in numbers and in other respects became more complex, it was given more complete organization, and out of this, by common consent, taxation grew.

Taxation is a measure of economy, not of extravagance. It is the means of uniting the energies of a community in obtaining certain common necessities. The average citizen regards their payment as a direct loss, never pausing to consider what is to be gained and saved thereby. Without public schools it would cost much more to educate his children; without public sewers, he would have to construct private drains of less efficiency; without public waterworks, he must at least dig a well and keep it clean; without a public system of lighting, the streets would be in darkness; without public roads, each citizen could scarcely construct private ways for himself, and great inconvenience and added expense would follow. Nevertheless, taxes have always been unpopular, and always will be unpopular unless human nature changes in a remarkable degree, converting the taxpayer into a reasonable being.

A low rate of taxation is far from rendering a town a desirable place of residence. A high rate may, it is true, indicate waste and incompetent management on the part of those to whom its affairs have been entrusted. On the other hand, high taxes are very likely to indicate a progressive spirit on the part of the citizens; it may denote far-sighted economy on the part of the council and officers of the corporation. Low taxes are by no means to be encouraged if the schools of the town are unsanitary, insufficient or poorly equipped; if the town is malarial and lacking in drainage; if the water-supply is poor and typhoid fever prevalent; if the streets are shapeless and ill-kept, the sidewalks rough and dangerous, the streets badly lighted and fire protection insufficient. Low taxation is commendable only when it is the result of good business management of the town's affairs; not when taxation is kept down by neglect to properly equip the town in accordance with modern ideas of refinement and civilization.

It is better that the citizen should economize in his private expense than that he should be deprived of the conveniences to be obtained by such public works as are to be had by slightly increased taxation. An abundance of pure water, a good system of sewers, well-kept streets, will reward economy in other directions, and obtained as they are in a

large way, on the club principle, they are cheaper in proportion than are the other little personal conveniences which might otherwise be had. Indeed an actual saving should result in view of the fact that public works do away with the necessity for private expenditure in reaching the same end—for wells, cisterns, and pumps are replaced by waterworks, while the rates of fire insurance are lessened by the consequent fire protection; with sewers, private drainage is decreased; with well lighted streets, robbery and other crimes are lessened; these, together with well designed streets make a town or village in every way more attractive and habitable, they raise the value of property, are an evidence of refinement, at the same time increasing it, encouraging thrift and good taste on the part of the individual citizen.

The need of good management in all these public works has been referred to. In their construction, very few councillors have the requisite experience and technical knowledge to carry out the details of any work, however simple, without expert assistance. If the town is small and the work is even the simplest and smallest of its kind, there is probably all the more need that the money available should be carefully husbanded and expended in the wisest and most skillful manner. The services of an engineer are generally procurable for a sum commensurate with the work to be performed, and money spent in obtaining reliable assistance of this kind is a most profitable investment.

The actual executive work in connection with streets, sewers and waterworks, should be deputed to a properly qualified man on whom responsibility should rest. A council is entitled to the assistance of such a man to whom they may depute this work; but a council has no right to assume to itself the responsibility attendant upon the duties of the town engineer—an officer as much needed as is a town clerk or treasurer. The "rule of thumb" has been too long employed in the conduct of municipal affairs. The villages, towns and cities of Ontario have so recently sprung into existence from out of the forest wilderness, that old ideas and old methods born of pioneer necessity are still clinging to them past their time. The skill of the engineer is urgently needed in our villages and towns to bring about a better and more economical management of municipal works.

### Effect of the Plebiscite.

Son—Father, what does a "local option" town mean?

Father—A "local option" town, my son, is one in which one-half the people have no option whatever; they have to do as the other half say.

"What is a figure of speech, Uncle George?" "It is a 90 pound young man asking a 200-pound girl to fly with him."

### Agricultural Instruction in the Schools.

The need of agricultural instructions in the public schools has for some time been felt by the people of the agricultural Province of Ontario. By none has the deficiency been more deeply felt than by the Department of Education. The trend of modern education has been too much of that nature which leads the younger generation from the farm into professional and business pursuits. The Guelph Agricultural College provided the necessary higher education in agricultural subjects, but there was a need at the outset for a training such as would open up to the youth of the country the immense and interesting field for study and enterprise which farming operations afford.

The difficulty in establishing such a course of training arose from the absence of a satisfactory text-book which would be alike comprehensive, up-to-date, and such as would be understood by and interest the child-mind. It is now announced that a suitable text-book has been procured, the author being Mr. C. C. James, Deputy Minister of Agriculture.

The reputation which Mr. James has gained as an authority upon agricultural subjects, his clear and pleasing style as a writer, are well known to the people of Ontario, more especially the farming community, and are a sufficient guarantee of the excellence of the new text-book. "Easy reading," it has been said "is hard writing," and the labor of preparing a work suitable for the public school has doubtless been very great. While primarily intended for use in the school's, simplicity in method of treating the subject will render the book all the more valuable to every farmer. In Canada the adage, "never too old to learn," has worn well, and we feel assured that while the book will be welcomed to the public schools by the people of the Province, those who have left their school days far behind them will find it a source of pleasure and profit.

### County Council Representation Wanted.

At a recent session of the Sarnia Township Council the following resolution was adopted:

That, whereas the townships of Sarnia and Euphemia, the town of Forest and all the villages in the county of Lambton, except Point Edward, are without any representation at the County Council, which is a great injury and unfair to the unrepresented corporations and contrary to the meaning and intention of the Municipal Act.

Moved by J. H. B. Moore, seconded by John Brownlee, that this council demand that the Legislature of Ontario amend or repeal the present County Council Act and instead frame an act that will give fair representation in this county.

## Good Roads—Good Schools.

"Chicago, with its two million inhabitants, is, of course, our greatest wonder of rapid city growth, but almost equally wonderful is the steady progress of St. Louis towards the million figure. The question arises, will the American people ever stop building cities, and turn their efforts to making rural life more attractive and profitable? Will there ever come a time when, instead of boasting of the miles of asphalt pavements in our cities, we can describe the excellence of the country roads? When, instead of talking of the colleges and high schools in the towns, we can be proud of the education given to farmers' son and daughters in the country schools? A time when farmers life will cease to imply loneliness, drudgery and intellectual stagnation, and when to live in the country that God has made will be thought better than to live in the towns that man has built?"

The above paragraph is the conclusion to a very interesting article on "The Characteristics of St. Louis," that appeared in a recent number of *The Evening Post* of New York. The article was signed with the well known initials "E. V. S." The paragraph will bear a second reading and very careful consideration. The country is the spring whence flows the stream of town and city commerce; how important then that the spring be carefully protected and improved. The country is the foundation of the national wealth and prosperity; how well then should that foundation be laid and how carefully it should be preserved. Two things have struck the writer of the article quoted as having been overlooked and that to-day require immediate attention—rural road improvement and the furnishing of a rational and helpful education in rural Public Schools.

We are awakening to the importance of these two questions in Ontario, and it is very satisfactory to note that progress is being made. Month after month during the past two years Mr. A. W. Campbell, the Provincial Instructor in roadmaking, has been carrying on a steady campaign against bad roads. More than that: not only has he denounced poor roads and shown them to be wasteful and extravagant, but he has also been teaching the Councils how to start the work of building better roads. The Ontario Department of Agriculture for several years has been scattering broadcast the good seed in the form of reports and bulletins. Even doubtful roadmasters have been forced to admit that good roads can be made if proper methods are followed, and without any increase in the annual appropriations.

During the past few months the town and country papers have been publishing notices of the purchase of roadmaking machinery, and the forward movement may be said to have fairly begun in this Province. A perusal of the good roads report lately issued from the Ontario

Department of Agriculture shows that the Councils are awake to the subjects in all parts of the Province, while praise for the work done comes from papers of all shades of politics. In this matter, then, we can hope in a few years to be able to boast of the general excellence of our rural roads and town streets.

As to rural public school instruction a new move is being inaugurated. The Minister of Education gave instructions for the preparation of a text-book on agriculture that would be suitable for use in public and high schools. The Deputy Minister of Agriculture has prepared the work with the advice and help of several specialists. It is now in the press and will be ready for the use of the schools on re-opening this fall. As the regulations stand at present agriculture must be taught in any public school upon the motion of the Board of Trustees. If the farmers of this Province, therefore, who have upon so many occasions asked for some instruction in the sciences underlying their work, are really desirous of having this carried out, the matter lies in their own hands. Other Provinces also are moving. Manitoba gives some instruction in this subject, and a late issue of *The Quebec Gazette* contains notice of a prize of \$300 for the best book on agriculture written by a citizen of that Province. It is presumed that the book is for school use.

The building of several thousands of miles of good roads is not a light task, and the development of a perfect system of rural instruction, one that is best suited to rural progress and rural happiness, is not to be accomplished in a year. But an important step is to make a good beginning. The inauguration of the Provincial good roads movement by the Department of Agriculture and the providing of instruction in agriculture in our Public Schools are certainly very important beginnings of this week.—*The Globe*.

## A Nice Point.

An interesting matter has been brought before the attention of the mayor in connection with the hawkers' license. A by-law fixes the local fee at \$40, which is virtually prohibitive. A Toronto solicitor has advised the mayor, however, that a client of his wishes to hawk goods in the city, but is only willing to pay the fee fixed by the Provincial Government—\$1. The lawyer points out that a corporation cannot override an Act of Legislature.—*Brantford Expositor*.

Providence moves in a mysterious way, but those who make a specialty of explaining these mysteries have never been able to account for the regularly with which twins and triplets come to the home of the man who earns a salary of \$8 per week.

## A Statute Labor Question.

An assault case in the Windsor police court developed an usual amount of interest a few days ago. David Clark was the complainant and Peter Quick the defendant, both parties being prominent farmers of Sandwich West.

Mr. Clark told his story as follows: Last Monday night he met the defendant on the road and Quick said, "What are you doing up here, are you going coon hunting?"

"No, I've come to serve you with a notice to perform your statute labor," was the reply.

"It seems to me you're in a big hurry this year," said Quick.

"I don't think I am," replied Clark.

"Well, I won't do mine now."

"If you don't do it before a week from to-day, you will be charged for it in your taxes. Why do I always have trouble with you and with no other person?" asked Clark.

"You're a liar!" shouted Quick.

"Your another!" was the quick response.

"You're a ——— liar!" yelled Clark.

"Your a bigger one!" was the answer.

Quick then made a rush, grabbed Clark by the collar, and shoving his fist into Clark's face said, "I'll smash your physiognomy."

"Do it if you can," was Clark's invitation, "and I'll make you pay for what you've done."

In cross-examination Clark admitted that he had warned the defendant last Sunday after church to do his roadwork.

Wm. O'Brien corroborated the first witness.

Mr. Quick's story was somewhat different. "Clark made a ruffle at me and I threw up my fist," said he.

"Why did you raise your hands?" asked the magistrate.

"I was told he was a fighting character," was the reply.

Wm. Quick the defendant's son, did not see his father put his hands on Clark.

Mr. Bartlet said he must hold that Quick by striking a fighting attitude and putting his fist in Clark's face had committed an assault. The court imposed a fine of \$2 and \$5.95 costs.—*Windsor Record*.

"You say you want my daughter?" said the proprietor of a newspaper to a young man who was sitting nervously on the edge of a chair. "Y-yes, sir." "Have you spoken to her on the matter?" "She—she has referred me to you, sir." "Is your affection for her sincere?" "Sincere!" gasped the young man. "I pledge you my word I haven't slept a wink or eaten a mouthful for six whole weeks for thinking of her." "George," said the father after looking at him a moment reflectingly, "I think you may come into the family. I need a young man of your capabilities to certify to the circulation of the paper."

## LEGAL DEPARTMENT.

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

## HIGHWAYS.

## Opening or Stopping up Roads.

Section 637, chapter 223, R. S. O., 1897, empowers the council of every county, township, city, town and village to pass by-laws for opening, selling or stopping up roads, etc., within the jurisdiction of the council; but by reason of section 632 of the same act these powers cannot be exercised until the conditions provided by section 632 are complied with. These conditions are: (a) The posting up for one month in six of the most public places in the immediate neighborhood of the road, of written or printed notices of the intended by-law; (b) the publication of such notice weekly for at least four weeks in some newspaper in the municipality, and where no newspaper is published in the municipality or in a neighboring municipality, then in the county town if any such there be; (c) the council is to hear in person, or by counsel or solicitor, any one whose land might be prejudicially affected thereby and who petitions to be so heard. In *Wannemaker vs. Green*, 10 O. R., 457, the court held that the notices required to be given were conditions precedent the due performance of which was essential to the validity of the by-law. At p. 467 *Armour J.* says: "It was proved that six notices were posted up in connection with this by-law in the most public places in the locality, but it was not shown when they were posted up nor what they contained. It was also proved that a notice was published weekly, but not for at least four successive weeks, but only for three successive weeks in the *Weekly Intelligencer*, a newspaper published in Belleville, the county town, but it was not shown what that notice contained. It is clear, therefore, that the provisions of this section as to the posting up and publishing of the notices were not proved to have been complied with, etc. I think they must be held to be conditions precedent to the right of the council to pass such a by-law, and that they have not been sufficiently complied with to enable the council to pass this by-law." The statute does not provide any form of notice. If it is intended to establish a new road the notice should show on its face where it is proposed to lay out the road so that persons whose lands or interests may be affected may know what the council is about to do. Though it may not be necessary in the notice to describe the proposed new road by metes and bounds, yet we think that that should always be done as a matter of precaution. In the case of closing an existing road there must not be uncertainty as to the road or part of road it is proposed to close. In the case cited *Armour, J.*, says: "I think by-law No.

277 is void also for uncertainty, for the fact is that the road in question is not the only road running across lot 15, in the 7th concession of Sydney, and there is nothing in the by-law to show which road is meant." The notice should also state the day on which the council intend considering the by-law. In *re Birdsall vs. Township of Asphodel*, 45 U. C. Q. B., 149, a by-law closing a road in use for forty or fifty years was quashed because the notice did not disclose the day on which the council intended to consider the by-law. The notices must all be posted up one month previous to the time for considering the by-law. This means a calendar month. See sub-section 15 of section 8 of chapter 1, R. S. O., 1897. In *re Laplante vs. Peterborough*, 5 O. R., 634, a notice given on 28th March for the 28th April was held too soon, because there could not be two 28ths in the same month. In *re Ostrom vs. Township of Sidney*, 15 O. R., 43, *Street, J.*, refused to quash a by-law where the notices were posted up on the 29th of July and the by-law was passed on the 29th of August, but the Court of Appeal reversed his decision and quashed the by-law. See 15 A. R., 372, at page 374, *Osler, J.*, says: "It is essential to the validity of a by-law establishing or stopping up a road by which the property of private persons may be compulsorily taken or the rights of the public extinguished that the provisions of the statutes under which it is passed shall be strictly observed." Care must also be taken that the by-law is published for at least four consecutive weeks. In *re Coe vs. Township of Pickering*, 24 U. C. Q. B., 439, it was held that a notice first published on Thursday, 12th of January, appointing Tuesday, 7th of February, under a statute containing similar language was insufficient. The first publication having been on Thursday, the 12th of January, the first week would end Wednesday, the 19th of January, the second on Wednesday, the 26th of January, the third on Wednesday, the 2nd of February, and the fourth week on Wednesday, the 9th of February, and therefore the earliest day which could have been fixed was Thursday, the 10th of February. The council must also before passing such a by-law hear any person whose land may be prejudicially affected thereby, and who petitions to be so heard. As to the by-law itself, the course, boundary and width of the road must appear upon its face or from some document or description referred to by it which may be treated as incorporated with it. In *St. Vincent vs. Greenfield*, 15 A. R., 567, *Osler, J.*, at page 569, says: "According to all the cases which have been decided in our courts on the subject, from the earliest to the present time, it is essential to the validity of a by-law by which a corporation professes to expropriate land for and to establish and lay out a highway, that the course, boundary and width of such highway should be capable of being ascertained either from the by-law itself or

from some document or description referred to by it which may be treated as incorporated therewith." The description of the road in this case was as follows: "A road on the boundary line between the 11th and 12th concessions in the said township, from the line between lot No. 30 and lot No. 31 to the line between lot No. 35 and lot No. 36." It will be observed that the width of the road was not given. In *McIntyre vs. Bosanquet*, 11 U. C. R., 460, the following description was held defective: "That the new survey made by Mr. A. M. Holmes, commencing at the Pine Hill road in lot 37, Lake road east, running southwesterly, south of the old lake road until it strikes the old lake road on lot 52, be and it is hereby established and constituted a public road; and be it further enacted that the said road shall be four rods in width." When this description is examined closely it does not amount to more than this, that Mr. Holmes laid out a road four rods wide somewhere upon the ground. In *re Brown vs. The County of York*, 8 U. C. R., 596, *Robinson, C. J.*, says: "This by-law is so far deficient in certainty that it does not show on the face of it how wide this road is to be which is to be laid out between lots 4 and 5, nor how it is to be laid out, any further than that it is directed to be laid out between those two lots, and as it is admitted that these lots touch each other, there cannot be space for a road between them, which is what the by-law professes to establish. The road could only be made by authorizing a tract of some specific width to be taken off one or other of the lots or partly from each. How this is to be done or how wide the road shall be the by-law does not inform us otherwise than by saying that it confirms the road laid out by John Embleton, the road surveyor, and described in his report of such a date. It does not refer to that report as annexed, and does not therefore establish the identity of the report nor give any security for its being forthcoming when required." In the same case, 12 O. R., at page 304, *Cameron, C. J.*, says: "This by-law provides for the opening of a road on the boundary line between the 11th and 12th concessions. What does 'on the boundary line' mean? It can hardly be said to mean on each side of it, and a road cannot be opened exactly on the line, for a line has no breadth and could not contain a road. Then it might have been the intention of this council to make the road entirely on one side of the line or partly on one side or partly on the other, and there is nothing in the writing to give the slightest indication of the intention, unless the petition for the road can be taken as evidencing the legislative intention of the council." In *Adams vs. East Whitby*, 2 O. R., 673, *Osler, J.*, says: "The power of a municipal council to close up a road under section 504, R. S. O., 1877, whereby any one is excluded from access to his lands is a conditional one only, and if another con-

venient road is not already in existence or is not opened by another by-law passed before the time fixed for closing the road, the by-law closing the road may be quashed." See section 629 (1), R. S. O., 1897, of the Municipal Act. This judgment was given on May, 1, 1882, and since then, by cap. 37, section 15, Municipal Amendment Act, 1886, it was provided that if the parties did not mutually agree as to their compensation or the road provided for the owner in lieu of the original road, the matter in dispute should be referred to arbitration. This sub-section is now sub-section 2 of section 629. A council has power to enter upon and take lands for the purposes permitted by the Municipal Act without first making compensation to the owner, who is not entitled to insist upon payment as a condition to the right of entry by the corporation. See *Harding vs. Cardiff*, 29 Grant, 308. A municipal council must not open a road in the interest of private persons. They must be prepared to show that the road has been opened in the public interest. See *re Morton vs. St. Thomas*, 6 A. R., 323. In passing by-laws for establishing roads councils must observe the provision of section 630. In *re Ostrom vs. Sidney, Street, J.*, held that it was not necessary to obtain the consent of the county council before passing a by-law for a road only forty feet wide, but that it was sufficient to obtain such consent before laying out the road. We doubt if this is a correct interpretation of this section, and would advise councils to obtain the consent of the county council before passing the by-law or to state on the face of the by-law that it is to take effect upon such consent being obtained, and not till then.

#### The Jenckes Machine Co. Fire.

The works of the Jenckes Machine Co., at Sherbrooke, Que., were slightly damaged by fire on the night of the 13th of August. The loss was not as great as at first reported. The fire was confined to the machine shop building, and the other departments, foundry, boiler shop, etc., were in operation on the following Monday. A few days later a portion of the machine shop was started up, and the whole was in running order on the 23rd of August. The patterns, drawings and office records were preserved practically intact, and all orders for work will be accepted as usual. The principal item requiring replacement is the machine shop roof, which, however is well under way. The whole of the work is being pushed with much energy and the numerous orders in hand will suffer comparatively slight delay.

Two Sufferers—He (sarcastically)—I wonder if the poor ostrich suffered much when they pulled those feathers out of it. She (serenely)—Not half as much as you appeared to suffer when I pulled the price of them out of you.

### LEGAL DECISIONS.

#### In re Powers and Township of Chatham.

Judgment on motion by George Powers to quash a by-law of the township repealing a former by-law, whereby the boundaries of school sections were altered. Held, that the repeal of the by-law was not within the powers of the township council; that after the passing of the by-law creating the new school section that by-law could be, in effect, set aside or altered, or its effect prevented or changed, only by means of an appeal to the county council; that the township council's power, once regularly exercised, was exhausted, to revive again only at the expiration of five years. Order made quashing by-law, with costs. Aylesworth, Q. C., and A. B. Carscallen.

The above decision bears out the view taken by the clerk referred to in question No. 344 of the August issue of the WORLD.

#### McGregor vs. Township of Harwich.

Judgment on appeal by defendant, the municipal corporation of the township of Harwich, from the judgment of Ferguson, J., who tried the action at Chatham, in favor of plaintiff for \$2,000 damages, in an action for negligence in leaving a heap of gravel on a highway which was the alleged cause of the plaintiffs (husband and wife), who were driving along the highway, being thrown out of their vehicle, and the wife severely injured. The appellants contended that they were not responsible for the gravel being placed on the road, and at any rate that the damages were excessive. Held, that there was nothing to fix the defendants with liability for the obstruction, there being no evidence to show who put the heap upon the road, and it not having been there long enough for the defendants to have notice or knowledge of it. Appeal allowed with costs, and action dismissed with costs. M. Wilson, Q. C., for appellants. Douglas, Q. C., and Gundy (Ridgetown) for plaintiffs.

#### Smith vs. Township of Uxbridge.

Judgment on appeal by plaintiff from judgment of Armour, C. J., dismissing the action, which was brought to recover damages for injuries received by plaintiff on the 15th of November, 1895, while driving from Toronto to Greenwood upon a highway in the township at a place about two miles northeast of the Village of Stouffville, alleged to be out of repair. The Chief Justice held that the road was sufficiently kept in repair by the defendants, having regard to the travel upon it and other circumstances. Order made for a new trial without costs. J. W. McCullough for appellant. C. J. Holman and T. W. Chapple (Uxbridge) for defendant.

#### In re Bell Telephone Company and City of Hamilton.

##### Assessment of Taxes—Telephone Company—Poles, Wires, Conduits and Cables.

In assessing for purposes of taxation the poles, wires, conduits and cables of a telephone company, the cost of construction or the value as part of a going concern is not the test; they must be valued, in the assessment division in which they happen to be, just so much dead material to be taken in payment of a just debt from a solvent debtor.

Judgment of Assessment Court reversed.

#### In re Canada Life Assurance Company and City of Hamilton.

##### Assessment of Taxes—Life Insurance Company—Reserve Fund Income—Divisional Taxes.

The net interest and dividends received by the Canada Life Assurance Company from investments of their reserve fund form part of their taxable income, though to the extent of ninety per cent thereof divisible—pursuant to the terms of the Company's special act—as profits among participating policy holders, and not subject to the control or disposition of the company.

Judgment of Assessment Court affirmed.

#### Trenton Electric Co. vs. Town of Trenton.

Judgment on appeal by plaintiffs from judgment of Meredith, C. J., who tried the action at Toronto, dismissing it without costs. It was brought for damages for breach of an agreement between plaintiffs and defendants, and for specific performance of the agreement, and for a declaration of rights. The agreement contained no assent in express words to the plaintiffs placing their poles in the streets or stretching their wires across them; but the trial Judge held, having regard to the method ordinarily adopted for transmitting the electric current, it must be taken that defendants impliedly granted to plaintiffs such rights for these purposes as might be reasonably necessary to enable plaintiffs to carry out their engagements and to enjoy the rights conferred upon them, but there was nothing in the agreement to indicate that the purposes, which the contracting parties had in view were other than local and confined to the limits of the town, and the defendants could not be taken to have assented to a contract which would enable plaintiffs to use the power, which defendants had acquired at great expense, in order to build up their own town, for the purpose of promoting the interests of a rival municipality, and therefore plaintiffs were not entitled to transmit their power to Belleville. The court agreed with the Chief Justice's view and dismissed the appeal with costs. W. Cassels, Q. C., and A. W. Anglin for appellants. Osler, Q. C., and H. S. Osler, for defendants.

QUESTION DRAWER.

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

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

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

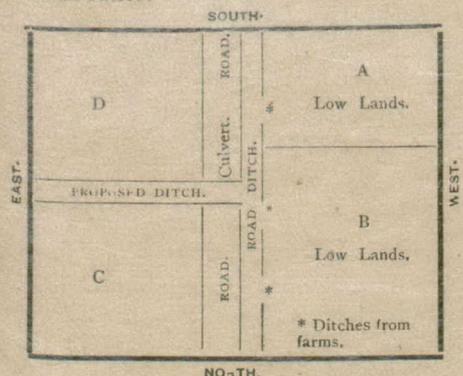
Road By-Laws in Districts—Ditches and Watercourses Liability.

347.—W. C.—To begin with there are no surveyed allowances for roads, the country being so broken by rocks. The government reserves five per cent. of the land to the crown for road purposes. The roads are built where possible to get through, many of them are away from the division lines between farms. Some years ago a colonization road was built by the government in this township, in one place wholly on one man's farm.

1. The question is would this be considered in law an original allowance for road? The council last year changed this road on to line between farms.

2. Would the by-law changing this road be legal without the approval of the district judge? To assist you I refer you to chap. 45, statutes of 1892, also subsection 2 of section 567 of Municipal Act. I have been contending with the rest of the council that their by-law was not complete without the approval of the judge, they contending that there was no original allowance for road, therefore the approval of the judge was not necessary. If this is not an original allowance for road there are none in the district, and chap. 45 is no use.

3. The next question is in regard to section 6 of the Ditches and Watercourses Act. The accompanying diagram will assist you in answering the question as to whether the parties A and B are liable to be assessed for the construction of the contemplated ditch. A new road was opened alongside the farms of A and B with good ditches. They had no outlet before for surface water, in fact the land was of little use to them being low, flat land. They took immediate advantage of the road ditches to take the water off their lands. This summer the council have had to take action to get an outlet for the water in the road ditches which naturally runs through the farm of C. The water runs from west to east, also from north and south to indicated culvert which is placed in lowest part of valley. Are A and B liable for the construction of any part of the ditch which has to be dug through the farm of C to an outlet?



1. No.
2. After having given this our best consideration, we are of the opinion that the contention of the other members of the council is the right one.
3. A and B, under section 6, appear to be liable for direct benefit only. The highway ought not to be used for draining water for the benefit of land-owners. We do not know the exact course of the water, but if it lies through part of A's and part of B's lands we would suggest that the engineer should provide for the construction of the drain through these lands, without regard to the existing drain along the highway, and let the connections which A and B have made with the existing drain be stopped up. Section 6 is not very clear, but if your engineer is a competent man he can very easily direct the course of the drain so as to compel A and B to contribute their just proportion towards the work.

Reeves and Deputies—Election in Townships.

348.—COUNCILLOR.—The township of B is now and has been for a number of years divided into wards, the reeve is elected by a general vote and the councillors by each ward. By the amendment of the Municipal Act, 1898, I notice sec 73, R. S. O., 1897, is amended by striking out all the words from word "councillors" in second line and substituting "who shall be elected by general vote."

Section 101 of R. S. O., 1897, permits the division of the township into wards.

1. Without a by-law of council abolishing the wards will the councillors for 1899 be still elected by the several wards, or will the election of reeve and councillors be by general vote?

2. Will it be necessary in future to nominate and elect deputy-reeves?

1. The election of reeves and councillors will be by general vote.
2. Yes.

Effect of Treasurer's Certificates—Taxes Due and in Arrears.

349.—P. S.—The taxes on a lot of non-resident land have not been paid since 1889, nor has any statute labor been done since then or paid for. The arrears of taxes have been carried forward on the collectors' roll of this municipality until 1893 when they were returned, or appear by a remark made in the collectors' roll of that year to have been returned to the county treasurer. The arrears accrued since then were again returned to county treasurer in 1895 and 1896. The whole amount of taxes now in arrears on said lots are \$132. Said lots are now about to be sold and the solicitor for the party so assessed for them has written to our municipal treasurer that he holds certificates from the county treasurer dated January 20, 1890, and June 19th, 1896, that no taxes were in arrears or due against said lots (lots 32 and 33, concession 16, township of Denbigh) on those dates. That the county treasurer claims returns were not made to him regarding arrears of taxes on said lots according to law, and that therefore his clients will only pay the taxes from 1895. The solicitor further mentions that at various times chattel property had been on the said lots out of which the taxes would have been made without charging them on the lands. The fact is that the place has been unoccupied and unfenced since 1889, and cattle have occasionally in the summer time strayed thereon in search of pasture, but I think that no cattle have been on the place in the fall and winter when our collector was collecting the rates of this municipality.

1. Will the possession of the county treasurer's certificates, stating that no taxes were in

arrears in June, 1896, legally enable the owner of said lots to refuse the payment of all the taxes charged in our collector's rolls against them prior to the issue of the certificate?

2. If the parties in arrears succeed in proving that cattle or horses have at various times been pasturing on said lots or have been astray or trespassing on them, could they refuse the payment of taxes on that account?

3. Do you think this municipality, under the circumstances stated, is entitled to all the taxes charged against said lots since 1889, and if so which would be the proper proceeding to get them if the parties persist in their refusal to pay those prior to 1896?

4. Kindly give any further advice you may think of advantage to me in this matter.

1. We do not think that the treasurer's certificates, if they were incorrect in stating that certain taxes had been paid, would relieve the person who ought to have paid them, provided he still continued to be the owner of the lands against which they were charged, but if a stranger bought the lands relying upon such certificates we think that the treasurer could not sell the lands to the prejudice of the purchaser.

2. We do not think so unless these parties can show, not only that there were chattels on the lands liable to seizure for taxes, but that it was through the negligence of the collector the amount of the taxes was not realized.

3. If we understand the course taken by the municipality, we have to say that it was improper and unauthorized. You say that the arrears of taxes were carried forward on the collector's roll. There is no authority for doing that. Section 157 of the Assessment Act, cap. 224, R. S. O., 1897, requires the treasurer of every township and village to furnish the county treasurer with a statement of the arrears of taxes within fourteen days after the time appointed for the return and final settlement of the collector's roll, and before the 8th day of April in every year. Section 160 authorizes the county treasurer to alone receive arrears of taxes after this statement has been furnished. Section 152 requires the county treasurer to furnish the clerk with a list of lands in respect of which taxes have been in arrears for three years, and it is the duty of the clerk to furnish the assessor with copies of such list, so that he may inquire and ascertain if the lands have since become occupied, in order that in case of occupation the arrears may be put on the collector's roll, and this is the only provision that we are aware of which authorizes placing the arrears of taxes in one year upon the roll of a subsequent year.

4. If the officers of the municipality have not taken the steps provided by section 152 and subsequent sections of the Assessment Act for realizing the arrears of taxes the municipality must bear the loss.

Appointment of Auditors.

350.—F. J. C.—Under sec. 299, R. S. O., 1897, the council of every municipality except cities are required to appoint two auditors. Now in case of the death of one of these auditors has the council any authority to fill the vacancy, and if so, what section gives them such authority?

Section 299, cap. 223, R. S. O., 1897, makes it the duty of every council to appoint two auditors after having been duly organized, and under this section it is obligatory upon the council to appoint two auditors. Section 303 expressly empowers the council of a city to fill a vacancy caused by death or otherwise, but we cannot find any such power expressly conferred upon other councils to fill vacancies in a like manner. We are of the opinion, however, that the council may, under section 299, appoint another auditor to act in conjunction with the surviving auditor. It is the only course which the council can take in order that the duties required by section 304 and following sections may be discharged.

Sidewalks on Leading Streets of Town Constructed on Petition—Municipality's Contribution.

351.—C.—A town has not voted on either a local or general improvement by-law but has constructed on business street, granolithic walks on petition of property holders who pay sixty per cent. and town forty per cent. In section 678 of Municipal Act, the statute allows of construction of walks in this manner on "leading or principal business streets." Would this allow of council building similar walks in like manner on leading streets in town which are not business streets, but residential streets although leading in, that they lead from the business street to station, and on said streets is a great deal of general traffic. Or, to be concise, in term "leading or principal business street," section 678, does it signify a leading street as separate from a business street or does the word leading qualify business?

2. Would it be legal to build such walks in any street, residential or otherwise provided the ratepayers passed or voted on such by-law paying for walks in proportion of sixty per cent. and forty per cent. as walks are now built on business streets?

1. We are of the opinion that this section is confined to business streets.

2. We do not think so. The assent of the electors will not enlarge the powers of the council unless the municipal act provides somewhere that the council may do what is contemplated here with the assent of the electors. We are unable, however, to find that any such power is conferred upon the council. The council has no right to apply 40 per cent. of the cost of the work at the expense of the municipality at large for the purpose of perhaps beautifying and improving the property of a few private parties. In regard to the principal or leading business streets the legislature no doubt thought that the citizens at large might be interested to such an extent in such streets that it might be reasonable that they should contribute something towards the cost of the improvement and therefore conferred a limited power upon councils in such cases.

Voters' Lists Unorganized Districts.

352.—A. E. T.—1. Does not the use of the word "male," in sub-sections 1 and 2, section 18 of chap. 225, R. S. O., 1897, exclude all women from the voters' list? Then why is sub-section 4 added? In the former reading of the act the word male was struck out by amendment. See section 2, page 1218, "Harrison's Municipal Manual."

2. Should I place the names of unmarried women on the list provided they are freeholders or resident householders and 21 years of age?

1. Yes. When the subsection was added the legislature intended to strike out the word "male," but it does not appear to have been struck out. Why we cannot say.

2. No.

Union Section with Village—General Rate.

353.—SUBSCRIBER.—A union school section composed of a part of an incorporated village and a part of a township, the school buildings of which are situate in the township part. Is the township council obliged to pay their portion of the \$150 provided for in section 66 of the Public Schools Act, and can they levy on that part of the township for this purpose, or does this case come under the last clause of sub-section?

2. If it does is this section exempt from that rate?

1. Subsection two of section 66 says: "This section shall not apply to Union Sections formed between townships and urban municipalities." The word "section" refers, we think, to the whole section and not to subsection 2 alone. We are strengthened in this view by the amendment in 1892 of the old section in the Act of 1891. Section 2 of cap. 60 of the Act of 1892 provides: "To remove doubts section 109 of the Public Schools Act, 1891, shall be construed to mean that Union School Sections composed of a part of a township, and any incorporated village or town shall not be included within the provisions of said section 109."

2. Notwithstanding the language of subsection 1 of section 66, that is "the public school supporters of the whole township," we do not think that this Union School section is liable for any part of the rate required to be raised under subsection 1 because if it is how can it be said that the section does not apply at all to such a Union School Section as this?

Railway Crossings—Repair.

354.—G. A. A.—The Grand Trunk and Canadian Pacific Railways pass through our township and cross all our roads at an angle of about 45 degrees. They have provided the ordinary approaches, but when driving a rig over one wheel of course strikes the approaches before the other.

1. What is the by-law regarding approaches and what should the slope and width be?

2. If out of repair who would be responsible in case of accident, the railway or municipality?

1. Section 183 of the Railway Act provides as follows: "The railway shall not be carried along an existing highway, but shall merely cross the same in the line of the railway, unless leave therefor has been obtained from the Railway Committee, and no obstruction of such highways with the works shall be made without turning the highway so as to leave an open and good passage for carriages and, on completion of the works, replacing the highway; and every company which violates the provisions of this section shall incur a penalty of not less than forty dollars for each such violation; but, in either case, the rail itself, if it does not, when the works are completed, rise above or sink below the surface of the road more than

one inch, shall not be deemed an obstruction. Section 184 provides as follows: "Whenever any railway crosses any highway, without being carried over it by a bridge or under it by a tunnel or a bridge whether the level of the highway remains undisturbed or is raised or lowered to conform to the grade of the railway the top of the rails shall not, when the crossing is completed, rise above or sink below the level of the highway more than one inch.

Section 186 provide as follows: "The inclination of the ascent or descent, as the case may be, of any approach by which any roadway is carried over or under any railway or across it at rail level shall not be greater than one foot of rise or fall for every twenty feet of the horizontal length of such approach unless the Railway Committee directs otherwise, &c.

2. The highway, notwithstanding that the railway company, has been authorized to cross it is within the jurisdiction of the municipality, and the municipality will be liable in damages under section 606 of the Municipal Act if through neglect to keep the highway in repair damages are sustained, but the municipality may have a remedy over against the railway company if it can make out a case entitling it to such remedy over under section 6092, the Municipal Act.

Poll-Tax—Cutting Weeds on Village Streets.

355.—T. W. S.—1. A is resident in a village municipality and on the voters' list as M. F. Would the fact of him owning property in another country municipality relieve him from paying poll-tax in the municipality in which he resides?

2. Under the Ontario Statutes would the council of an incorporated village be sustained in exacting of all owners and occupants of lands in same village that all weeds growing on lands or on the roadside bordering on said lands should be cut by the respective owners or occupants? Said council have appointed an inspector under the provisions of chap. 279, R. S. O., 1897.

1. Some time ago we expressed the opinion that a person who was assessed for a sufficient amount to relieve him from poll-tax in one municipality would not be liable to personal statute labor or poll tax in another municipality to which he moved. If the person referred to is assessed in another municipality for sufficient to relieve him there from poll-tax, he would, according to our opinion be exempt from such tax in the village. Some lawyers do not agree with us upon this point, and think that a person resident in a village but not on the assessment roll and liable for \$2 taxes is liable to this tax unless he can show by certificate that he has paid this species of tax or performed this personal statute labor elsewhere no matter how much taxes he has paid or is liable for in another municipality.

2. The owners of land are bound to keep noxious weeds cut down on their own lands as provided by the act, but the council cannot require them to cut down weeds growing on the highways, but the overseer of highways may require this

kind of work to be done as part of the statute labor imposed upon the inhabitants of his district or beat under the provisions of section 8 of chap. 279.

Audit of Police Magistrate's Books.

356.—A. B. C.—1. There is a town in this county of about 4,000 inhabitants, and the books of the police magistrate have not been audited for years. Please inform me as to how to obtain an audit. Should the municipal council appoint auditors, one or two, to do the auditing, or how?

2. Should it, the audit, be asked for by a member of the council, or how?

3. If an audit should be refused upon request then how should the matter be consummated?

Section 299, chap. 223, R. S. O., 1897, makes it the duty of councils to appoint two auditors whose duty it is to audit all accounts affecting the corporation. There is no provision enabling the council to appoint special auditors to audit the police magistrate's books. An audit may be had under the provisions of chap. 228, R. S. O., 1897, of the financial affairs of a municipal corporation, and section 10 empowers the auditors to examine officers and other persons and in the case of such an audit the police magistrate might be subpoenaed to produce his books and give evidence on the audit.

Election of Town Councils—Polling Sub-divisions.

357.—W. M. L.—The council of every town having a population of not more than 5,000, by the last Canadian census, shall consist of a mayor who shall be the head thereof, and of six councillors to be elected by a general vote. 61, Vict. chap. 23, sec. 2.

1. Does this mean that no reeve is to be elected?

2. And shall the general vote be taken at one polling place or shall it be taken in the wards with a deputy-returning officer in each?

1. Yes.

2. The town should be divided into polling sub-divisions for conveniently taking the vote of the electors under the authority of sections 535 and 536 of chap. 223, R. S. O., 1897. The number of polling sub-divisions, until arranged by by-law of the council, would be the same as formerly.

Industrial Tax Exemption—Use of Sidewalks by Merchants.

358.—J. W. J.—1. Has a township council the power to promise and to refund taxes for any term of years to any industry without taking a vote of the ratepayers? The industry in question is a steam saw mill.

2. When sidewalks have been built on the road allowance in a village, have the occupants, merchants, or hotel-keepers any right to blockade them with goods, chairs, benches and such things as will require parties passing to leave the sidewalks and walk out on the roads. If it is termed a public nuisance what steps should be taken to put a stop to it?

1. Section 411, chap. 223, R. S. O., 1897, empowers every municipal council, by a two-thirds vote of the members thereof, to exempt any manufacturing establishment in whole or in part from taxation except school taxes, for a period not longer than ten years. This ought to be done by by-law.

2. The owners of lands bordering upon streets have the right to make a reason-

able and proper use of such streets, for example the placing of material upon the street temporarily for building, the throwing down of wood preparatory to its being taken in upon the landowners premises, etc., but in these cases these acts must be done so as to occasion as little inconvenience as possible to the public. The material should be placed so as to interfere with public travel as little as possible and must not be left an unreasonable time in the street. There may be some excuse for encumbering the streets with goods, temporarily, but cannot see what necessity there can be for encumbering them with chairs and benches, except where a person is moving his furniture and requires to put it down temporarily on the street. If a person is doing anything of this kind, beyond what is reasonable, he is committing a public nuisance and is liable to be indicted.

Village By-Laws Waterworks Franchise.

359.—CARLETON.—The council of an incorporated village in the county of Carleton, has passed a by-law granting an exclusive franchise to a waterworks company for a term of thirty years on condition that the company supply the village with water at a fixed rate. The council agrees to pay annually the sum of \$25 for each hydrant, not fewer than five, or a minimum sum of \$125 yearly for the same length of time. It also agrees, so far as it has power, to exempt the company from municipal taxation. Has a council this power without asking or receiving the consent of the electors?

This by law creates a debt and, therefore, in the absence of assent from the ratepayers it is in contravention of section 384, chap. 223, R. S. O., 1897. It also appears to be in contravention of section 411 of the same act which empowers the council to exempt such a company as this by a two-thirds vote for a period not longer than ten years, and further it appears to be objectionable in granting an exclusive franchise to the company. See sections 330, 331 and 332 of the same act and also sub-section 13 of section 8 of the Interpretation Act, chap. 1, R. S. O., 1897.

By-law to Remove Fences.

(See No. 314.)

360.—CLERK.—I send you a copy of by-law passed in December 15th, 1897, referred to in my question last month asking how to proceed to make owners of lots move their fences who refuse to do so. All the statutory preliminaries in connection with the by-law were complied with. No protest put in at the time of hearing before the final passing of the by-law.

1. Is the by-law legal?
2. Can the council proceed to move the fences?
3. Must the council settle with owners for land taken for road before fences are changed?

Copy.

BY-LAW No. 15.

Entitled a by-law establishing as a public road the line between lots K and L in the township of Johnson in line of the road built by the Government of the Province of Ontario, partly on lot K and partly on lot L from the C. P. R. crossing to the Portlock River.

Whereas power is given to municipal councils according to section 550 chapter 184

R. S. O., 1887, to alter or direct roads within the jurisdiction of the council and for entering upon, taking or using any land in any way necessary for said purposes, subject to the restrictions in the Act contained.

Therefore the municipal council of the corporation of Johnson Tarbutt and Tarbutt Addl., in the District of Algoma, in council assembled enacts that the road now running and being on an irregular and undefined line from the C. P. R. crossing north to the Portlock River, be and is hereby altered and diverting to the surveyed line between lots K and L in the township of Johnson from the said C. P. R. crossing to where said surveyed line crosses the Portlock River, and that the said road as altered by this by-law shall be and is hereby established as a public road, and shall be the uniform width of sixty-six feet unless the provisions of by-law number 8, 1893, relating to the width of roads within this municipality be complied with.

This by-law shall take effect and become law on the day of the passing thereof.

Passed in council this 15th day of December, 1897.

Signed, { JOHN L. McDONALD, Reeve.  
THOMAS F. WILLIAMS, Clerk.

1. We do not think so because the by-law does not on its face show the boundaries of the proposed road, nor does it refer to any document which does show the boundaries. You should have set forth the boundaries of the road just as a piece of land is described by metes and bounds in a deed. The preliminary proceedings are important. You say they were all complied with, perhaps so, but you do not state what they were and therefore we do not know, but they should comply with section 632, chap. 223, R. S. O., 1897.

2. No, because we do not consider the by-law on its face legal.

3. If the by-law were valid the council might at once compel the removal of fences and proceed to make the road fit for public travel. The compensation is a separate matter to be settled by arbitration if the landowners and the council cannot agree.

An Assessor's Pay for Special Services.

361.—R. J.—Our assessor, when he started assessing, received blank forms from the Bureau of Industries with instructions to submit a census of the municipality for which he was to receive ten per cent. Now the question is, ten per cent of what? of his salary as assessor or ten per cent of the names submitted?

We have not been able to find any statute making any provisions of this kind, and without the blank form referred to we cannot express any opinion as to the meaning of it. We would advise you to communicate with the department.

Repair of a Mill Bridge.

362.—R. F.—Below a saw mill there are two bridges, one say twenty-five years ago, took only the water which drove the mill. The present proprietor many years ago was told when he bought the property, that he would have to maintain said bridge at his expense. He has done so ever since, excepting a very small grant given to him by the council. For several years on account of a change in the bed of the creek, this said bridge has taken all the water that flowed down excepting in case of floods. Said bridges are on a road used for public travel. The bridge which many years ago took only the water from the mill wants repairing.

Is it the duty of the proprietor of the mill to repair it, or of the council of the township?

If the road in question is a public highway the council must keep the bridge in repair. If it does not do so and injury is sustained through want of repair the municipality will be liable in damages.

#### Tax on Land Connected With Church.

**363.**—J. R.—In the case of "land used in connection with a place of worship," which may be assessed for "local improvements," has the clerk any right to charge school taxes, or county taxes against such lands?

No.

#### Township Taxes Paid to Treasurer.

**364.**—H. S. M.—1. Have municipal councils in rural municipalities when the taxes are collected by a collector, power to add a percentage to all taxes unpaid at a certain time, say 15th December? Please give chapter and section bearing on the case.

2. Have rural municipal councils power to make all taxes payable at treasurer's office?

3. Do you know of any rural municipalities where they are collected by treasurer at his office? How does it work?

1. Yes. See section 60, R. S. O., 1897, chap. 224.
2. Yes. See section 60, R. S. O., 1897, chap. 224.
3. We have no information.

#### Streets in Plans of Sub-Divisions of Lots or Highways.

**365.**—G. W. T.—A certain plot of ground has been laid out into building lots and registered, and is still used for agricultural purposes. A roadway has also been laid out through said plot. Is the roadway still constituted a highway according to the definition of highways in the Municipal Act? And can it be opened up for that purpose contrary to the wishes of the owner?

Sufficient facts are not furnished to enable us to express an opinion upon this question. Section 39, cap. 181, R. S. O., 1897, provides that all allowances for road or streets laid out by companies or individuals and laid down on plans thereof, and upon which lots of land fronting on or adjoining such roads, etc., have been or may be sold to purchasers shall be public highways, etc. Section 110 of chapter 136, R. S. O., 1897, declares that in no case shall any plan, etc., although filed and registered, be binding on the person so filing or registering the same, unless a sale has been made according to such plan, etc. A reference to these sections will enable you to readily see that you have not given us sufficient facts to enable us to say whether this road has become a public highway. You should give us the date of the plan and its registration, whether this road is shown on the plan, and whether sales have been made of lots upon it; what action the council has taken in regard to it, and whether public money has been expended on it. Unless the owner is estopped by reason of his own dedication, his land can only be expropriated under the formulation provided by the Municipal Act and compensation allowed to him.

#### Re Collection of Poll-Taxes.

**366.**—J. R. K.—In R. S. O., 1897, chap. 224, section 97, commencing at the word "to"

in the seventh line thereof it reads, "to be levied and collected at such time, by such person and in such manner as the council, etc., may by by-law direct."

1. Would it be legal to appoint a collector of the poll-tax to collect at any time during the year, that is continue his collections throughout the year? The object is to make those pay who may be away when the assessor goes round but come back later, and who are consequently not on the roll.

2. Can the by-law authorize the collector to collect from all and everyone in the municipality as he may discover them, whether their names are on the assessment roll, but without any property qualifications; or not on the roll at all, but who are justly entitled to pay this tax?

3. Is the enclosed by-law correctly drawn and is it legal?

#### BY-LAW NO. —.

A by-law to appoint a collector of the poll-tax of the town of Renfrew and to determine the manner and time for the collection of the same.

Whereas it is expedient to appoint a collector of said tax and to determine the manner in which it shall be collected.

Therefore the municipal council of the corporation of the town of Renfrew hereby enacts as follows:

1. That \_\_\_\_\_ be and hereby is appointed collector of the poll-tax of the town of Renfrew.

2. That said collector is hereby authorized and required to collect the said tax as provided for in Revised Statutes Ontario (1897), chap. 224, sec. 97, from every male inhabitant of the town of Renfrew of the age of 21 years and upwards and under 60 years, "and not otherwise exempted by law from performing statute labor," who has not been assessed on the assessment roll of the town of Renfrew or whose taxes do not amount to \$2.00.

3. That said collector shall collect said tax at such times during the year as he discovers persons in the municipality of town of Renfrew who are liable for said tax.

4. That said collector shall keep a strict account of all collections made. Said account shall contain the names of persons paying said tax, and the date upon which it was paid.

5. That said collector shall make monthly returns of his collections to the treasurer of the town of Renfrew.

6. This by-law is enacted under the power granted to municipal councils in R. S. O., 1897, chap. 224, sec. 97.

7. That any person convicted of refusing or neglecting to pay the aforesaid yearly poll-tax shall forfeit and pay, at the discretion of the convicting magistrate, a penalty not exceeding the sum of \$5.00 (five dollars) for each offence, exclusive of costs, and in default of the payment of said penalty and costs forthwith, the said penalty and costs, or costs only, may be levied by distress and sale of the goods and chattels of the offender, and in case of there being no distress found, out of which such penalty can be levied, the convicting magistrate may commit the offender to the common goal of the county of Renfrew, with or without hard labor, for any period not exceeding ten days, unless such penalty and costs be sooner paid.

8. That this by-law go into force immediately after the passing thereof.

1. Yes.
2. Yes.
3. The by-law is, we think, legal. Clause 5 is not literally the same as section 107, but it does not appear to provide for any distress or punishment in excess of what is authorized by section 107. In all cases of this kind it is better to adhere literally to the words of the statute.

#### Expropriation of Gravel.

**367.**—F. M.—1. Is it within the powers of a township council to pass a by-law, under the provisions of which they can enter upon lands and take gravel for road purposes at a price of say 7 cents per yard, without the consent of the owners?

2. If not what are the powers of township councils in the matter? In this township some are quite willing to sell gravel at 7 cents per yard, others want 15 cents.

1. Under Sec. 640 (10), Chap. 223, R. S. O., 1897, township councils have the right to pass by-laws for searching for and taking such gravel within the municipality as may be necessary for keeping in repair any highway within the municipality. The by-law should specify the location of the gravel, and the quantity expropriated. The price and the rights of entry are to be settled by arbitration, if not agreed upon by the parties.

#### By-Law Opening and Closing Road.

**368.**—J. H.—About 9 years ago there was a petition to the council of McDougall Township, Ont., to establish a road in place of 8th and 9th concession line which was impracticable. The council had it surveyed, advertised and put up notices that a by-law would be passed. No one came to the meeting at that time to object to the by-law, and it was passed and registered at that time, giving boundaries as described by surveyor. Since then another man bought one of the lots that the road runs through, and he objects to the road. This year he is one of the council. He and the reeve and one other councilman have passed a by-law to repeal a part of the by-law that established the road, though some of us served them with notices of objection, and that if they did we would appeal to the courts to have it set aside.

1. Can they close part of that road? It is needed for some to get to school.

2. If not, who is liable for costs?

3. How will we proceed to have it set aside?

1. Assuming that the proceedings were regular, and that the road became a public highway by force of the by-law, it could only be closed under the like formalities as it was opened, that is under the conditions required by section 632 of chapter 223, R. S. O., 1897.

2. What costs?

3. By application to the courts to quash it.

#### Village Municipality and Waterworks Company.

**369.**—J. B. H.—Can the council of a village municipality, without the consent of the ratepayers, invest a waterworks company, formed under R. S. O., 1897, Chap. 199, (a) with power to compel any ratepayer to take the water, (b) with power to collect water rates by distress, (c) with power to make water rates a charge on land, to be collected by the municipality in the same way as taxes for the benefit of the company, (d) with power to compel the owners of lots which are not built upon to pay water rates for same?

We do not think that the council can confer any of these powers upon this company either with or without the consent of the ratepayers. The powers and duties of the company are to be found in section 20 and following sections of chap. 199. A municipal council may by by-law confer upon a company formed under this act, the powers contained in sections 4, 11, 12 and 14 of the Municipal Waterworks Act, but these powers are entirely different from the powers above mentioned.

Under sub-section 5 of section 550, cap. 223, R. S. O., 1897, the council may compel the use of water supplied by the waterworks of the municipality within certain defined areas, and for prohibiting the use of spring or well water in such areas. These provisions are for health preservation.

#### Fence Rubbish on Road Allowance.

**370.**—M. C.—Can a ratepayer, whose line fence is on the road, remove stones and other rubbish from off his farm to the side of fence, and afterwards remove the fence to proper line and leave the stones on the highway without removal?

No. The council may pass a by-law under section 557, subsections 3, 4 and 5, R. S. O., cap. 223, for the removal of obstructions, and under such a by-law the pathmaster may compel the removal of the obstructions or have them removed at the expense of the party who placed them there.

#### Township Wards Abolished for Election Purposes.

**371.**—SUBSCRIBER.—What is the new statutes about wards in townships? Is the ward system abolished in townships, or is it for cities or towns and not for townships?

Section 73, cap. 223, R. S. O., 1897, was amended by 61 Vic., cap. 23, section 4, so that it reads, "The council of every township shall consist of a reeve, who shall be the head thereof, and four councillors who shall be elected by a general vote." The effect of this is to abolish ward representation in townships. That part of section 73 which entitles a township to a deputy-reeve for every 500 votes has been struck out. Cap. 24 of 61, Vic., provides that elections held for the present year shall not be invalid by reason of the non-election of deputy-reeves and declares that the candidate having the highest number of votes shall be first deputy-reeve, as cap. 24 is confined to the elections for the present year. We think that the amendment of section 73 abolishes ward representation, notwithstanding section 100, which provides: "Except in the case of deputy-reeves and councillors in townships divided into wards the election in townships and villages, of reeves, deputy-reeves and councillors shall be by general vote, etc." It will be observed that the election was by general vote under this section where the township was not divided into wards. The amendment under 61 Vic., either applies to townships divided into wards or it effects no change in the latter. Being later it must be taken to express an intention on the part of the legislature to effect a change in the law.

#### Trustees' Requisitions, Protestant and Separate Schools.

**372.**—J. B. P.—Referring to questions 303 and 333 the Board of Trustees of said Protestant Separate School has sent in his requisition as provided by section 16, sub-section 9, chap. 294, R. S. O., 1897.

1. Does your answer to sub-question 3 of 303 refer to said A and B or to all supporters of said Protestant Separate School?

2. Should the municipal council collect the rates for the Protestant Separate Schools as

well as for Roman Catholic Separate Schools? (Sec. 58.)

1. Question 303, in our July number, is as follows: "Could the council levy and collect the taxes of said Protestant separate school if requested by the trustees?" Our answer was "No." As will appear more fully from what we say in reply to your second question (2) there appears to be no power to invoke the aid of the municipal council to collect the rates in the case of Protestant as there is in the case of Catholic schools. Our answer to number 303 referred to those persons who are supporters of Protestant schools and not to other persons who, though liable to pay school rates, are not supporters of Protestant schools under the act.

2. You will observe that section 16 of the Separate Schools Act expressly provides that sections 28 to 35, and 37 to 41 inclusive, shall apply to the trustees and teachers of such separate schools, that is trustees of Protestant and colored separate schools. This provision indicates that other sections under the head of Roman Catholic separate schools do not apply to Protestant or colored separate schools. Section 17 impowers the trustees of Protestant and colored separate schools to impose levy and collect rates. Roman Catholic separate school trustees have the same powers under sec. 55, but they have the additional right to have them collected by the council under sec. 58.

#### Powers of Trustee Board.

**373.**—W. E.—Can two of the board of trustees engage a teacher, also raise her salary \$50.00 against the majority of the ratepayers, also against the one trustee wishes, the two trustees that hired such teacher have not taken their declaration of office and have been acting as trustees for one or two years, one of them has not attended a meeting for the last year?

2. The ratepayers have elected a new trustee. Can the two trustees that are acting in accordance with the ratepayers, wishes engage a new teacher, and how long notice would they have to give to the other teacher before they could dismiss her?

Quite a number of pupils passed at the public school leaving examination, which was held in June last, the examiner told them they would get a certificate to teach for one year. Some of them got schools to teach, and then wrote to the school inspector for their certificates but could not get any. The inspector informed them that he was notified some time ago by the Department not to grant them any. What I would like to know is, Who is to blame in this matter? Is it the Minister of Education or the inspector? Should this not have been made known before the pupils who passed the examination had been put to such trouble and expense? Also a disappointment to the trustees who hired him.

4. What causes such delays in finding out what pupils have passed, the examinations were in June and the pupils received no answer as to whether they had passed until the first week in August, only about eight days before the schools opened, thus giving them scarcely any time to procure a school. Who is the right party to lay this grievance before?

1. The question of salary is one for the trustees to deal with. The ratepayers have no voice in the matter at all. A majority of the trustees governs. The two trustees therefore had the power to

engage the teacher and to determine the salary to be paid.

2. The two trustees may engage a new teacher as soon as there is a vacancy, but we cannot say what length of notice the trustees will have to give the present teacher because we do not know the terms of the agreement between the teacher and the trustees. If the agreement does not provide that the trustees may terminate it by notice they cannot do so and the teacher will be entitled to complete the term of her contract.

3 and 4. We would suggest that you communicate with the Inspector and the Education Department, and in doing so we would advise you to confine yourself to the case or cases in which you are interested so that the information you obtain will refer to these particular cases. We have no doubt but that the pupils who wrote for certificates would have received them if they had been entitled to them. In regard to the alleged delay in giving the result of the examinations we are not in a position to give you any information because we have no knowledge of the amount of work which the examiners had to do. The Department will, no doubt, be able to give the reason for the delay.

#### Formation of Union School Section.

**374.**—E. W.—This is an incorporated village, one public school with three teachers and an average attendance of about sixty scholars. Pupils are fitted for third-class certificates, the larger proportion of which are from adjoining sections. These sections have about the average attendance of ten to twelve in each section, all in another municipality. School house within three to four miles of the village. It is proposed to unite them in one and have the children transferred to the village by conveyance at the expense of the joint schools. The village school is maintained at the expense of about \$1,500 per year.

1. Would legislation be required to unite?  
2. Are you aware of any instances where such a plan is adopted?  
3. Where could information be obtained

1. The procedure for uniting parts of one or more townships and an adjoining urban municipality are contained in section 43 of the Public Schools' Act, cap. 223, R. S. O., 1897. This is the only provision for forming such a union. There is no provision for transferring the children to the village by conveyance at the expense of the joint schools.

2. No, except that there are numerous instances of union school sections composed a village and parts of one or more adjoining municipalities.

3. We are not aware of any place where you can obtain any more information than we have given above.

#### School Section By-Law.

(See No. 344.)

**375.**—X. Y. Z.—In further reference to school by-law under above, by-law was passed on May 27th; was signed at June meeting. The councilman who put the matter through was unavoidably absent at the June meeting. Clerk pointed out to council that there was an error, in which all agreed. Reeve desired that signature to by-law should be postponed until

next meeting, when councilman who put motion through would be present. Clerk said if not signed then, would be hoisted for twelve months. The by-law was signed. Next meeting, in July, councilman was present. Question of altering by-law brought up. Declaration by clerk that it was out of order, as stated in August number. These are full particulars. Is your opinion still the same?

We assume that the by-law was signed on the 1st day of June though you do not yet state the date on which the meeting of the council was held. If it was signed on that date the council could not further deal with it. It could only be altered by an appeal under section 49 of the Public Schools' Act, and if no appeal was taken the by-law must stand.

#### Taxes Printing Plant Sold—Arrears of Taxes.

**376.**—J.—1. A owned a printing plant, for which he was assessed \$200 in 1896. Said plant was in a house owned by B and rented by A. B was assessed for the house and paid all his taxes. A sold his plant to B, who removed it to another house owned by him. A moved away last June, his taxes not being paid. Can B be compelled to pay those arrears of A's taxes for 1897?

2. A bought a piece of land in 1896 and was assessed for it that year, and when he paid his taxes for 1896 in the month of January, 1897, nothing was mentioned of any arrears of taxes on the place, and A got a full receipt for that year. This year the property is assessed to A, who recently sold it to B. Can A or B be liable for those arrears of taxes, nothing before having been mentioned of such arrears since A bought the place in 1896?

1 No.

3. If the taxes could not be made the treasurer ought to have furnished the county treasurer with a statement of these unpaid taxes under section 157, Cap. 224, R. S. O., 1897. It is the duty of the county treasurer to furnish the clerk with a list of unpaid taxes, under section 152, and it is the duty of the clerk to furnish the assessor with copies of this list in order that he may enquire whether the lands are occupied and if so that the taxes may be again put on the roll. If the taxes cannot be made out of the chattels the county treasurer shall sell the lands, when any portion of taxes have been due for or in the third year, under section 173. If these provisions have been followed their will be no difficulty, but you do not state what has been done and therefore we cannot say what powers you have, see section 249 as to the penalty incurred by a treasurer for neglect of duty.

#### All Taxes—Voters' List—Fenceviewers' Costs.

**377.**—Z. R.—1. What is the meaning of sec. 535, R. S. O., 1897, "Paid all municipal taxes due by him." Is it taxes for municipal purposes only or all taxes imposed on the collector's roll?

2. A and B are entered both on same assessment for \$50.00. A as resident householder on the property on column 2, and B owner of said property, not resident, placed in column 6. Is it sufficient for the clerk to enter both names on the voters' list, or which should be on?

3. Will it be lawful for the council, by a by-law for the purpose, to collect by the collector's roll any fees due by the ratepayers to

the fenceviewers, when having been duly ordered to arbitrate some dispute or damage, and having given their award by writing and report to the council?

1. We think these words extend to all taxes, whether for general or local purposes, but they do not extend necessarily to all sums payable under the collector's roll. There are various Acts which provide for the placing upon the collector's roll of certain charges which are to be realized in the same manner as taxes, but these charges would not, in our opinion, be taxes in the sense of the words used in the above section.

2. Enter both names on the list.

3. Yes. See Section 12, Chapter 284, R. S. O., 1897.

#### Vote on School By-Law, Union Section with Town—Voting in Towns where Wards Abolished.

**378.**—T. I. T.—Our town council is requested by the Public School Board to submit a by-law to the people for the purpose of raising by debenture the sum of \$5,000 for the erection of a four-roomed addition to the W. W. School and for certain repairs thereto. This being a union school section, kindly advise me if those ratepayers outside the corporation of Midland, but within the school limit, are entitled to vote on such by-law?

2. Under the present system, i. e. the abolition of wards in smaller towns, can an elector vote in any polling sub-division provided he has the property qualification, or is the voting confined to the division in which ratepayer resides?

1. We do not think so. The Act of 1891, Sec. 116, provided for the submission of the question to the votes of the electors of the municipality. That Act made it clear that only the electors of the municipality could vote upon the question. In the Act of 1896 (sec. 72) the words "of the municipality" were left out, and they are omitted in the Act of 1897 (sec. 72.) If they had been retained there would have been no doubt whatever about the meaning of the section. We are, however, of the opinion that the omission of these words was not made for the purpose of requiring the submission of the question to the electors of the whole section, and that they do not mean anything more than the old act did. If the Legislature intended to bring in the outside portion of the section, we think the Legislature would have substituted the words, "of the school section" for those omitted.

2. They should vote where they reside.

#### Debentures of Union Section.

**379.**—J. M.—A union school section is composed of an incorporated village and a part of a township. The village issued debentures to raise money to purchase a school site and build a school house. Must the village pay the whole of the debentures, or should the township part of the section pay its proportion? Your reply to question No. 334 would imply that the levy should be made on the whole section, but we have been informed that the Minister of Education has advised otherwise.

Section 72, which provides for the application of trustees to the municipal council of urban municipalities does

not make provision for levying the amount upon the portion of the section outside of the urban municipality. In the case of union school sections composed of parts of different townships, section 70 expressly provides that the council of the municipalities in which the school-house is situated shall issue all debentures and the other municipality are required to raise their share of the loan including interest as it becomes due.

#### Publications Received.

*Voters' List, Town of Alliston.* W. M. Lockhart, Clerk.

*Voters' List, Village of Colborne.* Geo. Keys, Clerk.

*Voters' List, Village of Oil Springs.* D. P. Sisk, Clerk.

*Voters' List, Township of Verulam.* Geo. W. Taylor, Clerk.

*Voters' List, Township of Glenelg.* John S. Black, Clerk.

*Voters' List, Township of Hollowell.* Thos. H. Morgan, Clerk.

*Voters' List, Township of Peel.* Magnus Henderson, Clerk.

*Voters' List, Township of Tilbury North.* J. A. Tremblay, Clerk.

*Voters' List, Township of Grantham.* L. S. Bessey, Clerk.

*Voters' List, Township of Waterloo.* Geo. A. Tilt, Clerk.

*Voters' List, Township of Kinloss.* Peter Reid, Clerk.

*Voters' List, Township of Cornwall.* John Mullin, Clerk.

*Proceedings and By-Laws, Township of Waterloo, 1897.*

*Copy of By-Law, Township of Waterloo, to raise \$9,000 for building and repairing certain bridges destroyed and damaged by spring freshets, 1898.*

*Minutes of County Council of Ontario, June Session, 1898.*

*Proceeding of County Council of Welland, June Session, 1898.*

*Minutes, By-Laws and Accounts of the Township of Trafalgar, 1897.*

*Auditors' Report, Town of Alliston, for 1897.*

*Auditors' Report, Township of Kinloss, for 1897.*

*Auditors' Report, Township of Peel, 1897.*

*Auditors' Report, Township of Tilbury North, for 1897.*

#### Use for a Comma.

"If there is anything I enjoy," said the man with the placid look, "it is to get on the river bank and lie about fishing."

"Couldn't you stay at home and lie about fishing just as easy?" asked the lean man.