

THE MUNICIPAL WORLD

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Calendar for January and February, 1902.

JAN. 1. New Year's Day.	
By-Laws for establishing and withdrawal of union municipalities for High School purposes take effect. H. S. Act, section 81, (2).	
Trustees' Annual Report to Inspectors due.	
By-Law establishing Township Boards take effect.	
Separation of Junior Township takes effect.	
First meeting of Rural School Trustees.—P. S. Act, Section 16 (1).	
Po'ling day for Trustees in Public and Separate Schools.—P. S. Act, Section 60 (3), S. S. Act, Section 31 (3).	
3. High Schools open, second term.—H. S. Act, Section 45.	
Public and Separate Schools open.—P. S. Act, Section 96 (1, 2); S. S. Act, Section 81, (1, 2).	
5. Trustees' Report on Truancy to Department due.	
Make return of deaths by contagious diseases registered during December.—R. S. O., Chapter 44, section 11.	
6 Election Day.	
7. Treasurer and Register of Deeds, making payments to other municipalities, to send detailed statement to head of same.—61 V., Chapter 23, Section 11.	
8. Clerk of municipality to be notified by Separate School supporters of their withdrawal.—S. S. Act, Section 47 (1).	
Annual Meeting of Township Agricultural Societies, at 1 p. m.	
13. Councils of Townships, Villages, Towns and Cities to hold their first meeting at eleven o'clock, a. m.—Municipal Act, Section 259.	
Councils to appoint members of Local Boards of Health.—Public Health Act, Section 49.	
14. Names and addresses of Separate School Trustees and Teachers to be sent to Department.	
Names and addresses of Public School Trustees and Teachers to be sent to Township Clerk and Inspector—P. S. Act, Section 19 (3).	
Annual Report of School Boards to Department due.	
Members of Library Boards to be appointed by Councils in Cities, Towns and Villages.—Public Libraries' Act, Section 9.	
15. Annual Report of Separate Schools to Department due.—S. S. Act, Section 28, (18) Section 39 (9).	
Minutes of R. C. S. S. Trustees' annual meeting to Department due.	
Application for Legislative appointment for inspection of Public Schools in Cities and Towns separated from the county, to Department, due.	
Annual Reports of Kindergarten attendance to Department due.	
Last day for Pound Keepers to file annual statement with Clerk.	
Last Day for making returns of Births, Deaths and Marriages, registered for half year ending 31st December.—R. S. O., Chapter 44, Section 11.	
Last day for Treasurers of Municipalities indebted under Municipal Loan Fund Act, to make returns of Taxable Property, Debts and Liabilities, to Provincial Treasurer.	
First meeting of Public School Trustees in Cities, Towns and Incorporated Villages.—P. S. Act, Section 61, (1).	
20 By-Law withdrawing from Union Health District takes effect. R. S. O., c. 248, s. 50.	
Trustees of Police Villages to hold their meeting at noon.—Municipal Act, Section 737., R. S. O., Chapter 223.	
28. County Councils to hold first meeting, at 2 p. m., at Court House or County House.	
County Treasurer to submit to County Council Report of the state of the Non-Resident Land Fund.—Assessment Act, Section 244.	
Appointment of High School Trustees by Public School Board.—H. S. Act, Section 13.	
Annual Meeting District Agricultural Society, at 1 p. m.	
31. Last day for all councils to make returns to Bureau of Industries, of the debts of their corporation.—Municipal Act, Section 427.	
FEB. 1. Last day for Railway Companies to transmit to Clerks of Municipalities statement of Railway Property.—Assessment Act, Section 31.	
Last day for Collectors to return their rolls and pay over proceeds.—Assessment Act, Section 144.	
Last day for County Treasurer to furnish Clerks of Local Municipalities statement of Lands in arrears for taxes for three years.—Assessment Act, Section 152.	
5. First meeting of Board of Education, at 7 p. m., or such other hour as may have been fixed by resolution of former Board, at the usual place of meeting of such Board.—High Schools Act, Section 14.	
31 Equalization of Union School Section—Change in Tax Bill—Qualification of School Trustee.....	
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The Municipal World

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ST. THOMAS, JANUARY 1, 1902.

The Municipal World.

No. 1. Vol. 12. Whole Number, 133.

With this issue THE MUNICIPAL WORLD commences the twelfth year of publication. During 1901 the subscription list was the largest in the history of the paper.

The Question Drawer occupied 260 columns, and answered 994 queries in reference to municipal law. A large number of questions submitted for private reply, were not published.

The Supply Department of THE WORLD has received an encouraging support. This is necessary if we are to continue the privileges that subscribers enjoy.

Co-operation on the part of municipal officers with THE WORLD has, in the past, been the means of distributing more useful municipal information than could otherwise be obtained, and we hope that this will be increased during 1902.

Result of Commuted Statute Labor in Pelham.

The financial statement for the year 1900, shows that \$1,029.78 was expended on roads and bridges and the purchase of a road grader, in addition to \$1,556.32 collected for statute labor commutation. The statement for 1901 shows that the road and bridge expenditure has been reduced to \$576.18 or about 26%, and that the commutation expenditure amounted to \$1,667.56.

The electors of the village of New Hamburg have passed a by-law granting a bonus to a brass manufacturing company.

Appointment of Municipal Officers.

CLERK AND TREASURER.

The administration of our municipal laws and enforcement of by-laws and other regulations of a corporation, devolve upon officers appointed by the council. It is advisable to have them appointed by by-law, and, wherever permissible, the by-law should be worded so that the appointments need not be considered annually. The appointment of capable men to hold office during good behavior or as long as they discharge their duties efficiently, will give the best results.

The clerks and treasurers of most municipalities are now appointed in this manner and are known as permanent officials. We occasionally hear of the discharge of an efficient clerk or treasurer, as the result of political prejudice or an election promise and regret that councils should thus sacrifice the best interests of their municipality. Good men will not accept an office for which they have to compete annually with inexperienced applicants.

ASSESSORS AND COLLECTORS.

The law relating to the appointment of assessors and collectors requires the appointment of these officials in all municipalities except cities to be made annually. We do not know why cities are placed in a different position from other municipalities unless it is that their representatives have recognized the benefit derived from the work of permanent officials, as compared with those appointed annually. The law should be amended so that all municipalities will be in the same position.

A great deal depends upon the work of an efficient assessor.

The amount of the legislative school grant is based on the population entered in the assessment roll.

A correct dog census will provide funds to pay for sheep killed and a possible balance for the general funds, and, if all voters are properly entered on the roll, the accounts for the Court of Revision will be small. There are many other matters of equal importance but these will direct attention to the losses a municipality may sustain if the assessor is careless in his work.

AUDITORS.

Auditors are also to be appointed annually, at the first meeting after the council is organized, unless appointments were made in the months of November or December of the previous year, as provided in section 301, of the Act, or a permanent auditor appointed under section 309. We cannot emphasize too strongly the importance of appointing good auditors, at a salary sufficient to pay them for the time necessary to fully investigate the treasurer's accounts, and everything relating, directly or indirectly, to the finances of the corporation.

SALARIES.

No council shall assume to make appointments to office, or any arrangement for the discharge of the duties thereof by tender, or to applicants at the lowest remuneration. This is the wording of section 320, sub-section 2, of the Municipal Act. Notwithstanding this, we have known councils to auction all of the offices for low salaries, and still lower service followed by indirect expenses that would have more than paid an efficient man to discharge the duties properly. The council, however, got credit for being economical, until the high tax bills and audits directed attention to the mistakes made. The only safe plan to adopt when making an appointment, is to select the best man available irrespective of residence or political tendencies, and pay a salary sufficient to enable him to do efficient work.

Injury on Sidewalks in Unincorporated Village.

The following decision is in accordance with the opinion on this point frequently given in these columns. The case was recently in appeal before Mr. Justice Meredith. A person named Madill had sued the township of Caledon to recover damages for injuries received owing to the defective condition of a sidewalk in an unincorporated village in the municipality. The court held that the plaintiff had not been guilty of contributory negligence by travelling on the defective walk. Secondly, held that, although the walk had been constructed twenty years ago, it being on the highway which the township was bound to keep in repair, was an invitation to passers to use it. It was there with their knowledge and acquiescence, and they had time to repair; and it was their duty to prevent the walk becoming a source of danger. Judgment was for plaintiff for \$475, and costs \$125. Sidewalks are often neglected, and defective one are a source of danger, and municipalities are responsible for damages ensuing.

A Defective Road Fence.

The recent case of Patterson vs. Fanning is of interest, as showing the responsibility of landowners for injuries occasioned by animals allowed by them to escape or stray onto the highway by reason of defects in road fences known by the owner to exist. The defendant in this case knew that the fences of his field, in which he let his horses loose, were not in proper condition, and, owing to such defect, the horses escaped onto the public streets of the city. Being startled by the mischievous conduct of a third person, they knocked the female plaintiff down and injured her. It was held that she was entitled to damages and that in such a case, evidence of a by-law of the municipality against running at large is admissible in aid of the plaintiff. This decision was afterwards confirmed by the court of appeal.

Special Audit of Municipal Accounts.

The appointment of a provincial municipal auditor and the efficient manner in which he discharges the duties of his office, has had the effect of improving municipal treasurers accounts throughout the province. The special cash-books are a success and although the provincial auditor has not been able to make an inspection of the books of every municipal corporation, he will continue to devote a portion of each month to that work until all have been visited.

The number of special audits applied for has not been large.

These may be undertaken by the provincial auditor on his own motion, or at the request of any two members of a municipal council, and when a request is signed by thirty ratepayers of a municipality, he is required to make an inspection, examination or audit, and for this purpose he may recommend the appointment of an accountant familiar with municipal accounts to do the work. The person so appointed has the same authority as the provincial auditor. The expenses connected with a special audit have to be paid by the municipal corporation.

There are some municipalities, the affairs of which have not been in a satisfactory condition for years, owing to non-observance of the laws and inefficient representatives and officers. In these a special audit will place the responsibility where it belongs and clear the air of rumors and incriminating statements with which many of us become familiar at election time. The work of the clerk in the preparation of collectors rolls and returns of arrears of taxes and all other matters connected directly or indirectly with the financial business of the municipality would receive consideration, and the report in addition to a correct financial statement, should direct attention to all irregularities of procedure on the part of councils and officials, and recommend a proper business-system for the future guidance of all concerned.

The last annual report of the provincial auditor contains the following recommendations of general interest made in a special report on the accounts of the city St. Thomas.

1. That a plan in book-form of all property within the city limits, showing surveys, subdivisions, streets, lot numbers, measurements, etc., be procured for use of the assessor and city engineer.
2. That the list referred to in section 125 of the Registry Act be procured annually for the use of the assessor.
3. That the clerk prepare a separate school supporter's index-book as required by the Separate Schools Act.
4. That all records of courts of revision of the assessment roll and of appeals against local improvement assessments be kept in a book provided for that purpose, and that decisions given

in all appeals to the Judge is noted therein.

6. That a record of all arrears of taxes be kept as required by the Assessment Act, and that an account shall be opened in the ledger for arrears of taxes to include taxes returned by collector and percentage added yearly.

7. That the treasurer be required to keep on file the following returns or copies thereof :

(a) Collector's account of taxes remaining due on the roll.

(b) List of lands liable to be sold.

(c) List of occupied lands.

(d) Return of taxes on occupied lands.

8. That the clerk be required to keep on file the following returns or copies thereof :

(a) List of lands liable to be sold.

(b) Assessor's occupied return

(c) Return for taxes on occupied lands.

9. That the provisions of the Assessment Act in reference to sales of lands for arrears of taxes be observed.

10. That the attention of the board of police commissioners be directed to the necessity of requiring the chief of police to keep a book in which to enter all property coming into his possession from any source, and that a suitable place be provided in which to keep the same under lock and key.

11. That the city clerk be custodian of all insurance policies.

13. That a preliminary by-law be passed as provided in section 664 of the Municipal Act in reference to each local improvement work hereafter undertaken. That the by-law make provision for obtaining temporary advances from the bank, and that an agreement be made with the bank under section 672 of the said Act; a separate account opened for each work.

14. That all reports of committees adopted by the council be copied in a book to be kept for that purpose or bound in a suitable form for reference.

15. That the clerk be required to prepare an index of all by-laws, showing briefly the object of each by-law and whether obsolete, repealed or amended (and if so, how). That all by-laws at present in force and hereafter passed be copied in a book to be kept for that purpose.

19. That all monies received on corporation account shall be promptly deposited in a bank, and that withdrawals be made upon the signatures of mayor and treasurer, this to apply as well to all special or sinking funds.

21. That earnings of interest on all sinking funds shall be carried to the credit of their respective accounts through the cash-book, and deposits to credit of sinking funds shall be treated in like manner.

22. That a bill-book containing a proper record of all loans should be kept.

23. That the annual estimates, as finally passed upon by the council, should be incorporated in and become a part of the by-law striking the rate.

27. That the treasurer furnish the mayor with a monthly abstract statement of receipts and expenditures, said statement to show, cash in office, cash in bank, and cheques outstanding. That the mayor present the monthly statements at first session of council after they are received, for the information of the members.

30. That guarantee bonds be required in future from the treasurer and collector.

He Would Not Sign.

Mayor Gould, of Smith's Falls, resigned his seat rather than sign the contract for street lighting between the Corporation and the Smith's Falls Electric Power Co. The Mayor complained that the company had not been living up to their agreement in the light provided for the streets, and unless the company would give some guarantee that they would replace the present lamps with better ones he would not sign the contract. The company subsequently offered to replace the present open arc lights with enclosed 2000 c. p. arc lights by June 1st next. This was not satisfactory to the mayor, however and he resigned his seat. Councillor Barnes was asked to occupy the mayor's chair until after the election, and his first official act was to affix his signature to the contract between the Corporation and the Electric Power Company.

The Ward System.

The council of the town of Barrie will submit a by-law to the electors of that town on the 6th of January, inst., providing for the return to the ward system. The *Examiner* has the following to say on the subject :

"The council have decided to ask the ratepayers if they wish to return to the ward system. In so doing, we believe, they are taking a step quite uncalled for, as there has been no agitation or petition by the people for the change. The new system has not had a fair trial. If the present council do not think themselves capable of managing the town's affairs as well as the large council did, let them step down and out, and give the people a chance to put men there who will. The people believe that seven men should be able to look after the interests of Barrie as well as they do in other towns and cities. If they have not done so, blame it not on the system, but on the men. To return to the ward system would be a retrograde step, especially when the water and light departments will be placed in the hands of commissioners. The people have not asked for reversion, nor are they likely to vote for it on the council's recommendation.

When a woman goes away from home the letters she writes her husband are half to make him jealous of her and half to make him think she is jealous of him.

Suggestions for the Improvement of Municipal Government in Ontario.

Some years ago (1895) we directed attention to a few reforms, that then appeared to be necessary, among which were :

The abolition of ward elections.

The election of councillors for a term of years.

The reduction of members of county councils and election by districts.

The appointment of an experienced county auditor to audit the accounts of the county treasurer and of every local municipality.

Since then, ward elections have, by legislation, been abolished in all townships and villages and by vote of the people in many cities and towns. The members of county councils have been reduced in number and are now elected in districts. A provincial auditor has been appointed and the election of councillors for a term of years has been introduced in the legislature, by some of its most progressive members. We expect this change will be made before many more sessions of the local house have passed. County councillors and others have considered the question of county auditors and approved of the same, by petition to legislature and otherwise. The provincial auditor could, in a short time, confer with all county auditors and a uniform system of municipal accounting would be an almost immediate result.

In addition to the suggestions for changes in the Municipal Law, attention was directed to the expenditure, in connection with roads. This question has, since that time, received special attention from an able provincial instructor in roadmaking, with the result that statute labor where not abolished is performed in a better manner than formerly, and, although the system of construction and repairing roads has improved, the expenditure, for this purpose in the township municipalities, has not increased.

Another reform now appears to be necessary and, before referring to it, we will direct attention to the system of central supervision of local authorities, which, although in opposition to the usual idea of municipalism has proved beneficial in Ontario. *The Provincial Board of Health*, established in 1881, is a central administrative authority, composed of experts, having power :

1. To supervise the health boards of the province.
2. To appoint health officers.
3. To issue regulations subject to approval of the Lieutenant Governor in council, for the prevention of disease, which, after publication in the *Gazette*, have the same effect as if enacted by the Legislature.
4. To institute proceedings for the abatement of a nuisance when the local board refuses or neglects to act.
5. To approve of all plans for the establishment of water supply or sewage systems

before they can be lawfully adopted by the councils of cities, towns or villages.

The Provincial Municipal Auditor is an administrative officer, having the general supervision of books and accounts of the municipal and school corporations of the province, with power to frame rules respecting the manner in which the accounts of municipalities shall be kept and audited, and the number and forms of books of account to be used. After publication in the *Ontario Gazette* these rules have the same force as law.

The Provincial Instructor in Road Making is an official whose duties are largely educational and advisory.

Similar systems of control and supervision are to be found in connection with the school system, post-office, banks, insurance companies, etc., and wherever efficient service is a necessity.

ENGLAND.

In the older countries central control has been found to be a necessity.

The Local Government of England is the best example of a system of central supervision. Albert Shaw, in his work on "Municipal Government," refers to it as follows :

"The relationship that now exists between the municipal administration and the central government at many points is advantageous rather than hampering to the local corporation. It is no hardship to make annual or semiannual reports to the local government board, or the treasury, or the Home office, touching all matters of corporate income and outgo, and the results of the administration of sanitary and other public statutes. Through the medium of the local government board, its regular publications, its permanent staff in the London offices and its expert visiting inspectors, the officials of one town are supplied with knowledge of the doings and experiences of other towns, are deterred from harmful experiments, and are instructed in the best methods. At times it appears a needless interference with local affairs that compels a well governed city to submit to the central authorities for inspection and approval every scheme whatsoever that necessitates the borrowing of money. If there were any lack of system in the methods by which local projects are passed upon by Westminster, or if there were any serious taint of partisanship, favoritism, or arbitrary judgment upon the processes employed, the mechanism would break down speedily, and a more complete local autonomy in matters involving municipal outlay and indebtedness would have to be accorded. But the system works in the interests of justice, and its costliness in money, and in time, is counterbalanced by the benefits which accrue from the more thorough preliminary sifting that every scheme receives in preparation for the searching ordeal at Westminster, and from the valuable emendations which so often result from the advice that expert central officials can give.

This is also referred to in Goodnow's "Municipal Problems," in a chapter by M. R. Maltbie, who says :

"The central administrative control which was introduced into English local government by the Poor Law Amendment Act of 1834, but has been elaborated by subsequent legislation has not had the effect of centralizing local government in the sense of providing for the central appointment of local officers. It has consisted merely in giving to the central authorities established for its exercise, powers of supervision over local officials. Such powers are to be exercised, in

the first place, to prevent unwise action on the part of local authorities in the second place to overcome negligence on their part, and in the third place to secure obedience to the law. The central powers are not, however, altogether concentrated in one authority, but are, on the contrary, entrusted to several authorities, the most important of which is the local government board. Further, both because of the different needs of different branches of administration, and because the system is the result of long and not altogether symmetrical development, the control over one branch of administration is somewhat different from what it is over another."

In the concluding chapters on administrative control in England, the author states :

"This brief consideration of the effects of the establishment of the central administrative control in England cannot fail to force the conclusion that the frank recognition in the recent English legislation that the state as a whole, has a vital interest in the performance, by the local authorities, of many of the functions of government entrusted to them, and the subjection of such functions of government to central administrative supervision, have been among the causes which have transformed English social and political conditions during the past century. The marked improvement in English local government, the great increase of its efficiency, have been secured also without an undue centralization, without diminishing local public spirit, which, as seen in the actions of the English municipalities, was at no time in English history greater than it is at present. While in America we have been extending the powers of the legislature over our cities, largely as a result of the previous decentralization of our administrative system, until municipal administration has, from the point of view of legislative interference therein, come to be regarded almost as a part of general state administration, England has turned aside from her historic administrative decentralization, her local self government, and after continental examples, has absolutely entered upon the pathway of administrative centralization wherever the needs of administrative uniformity have made such a step seem necessary. The result has been to reduce legislative interference in local government to a minimum, to increase enormously the efficiency of local government, and by clearly differentiating the state agency of cities from their sphere of action as local organizations, to open the way for a great expansion of municipal activity to be seen in the vigorous way with which the English cities have grappled with distinctively municipal problems, such as housing of the poor, and the better care generally of the local interests of their inhabitants.

It is confidently believed that the adoption of a similar policy in the United States cannot fail to be followed by the same results."

UNITED STATES.

In many of the United States, officers, with administrative powers similar to that of the Provincial Municipal Auditor, have been appointed. The government of each state is supported by direct taxation, levied and collected by the municipal authorities and, to avoid injustice, such as would arise if assessments were unequal, State Boards of Equalization adjust the assessments of the different counties and in all of the states, in which the matter has been considered, it is a duty of the State Board of to assess the tangible property situated on the highways and the franchises of transportation or transmission companies, operating within the state, and apportion the values obtained amongst

the municipalities entitled thereto. In New York, as in other states, it is a duty of the State Board to visit each county once every two years and inquire into the methods of assessment and taxation and ascertain whether the local assessors faithfully perform their duties and to prepare an annual report to the legislature and recommend such changes or amendments to the tax laws as it may deem advisable.

State Boards of Health exercise the same powers as in Ontario.

State lecturers on road-making have been appointed.

ONTARIO.

From this it will be seen that in Ontario we are as far advanced in the direction of central supervision as our neighbors, the assessment of franchises and supervision of the enforcement of the assessment laws by a State Board being the important difference. The prominence given to scrap-iron valuations of tangible property of transmission and transportation companies has directed attention to the non-assessment of franchises. These can only be assessed by a central authority, especially where the property is situated in more than one municipality.

The appointment of a Provincial Board to assess these values and report annually in reference to the manner in which the assessment laws are enforced is a necessity. If some supervision of this character had been provided years ago, the irregular administration of the assessment laws referred to in the evidence published in first report of the assessment would not have been allowed to commission continue.

A PROVINCIAL LOCAL GOVERNMENT BOARD.

The reform we now have to recommend is the formation of a Provincial Local Government Board, on which the various provincial authorities, already referred to, including a Provincial Board of Assessment Commissioners to be appointed, would be represented. The administrative power of the board should be defined by the Legislature, and such direction given as will make it largely educational and supervisory, with authority for inspection, advice and report in reference to false methods, frauds and maladministration of the general laws, and when officials are found to be incompetent or dishonest, to inform the removing authority. Additional powers might be conferred:

1. To regulate the borrowing powers of municipalities.
2. To approve of the plans for public works, street improvement, the location of street railways, etc.
3. To consider and report on all municipal bills, public and private, introduced in the Legislature.
4. To assist in determining municipal issues in accordance with municipal, not political considerations.

A Local Government Board would tend:

1. To secure the efficient enforcement of municipal laws.
2. To furnish the public information regarding the performance of local functions in such comparative form that it would be of great service to local officials.
3. To stimulate local action and independence by giving experience of others, and enabling citizens to criticize local officials.
4. To guide by accurate and full information, public opinion on the various questions arising in connection with every branch of municipal government.

An Old Councillor's Experiences.

STATUTE LABOR.

There is no place where one can become better acquainted with the peculiarities and motives that actuate the average free and independent elector than in the performance of the duties of a municipal councillor. In looking back over a quarter of a century, and viewing my many experiences as a township, town city and county councillor, I find some transactions that make one regret the depravity of the race, and others that bring a lingering smile from their humorous and ludicrous character.

The experience of most municipal councillors honestly expressed would be that the Act dealing with statute labor is an "Act for spoiling the roads and making men crooked." There are signs that this relic of the pioneer days, the days when farmers could not sell their produce for cash, is about to disappear, and the sooner the better for the roads, and for some men, when it is abolished.

When I was reeve a farmer came to my house early one morning, with the startling information that on the preceding evening a woman and her children had been thrown out of a buggy, on the road. He further made the statement, before he got his breath, that there was the "cussedest" kind of a fortification built on the mill-road that he ever "seed." He wanted to know what I was doing with the road; whether I expected an invasion from the Fenians, or if I intended to put a "Long Tom" on the fort and shell the neighborhood.

While I was explaining to him that this was the first intimation that I had had of the "fort," along came the man who lived in the house in front of it, and he confirmed the statements of the first messenger and told how it had been erected.

Two farmers who lived opposite each other in the same road division, became bad friends over the flow of some surface water which had a natural course from the lands of one to the other, and across a "given" road. These men took their turn in the office of pathmaster, and this year it fell to the lot of the one who objected to the water running off the main road

onto the "given" road, and who wanted the other fellow to take the water, at considerable expense, in another direction. At the usual time he ordered out all the men in the division liable to do statute labor, and the first thing he did was to grade up the road in front of his enemy's gate as long as he could get dirt for the job. Then he put all hands to drawing gravel, and though the gravel was handy by, it took two days to gravel six rods of road. The ratepayers doing their statute labor protested, and the man he was shutting out from this wicked world took off his coat and started to do his statute labor on the pathmaster's eyes when he saw what was up. The latter insisted on maintaining his rights as boss under the statute, and the barricade grew, though about half of the "free and independent" quit when they saw what was in the wind.

I proceeded to the locality as quickly as possible and, being an Irishman, and easily touched by a sense of the ludicrous, I just laid back in my buggy and roared with laughter when the "fort" was reached.

My informants had told me the truth. A regular earthwork had been built for sure. The farmer whom the pathmaster was after could not get a wagon through his gate onto the road. The public could only use the given road at the risk of their necks, and I was fearful lest the township was already liable for a big bill of damages. I left a guard on the "fort," and went in a hurry to find the pathmaster. On enquiring for him I was told he was away on a visit, and would not be home for a week. Men and teams were procured to level the "fort," and take the dirt and gravel to other parts of the division, where it was required, for there was a good road in this particular spot before the pathmaster began to fix it.

I interviewed the pathmaster as soon as he came home, and he wanted to know "What I had been doing to the road?" Said he "What's the matter with you? that road was all right. I built it after a cut I saw in one of the bulletins Archie Campbell sent out to instruct pathmasters how to build good roads."

The above incident is substantially true. It is by no means an isolated instance, and I know of cases where the other fellow got even when his turn came to hold office.

When a member of a city or town council elected by a ward rises to speak at a meeting of the council, he can hardly feel that he represents anything definite, he cannot feel the effective sense of responsibility which is generally felt by representatives of the city at large. Ward elections not only aid little men to office, but cause great men to scorn it. An election by general vote imposes a duty to act broadly and gives a dignity to the office which appeals to the honorable ambition of men of character and capacity.

Engineering Department

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

The Township Road System.

The age is one of progress socially, commercially, industrially and indeed in every branch of thought and activity appertaining to the welfare of the human race. Farming is no exception to the rule, and wherever improvement is possible advantage has been taken of every practicable means to advance the conditions attendant upon agriculture. Although but a century old, the Province of Ontario now takes its place amongst the most important agricultural countries in the world, this having been attained by the adoption of labor saving machinery and scientific methods of cultivation, combined with a close observance of the trend of commerce as it pertains to agricultural products.

It has been a remarkable anomaly that, in spite of all the progress which is everywhere apparent, so little has been done towards perfecting the country roads. Their importance has been realized and immense sums of money and labor have been spent upon them, but, with a strange conservatism, old systems, old methods and old means of performing the work have been tenaciously adhered to in spite of the enormous waste thereby created. It is now over a century since the statute labor system was first introduced in this province, and, in the majority of townships, the system is still retained almost in its first form, while the actual methods of doing work are, in far too many instances, wholly deficient of those signs of improvement which have marked other departments of the farmer's progress.

That statute labor has done much to improve our country roads is a fact which cannot be questioned. In the pioneer days of the province, farms were set apart and there were few to make or use roads. The consequence was that every man knew that the work of cutting out roads had to be done, and all turned out willingly, every man to do his share. If necessary, they were prepared to put in a couple of weeks where only a couple of days were required by statute, in order that they might have easier access to the outside world. They wanted the roads in order to go to market but a few times in the year, while the church, school and public meeting were, to many, unheard of luxuries. We are, however, very differently situated. All have now good farms, the one adjoining the other, the land is cleared and big crops are grown, so that it is necessary for the farmer to go to market, the post office or the village store almost every day. Big loads have to be hauled over the roads, and it is of great moment that we should be able to do so easily and without interruption, and to do

all this, it is absolutely necessary that the roads should be vastly better than they were forty, thirty or even twenty years ago. Unfortunately, there are many roads throughout our townships unsafe for travel, and for weeks at a time in some districts the farmers could not go to town or city after dark with any kind of a load.

There are, no doubt, sections, and even townships, in which the residents will be inclined to argue that statute labor has constructed their roads in a fairly substantial manner and is keeping them in good condition. The roads in some divisions are no doubt as good as anyone would need and all kept up by statute labor. The men turn out and do a good day's work, and it is difficult perhaps for them to see why any exception could be taken to the present system. The difficulty arises from the fact that, while one section is good and statute labor is efficiently performed, there are other sections in the township where the work is half done, and where the roads in the wet season are in an almost impassible and even dangerous condition. It sounds very well to say that one section cannot help what another section is, and if the residents of one division do not take enough interest in their roads and farms to properly perform their statute labor they should be allowed to have bad roads. That would be all very well if the indifferent people were the only sufferers, but, on the other hand, those who keep up their roads suffer almost as much as those who do not, and it is almost useless for one section to keep up its roads when, no matter in what direction from it one drives, he is almost certain, at the end of it, to drop off into bog-holes and impassible mires.

From the fact that townships are each year making large money appropriations for repairing roads arises the evil that a premium is placed on neglecting to perform statute labor, for those who fail in their duty in this respect very often do so from the fact that they know that by appealing to the council they can be paid for repairing their roads and doing the work which they should have done by their own statute labor.

The natural query arises as to how benefits will arise by a system of commutation whereby every taxpayer will have to pay a tax for every day of statute labor for which he is liable. There are many ways whereby waste will be overcome. The time spent by a hundred or so pathmasters attending the clerk's office in the spring to qualify for office, the time spent in warning hands out to work will all be saved. The time of pathmasters as bosses will be saved. A great many people come to work too late and stop too early, and that

time will be saved. Then there is the waste which comes from the doing of road work as an annual holiday, the carelessness in properly planning the road-work, the hauling of sand and loam instead of gravel, working at wrong seasons of the year, too few teams or too few shovelers. In all these, and in many other respects, there will be saved a waste whereby at the present time the number of days on the statute labor roll really represents scarcely one-third that amount of dollars.

Under a proper system of commutation a township is divided up into a suitable number of sections, one, two, three or four as circumstances may dictate. The council appoints a supervisor or commissioner in charge of each section, and, under this supervisor who is held responsible for all outlay on roads, work has to be performed as systematically and as economically as if each were working on his own farm.

It is sometimes objected to the commutation system that it is almost too just and compels the poor man to pay in money what he can much more easily pay in labor. A consideration of this aspect, however, will remove the objectionable feature, as any by-law adopted should provide that the commissioner, in employing men and letting contracts, should divide the work, as much as possible, among those residents of the township who desire employment upon the roads and who are in a position to do the work satisfactorily, giving preference to those living in the vicinity of the work to be done. In this way the poor man has every opportunity to work on the roads and can, in all probability, earn more than he has paid out as his share of the road-tax.

A question further arises that if these men are allowed to work on the roads, what better off will the township be under commutation as opposed to statute labor? The answer is that the township will be a great deal better off, because the men will have to do a full day's work of ten hours a day. Instead of enjoying a holiday they will be under a foreman who will have to see that they go to work suitably prepared. Instead of sending a boy, as many now do, or instead of going with a wagon not fit to draw half a load they will have to go with a wagon that will carry a yard or more of gravel at a trip. Instead of loafing in their time and getting off early to milk the cows or do the chores, as is so often the excuse, they will have to do a full day's work, and it will be the work of the foreman to see that a sufficient number of teams are provided and a sufficient number of shovelers, and at the same time do a full day's work himself.

It is feared by some that the roads in their section will be neglected and that in attempting to do permanent work and extending it from year to year, as should be aimed at under a proper system, it will be a long time before their farms are reached. That is one of the most mistaken views of the proposed reform that

could possibly arise, for that is, as a rule, what the case is at the present time and it will be overcome if a proper system is adopted. A proper by-law will provide that all the taxes from each division will be spent in the division where they are collected, and in that way the money cannot be taken away from one section and spent elsewhere. At the present time, the one section keeps its roads in good condition by means of statute labor but, as previously pointed out, there are other sections where the men loaf in their time, and then in the spring and fall when the roads are bad go to their township council and get grants of five, ten, twenty and fifty dollars to help them do the work they should have performed at the time of statute labor. Scores of these grants are made by the councils every year and the sections which do their road-work as it ought to be done have to pay their share although they may never ask for or get such grants from one year's end to the other.

The means whereby a proper system of road management will tend to an improvement are very many. Townships which have from fifty to one hundred pathmasters find that each makes the roads as he sees fit. No two pathmasters will exactly agree as to how the roads should be constructed, graded or crowned and the result is a patchwork system in all these respects. Few townships have an up-to-date continuous macadamized road throughout their entire area. Under one road commissioner for each township or for each division of a township uniform systems could be followed up from year to year. The commissioners themselves becoming, through experience, experts in their work, machinery could be used by them to better advantage, and in ways almost without number a decided gain would be effected by reforming the system of road management to an extent, and with a spirit in keeping with the progress of our time.

Concrete Culverts.

Arches or concrete are designed in the same manner as are arches of stone masonry. The calculation of stresses in a stone arch is at best a matter of approximation and uncertainty, but the methods used for this purpose can be applied to concrete arches. The stone arch is designed on the principle that it will remain in place without the use of mortar; while the concrete arch, on the other hand, is a monolith dependent upon its cohesive strength.

That the arch is dependent upon cohesive strength points to the necessity of a generous portion of cement, very great care in mixing the concrete, and a good quality of all materials employed.

A concrete can best be regarded as a mixture of sand and cement. Given a sample of broken stone in a vessel, the requisite quantity of mortar can be gauged

by pouring water into a vessel until the stone is submerged. The quantity of water used will indicate the amount of mortar to completely fill the voids in the stone. The proportionate amount of cement needed to fill the voids in the sand can be gauged in the same way. The proportions of cement, sand and broken stone obtained in this way would provide, with perfect mixing, a mortar in which the voids in the sand are filled with cement, and each particle of sand coated with cement; it would provide a concrete in which the interstices of the stone are filled with this mortar, and each stone coated with mortar. This would be the case with perfect mixing, and would provide theoretically perfect concrete. Perfect mixing is not possible, however, and it is necessary to provide an amount of cement in excess of the voids in the sand, and an amount of mortar in excess of the voids in the stone.

With proper mixing and good materials, a satisfactory concrete for bridge abutments can be formed from cement and broken stone, in the proportions of one, three and four. But it is recognized that the greatest strength in concrete can be obtained by making the mortar rich in cement, rather than lessening the quantity of stone. Nor beyond providing for a strong adhesion of mortar and stone, is there wisdom in making the mortar materially stronger than the stone. This applies to crushing strength, however, rather more than to the tensile strength required to some extent in the arch. For the arch proper, it will be well to use a rich concrete, in, say, the proportions of one of cement, two of sand, and three of broken stone. With small arches there will be little economy in changing the proportions for the abutments.

The cost of the abutments may be lessened, where they are of sufficient thickness, by the use of rubble concrete. The casing or curbing must be built up as the laying of the arch proceeds. Within the casing and firmly tamped against it should be placed fine concrete to a thickness of about six inches. This will form a shell for the abutment, inside of which large stones may be placed in rock and-pinion order, ends up. There should be a space of at least two inches between the stones, filled with fine concrete, and all firmly rammed. The outer shell of fine concrete should always be kept built up six inches or so in advance of the rubble work. This should be laid in layers, and each layer well flushed with a layer of fine concrete. The lumber used in making the curbing or dressing should be dressed, tightly fitted and firmly braced, so that the concrete may be well rammed into place. The exterior of the culvert, when finished, should have a smooth face, free from holes; and a surface coating, which is of little use, should not be necessary. The arch centre should be firmly put in place, and should not be removed for at least two weeks after the completion of the arch.

There is some discussion at present as to the relative strengths of gravel and broken stone in concrete, without any decisive results in either case; although the natural inference is to suppose that the rough, irregular broken stone will secure greater adhesion than will the smooth, water-worn gravel. However, that may be, there is little reason to doubt that gravel will make a good concrete. But there is a right and a wrong way of using gravel. It is not uncommon to find cement and gravel just as it is taken from the pit, mixed to form a concrete. Remembering the proper composition of a concrete, and placing beside this the fact that gravel usually contains sand, but not in any definite proportions, that some pockets of "gravel" may be almost completely sand, while in the layers adjoining there may be little, if any, sand, it will be readily understood why it is that, in some cases, concrete mixed in this way may be successful, yet it will always be uncertain and hazardous. The only safe method is to separate the stone and sand composing the gravel by screening, then to mix cement, sand and stone uniformly and in their right proportions.

A cause of poor concrete is the excessive amount of water used when mixing. The tendency very often is to bring concrete to the same consistency as common mortar, a very great mistake. Concrete when ready to be placed in the work should have the appearance of freshly dug earth. Where an excessive amount of water is used, the hardened concrete will have an open, spongy texture.

The concrete should be mixed convenient to the work in a box which is sometimes specified water tight, but the concrete will quickly make it so. It should be mixed in just such quantity as is required, and a constant stream kept passing to the work. It should be laid in layers, and each layer thoroughly rammed until moisture appears upon the surface.

It is very necessary to see that the sand and stone used in making the concrete are clean, that they are free from clay, loam, vegetable or other matter which will act as an adulterant, and result in a weak and friable concrete. If such matter is intermixed with the stone it is well to flush it away with a good stream of water. Large stone used in rubble concrete should also be treated in the same way. Indeed, it is well, particularly in hot weather, to dampen the stone before mixing it with the mortar. The stone in hot weather causes the moisture to evaporate, and cause it to set too quickly; and at all times there is more or less absorption from the mortar in immediate contact with the stone, unless the stone, as intimated, has been dampened.

When the work ceases for the day, or for other reasons interrupted, the surface should be kept damp until work is resumed. When work is in progress in hot weather, any exposed surfaces should be kept damp and protected from the rays of the sun; otherwise the surface will, in

setting too rapidly, be interlaced with hair-like cracks which, filling with water and freezing, will cause the surface to scale off. The scaling results from laying concrete in frosty weather.

Arch culverts of masonry or concrete fail frequently from settlement by insecure foundation. The foundation should always be of at least sufficient depth to be free from any danger of undermining by the action of the water, and of sufficient further depth to be safe from settlement.

The one element in the construction of concrete work which presents a real difficulty is the uncertainty with regard to the quality of cement. The means of performing complete tests are not within the reach of small municipalities, and they are dependent upon the good reputation of the brand employed. Different batches of cement of the same brand differ in quality, and very much to the disadvantage of the user. A brand may be in general good, and yet there are lapses now and then which cause an occasional lot to be unfit for use. This is a disadvantage which small municipalities have at present to meet; yet it is one which is growing less, and will continue to grow less as experience in the manufacture of cement reaches a more definite stage.

Rural Mail Delivery and Good Roads.

The free rural mail delivery system is only in its infancy in the United States and yet there are 6,000 routes in operation, 3,000 of which have been established during the year ending June 1st last, while applications for 6,000 more are on file. The superintendent of this branch of the postal department predicts that within five years every farmer in the United States as well as every city dweller, will have his mail delivered at his own door.

The one difficulty in the way of free rural mail delivery is bad roads. With good roads throughout the farming section, mail can be delivered from house to house as cheaply as post-offices can be established, but with bad roads the mail carrier can cover such small districts only, that the expenses of the postal department would be vastly increased.

This relation between good roads and a free mail delivery in the farming districts, points out very forcibly the great loss which results every year from inferior roads. The average citizen does not argue past the fact that if a considerable portion of the statute labor is really wasted and if a part of the township's money appropriation is also misapplied, the loss, in any event, is not very great. The difficulty is that the loss does not end here, and in addition to the waste of energy in the actual making of roads, the farmer fails to receive the advantages which good roads would bring him — the good roads which will result from a proper application of the present annual expenditure in the great majority of townships. The loss resulting from wasted statute

labor and wasted money is but a trifle as compared with the loss resulting from bad roads. The farmers of this country can afford to waste a little part of their statute labor and a part of their money tax, but they cannot afford to be handicapped as they are commercially and socially by the prevailing condition of the roads.

There is not the shadow of a doubt but that with good roads a free system of mail delivery could at once be established by the Canadian postal department. With this as one simple instance of the effect of bad roads, can the farmers of Ontario fail to realize as keenly as did the pioneers of old, the imperative need of improving their roads with the least possible delay, consistent with the time and energy they can devote to this work. The earlier settlers of this country chopped out their roads for the purpose of more easily getting to the mill and the store for a few of the simple necessities of life. The rewards which good roads will to-day bring to the Canadian farmer are far in excess of those of which the first settlers in this province ever dreamed.

Road improvement is, in country districts, as important a work as it ever was, and if the first pioneer settler had failed to exert his best energies in this work no greater loss would have come to him than comes at the present day to every farming section where the roads are in any way neglected and where the citizens fail to adopt the best and most perfect systems of road improvement which they are capable of devising.

Acetylene Gas.

Acetylene gas is steadily urging its way as a candidate for public favor as an illuminant. Among the advantages which are claimed for it are that it is powerful, that in character it is closely composed of the same constituents as sunlight, and that it can be cheaply and easily adapted to plants of all sizes. The more common use up to the present time is in connection with small generators used in individual houses. There are a few places in Ontario, in which companies have established plants for public lighting. The gas lends itself to this use very readily, for, being of a very dry nature, it is easily conducted in pipes, even on the surface of the ground, without danger of freezing, a difficulty which is very frequently met with in the ordinary coal gas.

The calcium carbide from which acetylene gas is generated is, as the name indicates, composed of lime and carbon. It is made by fusing together, at a temperature of 6,000 degrees Fahrenheit, coke and lime, in the proportion of 37 parts of coke to 63 parts of lime. The product is the mineral substance known as carbide. The ordinary price for carbide is \$3.75 a lb. and one pound will make very nearly 1000 feet of gas. In illuminating power this is equal to about 12000

feet of ordinary coal gas. Acetylene gas, therefore, at \$1.25 per hundred feet is about equal to ordinary coal gas at \$1.25 per thousand feet.

In the ordinary course of illumination, however, this comparison of prices will hardly hold, on the principle that 16 sperm candles distributed throughout a room will make a more effectual light than will one electric light or gas jet of 16 candle power. The high illumination concentrated at one point is not so economical as is the more diffused light. In the same way, the intense light of the acetylene gas jet is not so effective in giving a perfect illumination as would the same light be if it could be more perfectly diffused, as in the case of the coal gas light.

The best type of generator is the one in which the carbide drops into the water, not the kind in which the water feeds to the carbide. There are very many different advantages which may be found in as many different types of generator but this distinction should reject all of those in which the water feeds to the carbide. When consuming the gas at the jet the gas holder falls. The falling of the gas holder causes a quantity of the carbide to drop into the water and the gas holder is again filled. In this way the process of making and consuming gas goes on automatically. Even when not using gas for a considerable length of time, no more gas is made than is consumed, and in a good type of generator the carbide should not deteriorate in quality. With reasonable care the manufacture of this gas is no more unsafe than is the making of ordinary coal gas or electricity, and for municipal purposes it unquestionably deserves careful consideration.

Outside the Trees.

A discussion with regard to the placing of sidewalks, revealed the fact that every member of the Prescott council was in favor of laying all new sidewalks outside the trees adjacent to the roadway.

By General Vote

A by-law, submitted to the people of Rat Portage on the 20th December resulted in a majority in favor of the abolition of the ward system, and the election of six alderman and a mayor by general vote.

Proposed Works in Ridgetown.

A well signed petition was presented in December to the town council of Ridgetown, asking that an engineer's report be procured with reference to a system of waterworks for the town, and an electric lighting plant in connection with it. The petitioners asked that the report be procured at once, and that a by-law be submitted at the election this month, but as the time was manifestly too short in which to obtain an engineer's report, the petition was laid over for the new council to deal with.

Questions on Municipal Engineering.

Subscribers are entitled to answers to all Questions submitted on this subject. 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.

WATERWORKS IN SMALL PLACES.

J. R. S.—Would you give me the names of towns and villages in Ontario, with a population to 1,500 or less, which have waterworks systems?

Some of the municipalites in the Province having systems of public water supply, with their populations, are:

Alexandria	1497
Alvinston, (fire protection only).....	1006
Ashburnham, (obtains water from Peterborough).....	1763
Beamsville	791
Beeton	707
Cardinal	1316
East Toronto, pumped by the G.T.R.	1352
Georgetown	1455
Huntsville	1808
Hanover	1500
Alliston.....	1811
Aurora.....	1568
Meaford.....	1801
Milton.....	1321
North Toronto	1658
Sandwich, obtains water from Windsor	1425
Stayner	1229
Sturgeon Falls.....	820
Thessalon	969
Uxbridge	1645
Walkerville	1183
Welland	1850
Iroquois.....	1277
Kingsville.....	1285
Lucknow, (fire protection only).....	1102
Markham	1004
Merriton	1621
Morrisburg	1651
Niagara Falls, South.....	1371
Shelburne	1136
Stouffville.....	1270
Teeswater	925
Tilbury	1046

ROOTS IN SEWERS.

F. D.—Two of our sewers were this fall stopped up with tree roots, and it was necessary to take up the pipe and relay the sewer in each case. As there are a good many willows and poplars throughout the town, we fear the difficulty may increase, and would like to know if anything can be done to prevent it, apart from cutting down the trees?

The only means of preventing the stoppage of sewer pipe from this cause, is to see that the sewer is laid with perfectly tight joints at exposed places. They may be jacketed with Portland cement mortar; or pipe with especially long bells can be used. If the stoppage is not serious, it is sometimes possible to remove the roots by means of a tool fitted with knives or scrapers; and drawn from manhole to manhole with a wire, the wire being allowed to remain in the sewer to be used whenever needed. It should not be necessary to cut down a tree if proper means are adopted in relaying the sewer to secure absolutely tight joints.

DRAINING A CLAY ROAD.

CLERK.—The worst piece of road in this township is in a section where the soil is a stiff clay, almost a hard pan, and it holds water like

a jug. Would tile draining do it any good? A lot of gravel has been put on the road, but the clay seems to work right through it every spring.

Yes, by all means, tile drain the road. It may be accepted as a general rule that roads tiled without gravel are better than roads graveled without tile. The case you describe is one in which tile drainage is especially needed. All roads except those on pure sand can be improved by tile draining. A single line of tile, if placed about three feet below the bottom of the open drain, if the graded portion of the road is about twenty-four feet wide, would accomplish nearly all that tile drainage will do. If one side of the road is higher than the other, lay the tile on the high side so as to intercept the subsoil water as it flows down the slope. A four inch tile meets most conditions, but the size will depend on the length of the drain and the amount of water to be carried away. Care must be taken to give the tile a uniform grade, so that there will be no depressions. If possible, give a fall of at least three inches in one hundred feet. The cost will be about fifty cents a rod, or \$160 per mile. The work, if properly done, will be a permanent and substantial improvement to the road, and will save many times the cost by lessening the amount of gravel needed on the road. You should see, also, that the open ditches flow freely. When these become obstructed and the water stands in them, they do more harm than good to the road. A road between these artificial ponds is always bad, and often impassible.

Good Roads Coming.

"The road improvement going on in the province is simply marvellous," said Mr. A. W. Campbell, Deputy Commissioner of Public Works, recently, after several days spent in Western Ontario. "Modern machinery is being used almost entirely. Systematic plans are being laid down and followed, the appropriations by municipalities have been wonderfully increased in the last five years, and the very deepest interest is being taken in the work by council and people." Mr. Campbell said he had recently observed in a number of townships, including Norwich, in Oxford, and Bosanquet, in Lambton, examples of levelling, grading and seeding with grass on the side of the road where the farmers were taking particular pains to beautify the highway.

Mr. Campbell's attention was drawn to a statement in an American newspaper that New York State had appropriated \$420,000 for road improvement this year also that forty-five miles had been

improved at a cost of \$367,000, and 122 miles further were undergoing improvement at a cost of \$773,740. Mr. Campbell admitted that those roads looked rather expensive, but remarked that the policy in New York State had been to first build enormously expensive trunk roads leading to large centres, and that, further, the necessary gravel and stone were not nearly so convenient in New York State as in this province. Here there are but few counties which have not all the raw material that is needed close at hand, and we are able to build roads much more cheaply.

"I should say that in the province of Ontario, this year, fully five hundred miles of good stone and gravel roads will have been built, and this largely by local appropriation. The people have not commenced to take advantage of the recent legislation appropriating one million dollars for road improvement within the next ten years, but as soon as they do much more will be done. Within the past ten years \$7,399,449 has been expended for improving the roads by the township municipalities. This is equivalent to almost \$750,000 a year, which is all raised by direct taxation. Besides this there is expended annually 1,100,000 days of labor under the statute labor system."

Woodstock Works.

The sewerage of Woodstock was last year extended 8,000 feet at a cost of \$3,871.58, the total length of sewers in the city being now 11.3 miles. A trunk sewer is now under consideration in connection with a system of sewage disposal, and if undertaken will add 11,000 feet to the length of sewerage. The means of disposal recommended by the engineer's report is intermittent filtration and septic tank treatment.

There were laid during the year 69,840 square feet of concrete walks. There are now 11 1/2 miles of concrete walk, and 1 1/2 miles of flagstone, making a total of 13 miles of permanent sidewalk, laid at a cost of \$26,000, an average cost of \$2000 per mile.

The amount of money expended by the municipalities of the Province increased from nineteen million dollars in 1886, to thirty million dollars, in 1898, or about fifty-eight per cent. During the same period the amount of taxes collected has increased from nine to twelve and one-half millions of dollars annually, or nearly forty per cent.

The total municipal debenture debt was \$29,924,863 in 1886, and \$54,506,372 in 1898, an increase of eighty-six per cent. These large increases are made up wholly by the urban municipalities, and should direct attention of councils desirous of making a progressive reputation for themselves, to the necessity of obtaining good value in all expenditures, especially for permanent improvements.

Question Drawer.

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

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

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

Township's Liability for Accident on Railway Crossing.

1—O. L.—A public road was built by the government along the railway track starting at a certain point on north side of said track after reaching a certain point it was found necessary to continue the road on the south side of the track. After some time, at the request of the ratepayers of this locality, the railway company put in a crossing on their railway track so as to join the two roads above mentioned. Now will the township council of this municipality be responsible for accidents on this crossing owing to its bad state of repair, the township never having had any control over said crossing?

We are of the opinion that the municipality will be liable for accidents which may happen to people using the roads in question, even if such accidents take place upon the crossing.

Assessment for Extra Work in Building Granolithic Walks.

2—G. G. A.—This municipality has constructed some granolithic sidewalks as local improvements, and opposite the lands of some of the owners extra filling was required for which the contractor building the walks was allowed extra 25c. per cubic yard. There is a difference of opinion as to whether the cost of this extra filling should be charged to the owner of the land opposite the same, or extended generally over the whole block or section of the walk as other general expenses of the work. Will you kindly inform me what is the custom usually followed in assessing the cost of filling and excavating?

The filling and excavating, we presume, are necessary parts of the work to be done on property carrying out the contract for laying these granolithic walks. They are thus integral parts of the whole work, and the cost of the filling and excavating goes to make up the whole cost of the work; this whole cost is to be assessed against the lands benefited, in proportion to the number of feet frontage, as required by the Local Improvement clause of the Municipal Act. There is no provision for charging the cost of any filling or excavating, against the lands opposite, or in front of which the work has been done, in addition to their proportionate share of the cost of the work without it.

Dual Voting on By-Law—Not an Alien.

3—A. W. H.—1. We are submitting a by-law to raise \$25,000 for waterworks here and would like to know whether a man who owns property in three wards of the town will have three votes on the by-law or only one. The ward system being done away with two years ago, we have been voting all over the town for councillors with one vote for the mayor, but we have been voting with three votes for councillors. Please put us straight on the matter.

2 A man born of British parents in the U.S. has lived in Canada all his life but four years.

He is a property owner here and his name on the voters' list as owner. Is there anything to prevent him from voting on the by law?

1. Section 355, of the Municipal Act, provides that "where a municipality is divided into wards, each ratepayer shall be entitled to vote in each ward in which he has the qualification necessary to entitle him to vote on the by-law." Section 71a, of the Municipal Act, provides for the election of the council in towns of less than five thousand, (such as yours) by a general vote, neither this nor any other section of the statutes does away in terms with the existence of wards. We are, therefore, of the opinion that each ratepayer will be entitled to vote on this by-law in each ward in your town, in which he possesses the qualifications necessary to enable him to vote.

2. No. In re Wright's vote, Brockville 1, H. E. C., 138, and in several other election cases, it has been judicially held that the evidence of a voter that he understood from his parents that he was born in the United States, but that his father was born in Canada, and that he (the voter,) had lived in Canada from infancy, should be received, and the vote held good; and in re Milvannan's vote, Lincoln, (2) 1, H. E. C., p. 500, it was held that where a voter, in support of his own vote, swore that he was born in the United States, but that his parents were British subjects, and that he derived the knowledge of both facts from his parents, his whole statement must be taken together, and that his vote was good.

A Non-Resident Collector—Dismissal of a Collector.

4 J. H.—1. Is there anything in the Provincial Statutes barring a collector from collecting the taxes of a municipality, for the reason of having moved out of the municipality since his appointment?

2. Is it legal for a municipal council to dismiss a collector by resolution?

3. If not, can the dismissed collector draw his salary?

1. No.

2. You do not say whether this collector was appointed by by-law (as he should have been) or not. If appointed by by-law, and the council has occasion to dismiss him, this should be done by by-law.

3. If the collector has been improperly dismissed, (and as to this we cannot say, not having sufficient information before us,) his remedy against the council would be by an action for damages, and it is possible he may be entitled to

recover damages to the amount which the council agreed to pay him.

Incorporation of Towns in Districts.

5—S. R.—Our municipality consists of a township which includes a mining town of about 600 people, the remaining part of township being well settled, farming lands. Is there a special Act by which the village part can be incorporated into a town? The farmers are opposed to paying taxes in support of health officers, pest-house and police protection for village.

As this mining town is located in a district having no county organization, the statutes, general or special, make no provision for its incorporation into a town or village. If incorporation is desired, application should be made to the local legislature for the passing of a special Act for this purpose. Pursuant to section 60 and following sections of chapter 225, R. S. O., 1897, the mining town may be set apart as a police village by the lieutenant-governor in council. If this be done, the provisions of the Municipal Act relating to police villages (section 713 and following sections) will be applicable, except where they are inconsistent with the provisions of chapter 225.

A Local Option By-Law.

6—J. B. W.—The township of M. had a local option by-law in force since 1891. At the sitting of the council in November last a petition was presented asking the council to submit a by-law to repeal the local option by-law. The council thought it prudent to draft a by-law to submit on the sixth of January for the repeal of the local option. This by-law has had two readings as required by law and awaits the third reading after the vote is given. The advertisement of the by-law will appear in this week's issue of the paper in our county and all steps have been taken as far as required by the statutes. Now then, under the circumstances, could the council retrace their steps, or could they now take steps or any action in order not to have the by-law submitted to the ratepayers for the repeal of the local option by-law?

It is discretionary with a municipal council as to whether they pass by-laws pursuant to section 141 of the Liquor License Act, sub-section 1 or 2, or not, and neither of these sub-sections render it necessary to present a petition to a council for the passing of any such by-law. We are of the opinion that your council can now abandon all steps that have been taken towards the passing of this by-law, and its submission to the vote of the electors, and to refuse to proceed any further with the matter. Even when a by-law has been submitted to, and carried by the duly qualified electors of a municipality, the council is not bound to finally pass the by-law, either by section 373, of the Municipal Act, or otherwise. In Canada Atlantic Railway Co. vs. Township of Cambridge, it was stated by Mr. Justice Osler that "this section (373) merely prescribes a time within which the by-law is to be taken into consideration and perfected. It does not cast upon them (councils) an imperative duty to pass it at all events. If not passed within the time limit it drops."

Township Grant to Telephone Co. Illegal.

7—E. A.—1. Our council at their August meeting passed a resolution granting \$100 to a proposed telephone line running through the municipality to be paid when line is completed. The line is now in operation. Was the act of the council legal?

2. Can council pay this money?

3. If they illegally pay the money, what is the position of the council? Are they personally liable?

1. No.

2. No.

3. The members of the council of a municipal corporation are personally responsible for the misapplication of the township moneys. (See *Patterson vs. Bowes*, 4, Grant, p. 170. *E. Nissouri, vs. Horseman*, 16, U. C. R., p. 588, and *township of Chatham vs. Houston*, 27, U. C. R., p. 500, sub-section 25, of section 8, of chap 1, R. S. O., 1897, and note (b) to section 10, of the Municipal Act, on page 47, of Biggar's Municipal Manual.) Since the granting of township moneys to a telephone company by a township council is unauthorized, the making and paying of such grant is a misapplication of township funds, and the members of the council will be individually liable.

Collector's Duties on Service of Notice on Tenant to Pay Rent—Suing for Taxes.

8—ENQUIRER.—A is assessed as owner, subsequent to revision of roll, B rents the property. Collector notifies A to pay the taxes; A lives at a distance and does not answer. Collector notifies B, form H, section 143, Assessment Act. He refuses to pay.

1. Can collector seize property belonging to B on other premises assessed to B?

2. C is assessed for property, leaves the township; D lives in house, do not know if he pays rent. C is notified to pay taxes but does not. May the collector return this as "no distress," or what would be the right course to take?

3. Can collector put A's case in court as a civil suit, or must he distrain first?

1. No. By section 143, of the Assessment Act, it is provided that "the collector shall have the same authority as the landlord of the premises would have to collect such rent by distress, or otherwise, for the amount of such unpaid taxes and costs." The landlord could legally distrain only such goods of B as are not by law exempt from seizure, on the premises leased by B in respect of which the rent is due.

2. Your municipality, being in a district, if the collector can find no goods belonging to C within the limits of the municipality, liable to seizure for taxes, he should return the lands, on his "no property" return to the treasurer, to be, in due time, sold to realize the amount, unless sooner paid.

3. No. If the taxes cannot be recovered in any special manner provided by the Assessment Act, the *local municipality* may recover them with interest and costs, as a debt due to the municipality. See section 142, of the Act.

Proportionate Vote Necessary to Carry Bonus By-Law—Preparation of Voters' List.

9—J. H. S.—1. Is it a two-thirds or three-fifths vote of all ratepayers voting on the by-law or two-thirds or three-fifths of all

votes polled (as the Municipal Act allows a ratepayer to vote in all the wards where qualified) that make up the total number of ratepayers entitled to vote? Is a ratepayer who votes say in three wards to be counted one or three ratepayers?

2. Is the clerk to make out the special voters' list from the last revised assessment roll only, without any regard to the last revised voters' list? In our town the judge struck off owners that are on the last revised assessment roll. Would this debar them from voting? Also he put on some owners who are not on the assessment roll; would this debar them from voting?

3. Have I a right to put on the voters' list the names of parties who I know have died since the last revised voters' list, or must they appear on the voters' list prepared by me and be counted against the by-law? (I see no law in reference to the matter.)

1. The question you have raised is one upon which the courts have not, so far as we are aware, yet passed. Section 358 of the Municipal Act, entitles a ratepayer to vote in each ward in which he has the qualification necessary to entitle him to vote, and by the section you quote, the assent of two-thirds or three-fifths (as the case may be) of all the ratepayers entitled to vote on the by-law is necessary. The words "all the ratepayers" shall mean all the ratepayers of the municipality, and in ascertaining the whole number, a ratepayer cannot be counted more than once, though he has two or more votes in the municipality. The clerk, under section 364, is required to cast up the votes for and against the by-law, and if he finds that there is a majority of votes for or against the by-law, he must so certify, and we have no doubt that if there is a majority of the votes cast for the by-law, such majority is sufficient, provided that the other requirements of the section you quote are not lacking. This view is confirmed by reference to the clause in the last mentioned section, which provides that, "In addition to the certificate required by section 364 of the Act, the clerk, in case the majority of votes being in favor of the by-law, shall further certify, etc." From this it will be observed that the clerk is required to give a further certificate in case of the majority of votes being in favor of the by-law. The legislature does not say a majority of the ratepayers, but a majority of the votes. Where the legislature speaks of two-thirds or three-fifths of the ratepayers, we are perfectly satisfied that the clerk has no right to multiply a ratepayer who is a voter in each of three wards, by three, and thereby make three ratepayers out of him. We are not concerned with what was really in the mind of the legislature who had this enactment placed upon the statute books, nor with the question as to whether it is fair to count individuals only in one case and votes in the other case, or not, we have simply to ascertain what the legislature meant by what it has actually said.

2. The voters' list to be used on the occasion of a vote on a by-law, should be prepared from the *last revised assessment roll* of the municipality, and wholly with-

out reference to any municipal voters' list. (See section 348 of the Municipal Act.) Owners, if qualified under section 353 of the Act, entered on the last revised assessment roll of your municipality, should be placed on the voters' list specially prepared pursuant to section 348, notwithstanding the fact that their names have been struck off the municipal voters' list by the judge at the court of revision, and owners added by the judge to the court of revision, whose names are not on the last revised assessment roll, should not be entered by the clerk in the specially prepared list.

3. Section 348 provides that the voters' list shall be a list "of all persons appearing by the then last revised assessment roll, to be entitled, under the provisions of sections 353 and 354, to vote, etc.," and the clerk should make up his list from the assessment roll alone including the names of voters who have died since the revision of the roll; but we do not think that the names of ratepayers who are dead can be counted in ascertaining whether a sufficient number of ratepayers have voted for the by-law, because a dead ratepayer cannot be regarded as a ratepayer entitled to vote.

Appointment of Treasurer—Keeping of Municipal Bank Account.

10 E. W.—Our treasurer died yesterday. What is the proper proceeding re the appointment of another? and what do you think is the proper way to keep a bank account. At present the collectors pay all monies into the bank subject to the cheque of the treasurer; other monies are paid to the treasurer direct, mostly in small sums.

The treasurer should be appointed by by-law, which should refer to any duties the council may require him to perform that are not referred to in the Municipal Act. The by-law should fix his salary and determine the security he is to give.

BANK ACCOUNT.

Moneys belonging to every municipality should be kept in two bank accounts, one in the name of the municipality, all cheques thereon to be signed by the head of the council and the treasurer. The collector should be required by by-law to pay all taxes to the credit of this account. The other account should be opened in the name of the treasurer of the municipality, all cheques to be signed by the treasurer alone. When the treasurer is in need of funds a cheque on the municipality account should be issued to him by the reeve, and deposited in the treasurer's account. When two accounts are kept in this way, the security of the treasurer need not be as large, as it is considered to be a safeguard against the use of corporation moneys by the treasurer. Private banks are often more convenient, and the treasurer's account may be kept in one of these when authorized by resolution. The principal or municipality account to be kept only in a chartered bank. A bank account should show every receipt and payment by the treasurer. No treasurer in Ontario receives sufficient remuneration

to pay him for the risk connected with receiving money from the collector, or paying orders by cash.

Mayor's Qualification.

11 E. L.—I. About the 20th of October I sold the property on which I have for several years qualified to act as a member of the council, but I am now having deeded to me another piece of property in the town, which has for the past two years been assessed for \$1,000 or over and free from encumbrances. Am a resident of this corporation and have been for years. Can I qualify for mayor on this? Of course the property I sold was assessed to me this year, and I am paying taxes for this year on same. Kindly advise me fully regarding my qualification.

2. I am one of the firm doing business under the name of "— Bros." and several years ago, about 1894, when hard times prevailed here and the future appeared to present no brighter prospect, when the capacity of our mill was only about 20 to 25 M feet per day, arrangements were made with the council at that time to the effect that, on condition that we would double the capacity of the mill and employ more men, assessment would be fixed for a period of ten years at \$2,000. This, of course, never was legalized, and, instead of doing what we agreed, we increased our capacity from 100 to 125 M per day. Of course we understand that this arrangement, not being legalized, is subject to change by each succeeding council, in fact we have since volunteered to be assessed \$4,000 instead of \$2,000 and have been so assessed for two years. Some, who oppose me as a candidate for mayor, advance the argument that I cannot qualify on the grounds that the partial exemption is a contract with the town and that I am indirectly interested. Kindly advise me if this would disqualify me having sufficient other property to qualify on.

1. We are of opinion that, in this particular, you are qualified as a candidate for the mayoralty of your town for the ensuing year. (See sub-section 2, of section 76, of the Municipal Act.)

2. The arrangement made between the municipal council and the firm of which you are a member is wholly illegal, and a nullity, as a municipal council has no legal authority to fix the amount of any rate-payer's assessment. It can pass a by-law exempting a manufacturing institution from taxation, providing it takes the steps mentioned in sections 9 and 10, of the Municipal Amendment Act, 1900. We are of opinion that this so-called arrangement or exemption has no effect on your qualification. Even if there were in existence a binding arrangement with the municipality, exempting the property of the firm from taxation, in part, clause (b) of sub-section 2, of section 80, of the Municipal Act, would prevent your disqualification on that account. (See also Regina ex. rel. Harding vs. Davis, 27, O. R., p. 314.)

Diversion of County Line.

12—X. R.—Question 459 November, 1901, deals with the divergence of a road on a county line. The question has arisen "Can the counties adjoining diverge for the purpose of substituting a road for a bridge?"

(a) This law gives county councils power over bridges and they may assume the whole of a road, but may they assume part of a road?

(b) When the counties commence to leave the county line and acquire land for the

purpose of making a road, instead of bridging the pond as heretofore, (it is really a sink hole) do they not exceed the Act?

N. B.—Some persons living in the vicinity are anxious to keep the road straight and this is the cause of the difficulty.

The question, whether county councils have power to close the original boundary line between the two counties and open a new road around the marsh referred to, is one that is not clear. Section 622, of the Municipal Act, which is headed "Roads under joint jurisdiction," declares, "In case a road lies wholly or partly between a county, city, town, township or village and an adjoining county or counties, city, town, township or village, the councils of the municipalities between which the road lies shall have joint jurisdiction over the same, although the road may so deviate as in some places to be wholly or in part within either of them.

(a) The word "road" in this section shall not include a bridge over a river, lake or pond, forming or crossing the boundary between two municipalities other than counties, which bridge it is the duty of county councils to erect and maintain."

According to this section, when a road lies wholly or partly between a county, etc., the councils of the municipalities between which the road lies have joint jurisdiction over it. Section 9, of the Interpretation Act, defines "local municipalities," and section 10 defines "municipality." It follows, therefore, that the word "municipalities" in section 622, applies to counties as well as to any other municipality. Section 621 makes it the duty of local municipalities bordering upon a county boundary line to maintain such county boundary line, but we think that the jurisdiction over it is vested in the county municipalities under section 622. If our view is correct, then we think that the councils of the two counties can join in passing by-laws to close this boundary line. The councils of the two counties may also, under the authority of section 614, assume any county boundary line, and if the counties intend to close the boundary line in question, it would be well, perhaps, to first pass by laws assuming the boundary line, and by doing that, the counties will, it seems to us, have absolute jurisdiction over it. The two councils can then, we think, join in passing by-laws for doing what is proposed to be done in this case under the authority of sections 637 and 632.

Hotel-Keeper Must Build His Own Doorstep.

13—H. C.—We have a hotel in our township that is on the corner of two roads. The hotel-keeper claims that the corporation has to build and maintain an approach to the public highway for him, on the ground that his business is a public business. Who has to pay for the approach, the hotel man or the corporation?

If the owner of the hotel desires an approach to his premises from the street, he must build it at his own expense. The municipality has no authority to aid him in any way.

Statute Labor.

14—SUBSCRIBER.—Our statute labor scale is under \$300—two days, \$300 to \$600—three days, \$600 to \$1,200—four days, \$1,200 to \$2,000—five days, \$2,000 to \$3,000 six days, \$3,000 to \$4,200—seven days, and for every additional \$1,300 one additional day.

A person owns three farms of 100 acres each, assessed at \$2,400, \$2,250 and \$1,850; the assessor placed nine days for the whole on assessment roll but did not enter it on notice of assessment. The clerk, in making out statute labor lists, charged the party for thirteen days by grouping the first two farms and taxing according to scale for eight days and the other lot for five days. The party refused to perform the work and the clerk added \$13 to his tax for non-performance of work. He paid the amount to collector under protest and now threatens to sue the corporation to recover back on the grounds that the assessor didn't place the number of days on his notice. Was the clerk right in taxing according to the scale of the statutes and by-laws, or should he have taken the assessor's figures?

2. Does the fact of the assessor's omission to enter on notice give the party a legal right to refuse performance of statute labor?

3. Where the owner was not residing on his lot when assessor did not send him a notice of assessment, has he a legal right to refuse to pay his taxes?

1. The number of days of statute labor in this case must be ascertained in the manner provided by subsection 2 of section 109 of the Assessment Act, and the clerk appears to have acted under the authority of this subsection in fixing the statute labor at thirteen days. The subsection does not make any provision as to how the lots are to be grouped and the result is not always the same as you will observe from the following grouping of the lots:

1	{ \$2,000 + \$2,250 = \$4,650	No. of days,	8
	{ 1,850	" "	5
		Total,	13
2	{ \$2,400	No. of days,	6
	{ 2,250 + \$1,850 = \$4,100	" "	7
		Total,	13
3	{ \$2,400 + \$1,850 = \$4,250	No. of days,	8
	{ 2,250	" "	6
		Total,	14

If you will look at section 102 of the Assessment Act you will see that that section provides for a fractional excess. If your by-law does not make a similar provision, we do not think an extra day can be added for the excess in value above \$4,200 unless such excess is \$1,300, and it follows that only twelve days can be charged if the lots are grouped as in the first and second cases above, but if the grouping is as in the third case the number of days chargeable is thirteen that is seven days for the first and second lots and six for the second.

2. No.

3. No. Section 72 of the Assessment Act, provides that, "The roll, as finally passed by the court and certified by the clerk as passed, shall in so far as the same may be further amended on appeal to the judge of the county court, be valid, and bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll, or any defect, error or misstatement in the notice

required by section 51 of the Act, or the omission to deliver or transmit such notice.

Reeve of Village Can Move or Second Motion.

15 R. B. E.—Can the reeve of a village make a separate abstract of each page of his book, when making out an abstract to lay before the council of his municipal treasurer's book, or has he simply to carry over from one page to another and make the one abstract, as I have seen no section which compels to him make an abstract of each page.

Yes.

Treasurer's Abstract to Council.

16—TOWNSHIP CLERK.—Can you give me any section of the R. S. O. which makes it compulsory for the treasurer of a township to make a separate abstract of each page of his book, when making out an abstract to lay before the council of his municipal treasurer's book, or has he simply to carry over from one page to another and make the one abstract, as I have seen no section which compels to him make an abstract of each page.

There is no such section as you mention in the Revised Statutes of Ontario. (See sec. 292 of the Municipal Act and sec. 11 of the Municipal Amendment Act, 1898.)

Fees of Commissioner in H. C. J.

17—COMMISSIONER.—Kindly say in next issue what the legal charges are for taking affidavits. I was appointed commissioner recently and lawyers and others come into my office and have papers sworn to and walk out with "thank you" as compensation, and I am at a loss just what to say.

Twenty cents is the fee allowed a commissioner for taking an affidavit.

A Discriminating By-Law Restraining the Running at Large of Cattle.

18—RESIDENT.—1. Our township is much intersected by lakes, and around these the land is stoney and unfit for anything but pasture. Some of it being owned by the Crown, and some by parties a great distance away. The land is not fenced, but is simply a commons, and drovers from the front townships have a practice of bringing in droves of cattle in the spring and allowing them to run at large in our township which we wish to prevent. Would it be legal for the council to pass a by-law and charge all non-residents say \$2.00, and residents 25c. a head for all cattle running at large?

2. Or would it be legal to pass a by-law charging non-residents say \$2.00, and allowing residents to pasture their cattle free?

3. Or can the council make any difference between residents and non-residents in this matter?

4. If so, how should they proceed?

1. The council of your township can pass a by-law pursuant to subsection 2 of section 546 of the Municipal Act, restraining and regulating the running at large of all animals within the limits of the municipality, whether they belong to residents or non-residents. The by-law cannot be limited to the cattle belonging to non-residents. (See question number 408, 1901.)

2. No.

3. No.

4. Our answers to the preceding questions render it unnecessary to answer this.

The Assessment Roll Must Govern.

19—CLERK.—Ratepayer's assessment was raised at court of revision and he was notified of it by clerk of the municipality, but not by registered letter, and he says he did not get notice and refuses to pay extra tax or do extra road-work. Can the collector collect extra tax?

or, if not, can the council collect it in any way?

The questions as to whether this notice was sent by the clerk to the party assessed or not, or in what manner, or as to whether it was ever received by the party assessed or not, do not now appear to be of any importance. Section 72 of the Municipal Act, provides that, "The roll as finally passed by the court (of revision) and certified by the clerk as passed, shall, except in so far as the same may be further amended on appeal to the judge of the county court, be valid and bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll, or any defect, error or misstatement in the notice required by section 51 of the Act, or the omission to deliver or transmit such notice." The collector's roll being prepared from the assessment roll, the clerk should enter in the collector's roll the taxes calculated on the value placed opposite the property in the assessment roll as finally revised, and calculate the statute labor on this amount according to the scale in vogue in your municipality. The collector should collect the taxes calculated as above, and has legal authority to do so. If the collector cannot realize the amount and payment cannot be obtained in any of the other special methods prescribed by law, the council can sue the person chargeable with and liable for the amount, as for the recovery of a debt due the municipality.

Qualification of Township Councillor.

20 N. B.—The would-be candidate is assessed conjointly with his father as owner, 100 acres assessed..... \$1,500
1 acre assessed..... 300
\$1,800

The son is a tenant on the 100 acres and owner of the latter, which is encumbered for \$350 and the former for \$1,500. Can the son qualify as councillor?

This man cannot qualify as councillor of your township. In order to enable him to so qualify he should, at the time of the election, be rated on the last revised assessment roll of the municipality, either on his own name or that of his wife, as owner or TENANT, for a legal or equitable freehold or leasehold, or an estate partly freehold, and partly leasehold or partly legal and partly equitable, to at least the value following: Freehold to \$400; leasehold \$800, over and above all liens, charges and incumbrances, affecting the same. Had the freehold been actually rated in the name of this person or that of his wife at \$2,000 the amount of the liens, charges or incumbrances existing thereon, would not prevent his qualifying. See subsection 1 of section 76 of the Municipal Act.

Qualification of Township Councillor.

21—T. L.—Will it disqualify a ratepayer from acting as councillor if he leases a quarter of an acre of land from the corporation, for fifteen years, and pays a rent of \$2 per year for same?

Yes. In the case of Regina ex rel. Stock vs. Davis, 3 L. J., p. 128, it was decided that a lessee of a municipal

council was disqualified from sitting in such council. Clause (a) of subsection 2 of section 80 of the Municipal Act makes an exception of a person having a lease of property from the corporation for TWENTY-ONE years or upwards and the holder of such a lease is therefore not disqualified.

Commutation of Statute Labor in Police Village.

22—N. B.—Our township council passed a by-law to commute statute labor in a police village and the by-law reads as follows:

"That the statute labor on all property within the said police village of _____ is hereby commuted at the rate of seventy-five cents per day, if paid not later than the fifteenth day of June in each year, or if not so paid then the same is hereby commuted at one dollar per day."

Some of the ratepayers paid their statute labor to the commissioner appointed, and those in default were charged one dollar on the collector's roll. They objected to paying this amount and claim that they should only be required to pay 75 cents for each day's labor.

1. Is the section of the by-law in proper form?

2. Should those in default be required to pay one dollar entered on the collector's roll, or is 75 cents the correct amount?

1 and 2. No. The council has no authority to fix a day certain for payment of the commuted statute labor, or for providing that, if it be not paid by the date fixed, an additional sum shall be collectable from the parties in default, and the by-law in question is void. See section 103 of the Assessment Act.

Reconsideration of Engineer's Report on Drainage Scheme—Amending Drainage By-Law.

23—SUBSCRIBER.—1. Can a municipal council lawfully require an engineer to make certain changes in a report on drainage work or must the report be either adopted or thrown out as it stands?

2. Provided the council referred the report in question back to the engineer for amendment and instructed him in what direction to amend, would this be exceeding the jurisdiction of the council along this particular line?

3. Can an amending by-law, where the original levy did not provide sufficient funds, be read a first, second and third time and passed, all at one sitting; or must all parties be served with personal notice of the council's intention to pass such a by-law? Is a court of revision necessary or even possible in such a case?

1. The report of the engineer upon a drainage scheme can be legally referred back to such engineer for reconsideration by him.

2. The council has no authority to give the engineer instructions as to the particulars in respect of which the report is to be amended, but the engineer must exercise his own independent judgment in making changes therein.

3. A by-law of this kind can be read a first, second and third time and finally passed at the same sitting of council. No service of notice of council's intention to pass it is necessary, and no court of revision is necessary to be held. The council may publish a by-law of this kind if they see fit to do so. (See section 67 of the Drainage Act, R. S. O., 1897, chapter 226.)

Qualification of Town Councillor.—Dual Voting on Money By-Law Still Legal.

24—C. G.—1. What is the necessary qualification for a councillor in a town? The Act, chap. 223, section 76, subsections, or paragraphs B and F., seem to contradict each other.

2. Can an elector vote on a by-law to grant a loan or bonus or an exemption from taxes other than school taxes in every polling subdivision in which he possesses the necessary qualification?

1. A person to qualify for election as councillor in a town must have, or his wife must have, at the time of the election, as owner or tenant, a legal or equitable freehold or leasehold or an estate partly freehold and partly leasehold, or partly legal and partly equitable, which is rated in his own name, or in the name of his wife, on the *last revised assessment roll* of the municipality to at least the value following, over and above all charges, liens and incumbrances affecting the same: Freehold \$600 and leasehold \$1,200. If the amount of the assessment is \$2,000 the question of existing incumbrances need not be taken into consideration. Clause (f) does not in any way conflict with above, and if you read the subsection carefully, you will observe that this clause applies only to towns located in the districts and provisional county referred to in the first three lines of subsection 1.

2. Section 355 of the Act authorizes a voter to vote on a money by-law in each ward in the town, in which he possesses the necessary qualification. Dual voting at *municipal elections* was abolished by sections 9 and 10 of the Municipal Amendment Act, 1901.

Filling Vacancy in Office of D. R. O.

25.—J. K.—1. We appointed D. R. O.'s at last meeting, and one of them is to be nominated for councillor. How will his place be filled as D. R. O.

2. We passed a local option by-law, to be voted on January 6th, 1902. Should it receive a majority of votes of electors, and a new council elected, could they refuse to pass it finally?

3. We have published the local option by-law with notice that the reeve will be at the town hall, on nomination day, at two p. m., to appoint two persons to attend at the summing up of the votes, and one person for and against the by-law at each polling division. Is the reeve obliged to make these appointments if the parties do not ask for them?

4. Will reeve announce at meeting that he will make such appointments at such hour, or is the notice given in by-law sufficient?

5. Will the two who sum up the votes require to be chosen from opposite sides, for and against?

1. Subsection 1 of section 108 of the Municipal Act provides that "in any case where a deputy-returning officer REFUSES or neglects to attend at the time and place at which he is required by the returning officer to attend to receive his voters' lists and other election papers, the clerk of the municipality shall appoint another person to act in his place and stead, and the person so appointed shall have all the powers and authority which he would have had, had he been appointed by by-law."

2. It is in the discretion of the council as to whether they finally pass a by-law of this kind or not, notwithstanding its

having received the assent of a majority of the electors. See our answer to question No. 6 in this issue.

3. The steps to be taken in submitting a by-law of this kind to the electors are those set forth in section 338 and following sections of the Municipal Act. Section 342 provides that "at the time and place named (in the by-law) the head of the municipality SHALL appoint in writing signed by him, the persons named in that section. He must make these appointments whether the parties ask for them or not.

4. The notice given in the by-law is quite sufficient.

5. Two of the persons appointed by the reeve should be in favor of the passing of the by-law and two against it. See section 342.

Statute Labor Commutation in Police Village.

26.—N. B.—You have omitted to say whether the by-law has had the effect of commuting the statute labor or not. A portion of it being clearly bad on its face, does it have the effect of nullifying the whole of the by-law, or will the portion in accordance with the Act stand good while the balance must fall?

When a by-law provides for say two distinct matters, one of which is good and the other bad, the part which is good is not infected by the part which is bad, but in this case the by-law deals with one matter and, what the council has done being beyond its powers, the by-law is invalid in toto. See also No. 22.

Qualification of School Trustee.—Right of Returning Officer.

27—SUBSCRIBER.—1. Is a resident of our village, who is not rated on the assessment roll, only paying \$1.00 poll-tax, eligible for school trustee? His name is on part 3, of voters' list as M. F. only.

2. Would I, as returning-officer, be justified in taking his nomination on nomination day?

1. No. See subsection 2 of section 56 of the Public Schools Act, 1901.

2. Yes. It is not for a returning-officer presiding at a nomination meeting to say whether parties nominated are qualified or not. This is a question for the courts to decide when a candidate's election is contested under the provisions of section 63 of the Public Schools Act, 1901. If the returning officer refuses a nomination and it happens that the person nominated is not qualified he takes the risk.

Police Village's Share of Township Rate.

28—W. D.—We have a police village in our township. What portion of the township rate on the assessment in the village is the village entitled to?

This altogether depends upon, and should be regulated by, the terms of an agreement to be entered into between the trustees of the police village and the township council pursuant to section 740 of the Municipal Act.

Ward System in Towns—Dual Voting on Waterworks By-Law.—Vote of Returning-Officer.

29—T. A. M.—1. A few years ago the Ontario Government made it possible for towns to

abolish the ward system of choosing and voting for council. At the time our council took no action but adopted the system. Should we have taken any special course?

2. Can we now resort to the ward system?

3. When voting on waterworks by-law can qualified voters vote in any ward or polling subdivision where they have the qualification?

4. I observe the R. O. has no casting vote on by-law, can he vote if otherwise qualified?

1. No. By the operation of subsection 1 of section 71a, of the Municipal Act, (enacted by section 2 of the Municipal Amendment Act, 1898) the council of your town (which has a population of less than 5,000) consists of a mayor and six councillors, to be elected by a general vote.

2. After two annual elections have been held in your town, under the above section, you can return to the ward system of electing councillors on observing the provisions of subsection 2, of section 71a.

3. A voter has a right to vote on such a case in each ward in which he has the necessary qualification. See section 355 of the Act.

4. No. See our answer to question 34.

Qualification of Division Court Clerk as Councillor.

30—J. H.—Is a person, who holds the office of Division Court clerk, eligible for the office of councillor in our municipality?

Yes. Section 80, of the Municipal Act, disqualifies a BAILIFF of Division Court, but not a CLERK.

Equalization of Union School Section.—Change in Tax Bill.—Qualification of School Trustee.

31—SUBSCRIBER.—1. When two assessors fail to agree in equalizing a union school section, and postpone the meeting until the time expires and no award is made, can it be done next year, or does the old award stand for another term, three years?

2. Has a clerk any authority for changing the amount on the tax bills after the collector has issued the same, if they are wrong, or would the reeve have the authority?

3. Have not all rebates or refunds to be passed or allowed the collector on his roll by the council in session?

4. Can a clerk or councilman act as trustee of a school board?

1. There was, in effect, no equalization of the assessment of this union school section. When the assessors failed to agree on the amount, they should have notified the public school inspector in whose district the union school is situated, to determine the matters in difference between them. This work can be done by the assessors appointed next year and the old award will govern, until replaced by a new one.

2. No. Neither the clerk nor the reeve has any such right.

3. Yes. (See section 147 of the Assessment Act.)

4. Assuming that you mean a Public School Board, yes; but a councillor cannot be a High School Trustee. (See sec. 80 of the Municipal Act, sub-sec. 1.)

Audit of Books of Union School Section.

32—T. G.—1. Can a municipal council appoint an auditor to audit a union school section's books in defiance of the board of school trustees of said section?

2. Can the board of school trustees legally refuse to deliver up the books to be audited, there being no charge brought against them?

3. What advantage will the audit be to them?

1. No. A municipal council is required by subsection 1 of section 299 of the Municipal Act, and section 8 of the Municipal Amendment Act, 1898, to appoint two auditors to audit its own accounts, and section 22 of the Public Schools Act, 1901, requires the Board of Public School Trustees of every rural school section (including a union school section) to appoint an auditor on or before the 1st of December in each year. If the Board or ratepayers, at their annual or a special meeting, fail to make the appointment, the inspector, shall make it at the written request of two ratepayers. Under subsection 2, of section 9, of chap. 228, R. S. O., 1897, the provincial municipal auditor may, of his own motion, make an inspection, examination or audit of the books of any school board.

2. Yes, unless the auditor is appointed pursuant to section 52, of the Public Schools Act, 1901, or unless the audit is being made by, or at the instance of the provincial municipal auditor.

3. This altogether depends upon the state of the books of the treasurer. If there is any reason for believing that there is anything wrong with these books, an audit by the school auditor or provincial municipal auditor or his appointee would be of considerable advantage to the school board and ratepayers of the union school section.

Seizure of Goods of Tenant for Taxes.—Duties of Drainage Inspector.

33—R. J. W.—1. A rented a farm from B for a term of years. Last spring A left the farm but was first assessed for it. Then B rented it to C. To whom will the collector look for the taxes?

2. About twenty years ago, in the township of M, a number of drains were constructed under the Drainage Act. The keeping of them in proper repair was neglected until about three years ago, when a drain inspector was appointed by the council, and this year he had a lot of the drains cleaned out. Have the owners of the properties through which the drain runs to do all the work, or pay for the same, or can the drain inspector tax those adjoining to the extent that they are benefited, or tax in proportion to the cost as per profile?

3. If those adjoining can be taxed, should they have first been notified and given the privilege of doing the portion of the work to be their share.

1. To A. who is the person assessed for the premises, and whose name appears upon the collector's roll for the year as liable therefor. (See section 135, of the Assessment Act.) In case no goods or chattels belonging to A liable to seizure for taxes can be found within the county in which your local municipality lies, the collector will have to include these premises in his "no property" return

to the township treasurer; and, unless the taxes are sooner paid, the lands will have to be sold to realize the amount, at the time and in the manner provided in Assessment Act. You do not state whether B, the owner, was assessed. He ought to have been assessed along with the tenant, and if he has been assessed the collector must exhaust his remedies against the owner as well as the tenant before taxes can be returned against the land; and in addition to this, even if the owner's name is not on the roll, his goods on the lands are liable to be distrained, and must be exhausted before the taxes can be returned against the lands. See clause 3, sub-section (1) of section 135, of The Assessment Act.

2. Assuming that the repairs to the drainage works were those mentioned in section 78, sub-section 1, of the Drainage Act. R. S. O., chap. 216, and that the inspector was appointed, pursuant to subsection 2, he can accomplish the cleaning out of the drain only to the extent authorized by this section. We must have more definite information as to the extent to which these drains were cleaned out before we can fully answer this question.

3. Yes. If the inspector was appointed under, and is acting within the purview of the authority conferred upon him by section 78, the owners or persons in possession of the lands adjoining the drainage works responsible for the creation of the obstructions should be given reasonable notice in writing by the council or inspector to remove them, and if they are not removed within the time specified in the notice, the council or inspector shall forthwith cause the same to be removed. As to the collection of the cost of removal, see sub-section 3, of section 78. We cannot express any opinion as to whether the repairs in this case are within section 78, because your question is silent as to the nature of them.

Clerk's Vote on By-Law.

34—J. H. S.—Can a municipal clerk vote on a by-law to grant a bonus for the erection of a chair factory or other factory? I notice a note in clause 2, of section 179, in Biggar's Municipal Manual, which would debar him from voting, but can see nothing in the statutes on the point.

Section 365, of the Municipal Act, provides that where the assent of the electors or of the ratepayers, or of a proportion of them, is necessary to the validity of a by-law, the clerk or other officer shall not be entitled to give a CASTING vote, and subsection 2, of section 179, that, except under the circumstances mentioned in sub-section 1, no clerk of a municipality shall vote at any LOCAL municipal election. Since a voting on a by-law is a local municipal election, and he is precluded by section 365 from giving a casting vote at such an election, it therefore follows that the clerk has no vote at all under the circumstances you mention.

Formation of Separate Schools.

35—J. C. M.—1. Two union sections have formed into separate schools. There are a few

Protestants in each section, in one only four families. Can they hold the school-house?

2. Should those joining separate school have notified the clerk before the first of March, or will they have to wait another year before they can form a separate school? They have not notified the clerk yet, but have notified the reeve that they are to form a separate school at New Year, and appointed trustees.

1. The school-houses in the union school section, as they were in existence at the time of the formation of the separate school section, belonged to the board of public school trustees of the union school sections respectively, and remain vested in them until disposed of under the provisions of the Public Schools' Act. The Separate Schools' Act does not fix any time within which a separate school may be established, and, therefore, we can see no reason why the Roman Catholics in this section cannot organize at the time mentioned, and they can give the notice required by section 42 at any time before the 1st of March next, and upon doing that each one who shall have given such notice before that date will be exempt from all public school rates for 1902.

2. The supporters of the separate schools must file the notice mentioned in section 42, of the Separate Schools Act, otherwise they will not be exempt from the payment of public school rate in the school section.

Procedure When Resignations Defeat Election of Council.

36—C. T.—The nominees at our nomination held on Monday have all resigned except two councillors. What proceedings shall I take to fill the Board?

If the members remaining in nomination, and therefore elected by acclamation, equal or exceed the half of the council when complete, then the members so elected, or a majority of such members, shall order a new election to be held in the manner provided by the Municipal Act (see section 130 of the Act). In case by reason of such retirement, less than half the members of the council are elected, the clerk (as returning officer) shall cause a new election to be held in the manner provided by the Act, and, until such election is held and the number of members necessary to complete the council is elected, the council of the preceding year shall continue in office and may do, or cause to be done, all such acts as a council duly elected for that year might lawfully do. (See section 131 of the Act.)

Public School Trustee Qualified as Councillor

37—P. S.—Can a man who is a school trustee in our public school hold the seat of township councillor and school trustee at the same time?

Section 80 of the Municipal Act, sub-section 1, disqualifies a trustee of a High School from holding a seat in any municipal council, but neither the Municipal Act, Public Schools Act nor any other statute operates to prevent a trustee of a PUBLIC school from being elected and holding a seat as a municipal councillor.

Legal Department.

J. M. GLENN, K. C., LL. B.,
OF OSGOODE HALL, BARRISTER-AT-LAW.

Gaby vs. City of Toronto.

Judgment in action tried at Toronto brought by the widow and administratrix of Levi Gaby, late of Richmond Hill, deceased, to recover damages for injuries which caused his death. The learned judge finds, after a lengthy review of the evidence, that the deceased left the Commercial Hotel, on Jarvis street in the City of Toronto, on November 19, 1900, at 8.30 p. m., in a sober condition, and that his body was found between 7 and 8 o'clock the next morning in a hole, 4½ feet wide and nearly eight feet deep, dug three weeks before by the contractor for New St. Lawrence Market, added as a third party; that the hole was not properly guarded, and the deceased fell into it, and, that under his contract with the defendants, the third party, James Craig, was liable to them. Judgment for plaintiff for \$2,500 and costs against defendants, and judgment for defendants against the third party for that amount and the plaintiff's costs together with their own costs.

Leitch vs. Township of Chatham.

Defendants appealed from judgment of Meredith, C. J., in action for damages for injuries sustained by plaintiff, an insurance inspector, while being driven on the highway, between the first and second concessions in the township of Chatham, in front of lot six, a short distance west of Prince Albert road. Owing to a ditch and hole at the side thereof being left unguarded, and without light, the buggy slid over into the ditch and plaintiff fell out, and the buggy and driver fell on top of him. The Chief Justice found that the highway was out of repair; that there was no contributory negligence on the part of the driver Atwell, and even if there had been plaintiff would not have been affected thereby, because Atwell was the liveryman's servant, not plaintiff's; that plaintiff had not made admissions that the cause of the accident was other than want of repair, and that \$1,250 damages should be awarded, adopting the testimony of three medical witnesses, two of whom had attended the plaintiff in the long illness following the accident, and wholly rejecting the testimony of the physician (called on behalf of the defendants,) who, in the face of the testimony of three other physicians, who had far better opportunity of judging the case than he had, went into the witness box and made statements calculated to lead the presiding judge to believe that there was no foundation whatever for the testimony of the three other physicians. It was contended for appellants that the obligation to keep the highway in

repair was satisfied by keeping the road in such a state of repair as was reasonably safe and sufficient for the requirements of the particular locality. *Lucas vs. Moore*, 3 A. R., 602, *Walton vs. York*, 6 A. R., 181; that the ditch having been in the same condition for nineteen years was of itself evidence of the absence of negligence, and no one considered it unsafe; that hundreds of such ditches are in existence in the counties of Essex, Kent and Lambton, and to hold a fence necessary would be to impose an unreasonable burden on municipalities; that an indictment against defendants would not lie owing to the condition of the road, and therefore they could not be liable to plaintiff. *Steele vs. York*, 15 A. R., 670. Appeal dismissed with costs.

Holmes v. Town of Goderich.

Judgment on appeal by plaintiff from order of a Divisional Court (20 C. L. T. Occ. N. 303) reversing judgment of Armour, C. J. O. The plaintiff, tendering for a supply of 1,000 tons of coal for the defendants' waterworks, wrote: "I will deliver in bond into the coal shed at pumping station or grounds adjacent thereto, where directed by you, 1,000 tons, etc." The tender was accepted for 800 tons and a contract executed by the mayor and clerk, but without previous resolution of the council, was drawn up and executed, by which plaintiffs agreed to deliver 800 tons "at the coal shed," etc. Armour, C. J. O., held at the trial that all the coal which was left at the dock near the pumping station was delivered "at the coal shed," within the intent and meaning of the contract: that "at," as used in the contract, meant "near to." The Divisional Court held upon the evidence that the coal in question was not delivered at the place designated in the contract, and per Boyd, C., that the word "at" meant rather within a place than without; that the cases cited merely showed the meaning of the word under the circumstances of each case, such words taking their coloring from their circumstances and situation, and, per Meredith, J., that if necessary the contract should be reformed as the meaning of the parties was clear. Held, MacLennan, J. A., dissenting, that the contract as sealed was not intended to vary the terms of the tender. The provision in the tender that plaintiff was to deliver "into the coal shed," etc., did not entitle defendants to direct at their pleasure plaintiff to place some coal in the shed and some on the adjacent grounds, or the whole in the sheds or on the grounds. The agreement provides for two modes of delivery, and the defendants' right to direct is confined to the grounds

adjacent to the shed, and only comes into play in the event of the plaintiff exercising his right of election in favor of the grounds instead of the shed. Where it is not specified at whose option one of two alternatives is to take place, the option is to the party who is to do the first act: *Reed v. Kilburn*, L. R. 10 Q. B. 264, per Lord Blackburn. Here, therefore, the plaintiff exercised the option in favor of the grounds, and defendants having declined to give any direction plaintiff was justified in acting as he did. Appeal allowed with costs throughout to plaintiff.

Madill vs. Township of Caledon.

Judgment in action tried at Brampton, brought to recover damages for injuries received by plaintiff owing to a defective condition of a sidewalk. Held, that plaintiff had not been guilty of contributory negligence; (2) that the sidewalk (which was at the time of the accident in an unincorporated village, and had been built twenty years before,) being on the highway, which the defendants were bound to keep in repair, was an invitation to passengers to use it. It was there with their knowledge and acquiescence, and they had time to repair, and it was their duty to prevent the walk from becoming a source of danger. Judgment for plaintiff for \$475 and costs fixed at \$125.

Rex vs. Allan.

This was an appeal from order of Meredith, C. J., refusing a writ of certiorari to remove a conviction of defendant under by-law 267 of the town of Mitchell respecting transient traders. The by-law in the terms of R. S. O., chap. 223, sec. 583, sub-sec. 31. The defendant was convicted because he, not being entered on the assessment roll, offered goods for sale without having paid the license fee. Held (1) that the by-law, in terms of the section, was *intra vires*, and the use of the word "effect" instead of "affect" was immaterial (2) that since I, Edward VII. ch. 13, sec. 1, it is not necessary to negative an exception and Reg. v. Smith 31 O. R. 224, is no longer useful: (3) that the objection that the evidence showed that defendant was managing the business of his wife and was not a transient trader nor occupant of the premises should have been raised by appeal. Appeal dismissed with costs.

Re McArthur and Village of Paisley.

This was a motion by J. D. McArthur, for a summary order quashing a by-law of the village granting a bonus to one Silas E. Van Camp, to aid him in establishing a factory in the village, upon the ground that the by-law was illegal by reason of the provisions of 63 Vict. (O.), ch. 36, sec. 12 (e) and (f). No cause shown for the village. Order made quashing by-law. No costs.