

THE
Contents of Volume XIV., 1904

MUNICIPAL WORLD

PUBLISHED MONTHLY

IN THE

INTERESTS OF EVERY DEPARTMENT OF THE
MUNICIPAL INSTITUTIONS OF ONTARIO.

VOLUME XIV.

From January, 1904, to December, 1904

ST. THOMAS, ONTARIO

THE MUNICIPAL WORLD, LIMITED, PUBLISHERS

THE MUNICIPAL WORLD

PUBLISHED MONTHLY

IN THE

INTERESTS OF EVERY DEPARTMENT OF THE
MUNICIPAL INSTITUTIONS OF ONTARIO.

VOLUME XIV

From January, 1904, to December, 1904

ST. JOHN'S, ONTARIO

The Municipal World Publishing Co.

Contents of Volume XIV., 1904

Accounting, information.....	85	Evans v. Town of Huntsville.....	258	Municipal representatives.....	54
Acetylene gas for public lighting.....	36	Fielding and Town of Gravenhurst, Re	198	Municipal representatives in Guelph,	265
Acetylene gas plants.....	229	Finn v. Brown.....	259	meeting of.....	3
Assessment Act, the new.....	136	Forbes v. Grimsby Public School	199, 280	Municipal taxation.....	224
Assessors.....	266	Board.....	199, 280	Municipal trading and public account-	139
Assessors' duties.....	31	Galloway v. Town of Sarnia.....	258	ing and auditing.....	36
Auditors, appointment and duties of...	21	Garner v. Township of Stamford.....	200	Municipal undertakings in Guelph.....	40
Bachelors, Ottawa to tax.....	181	Green v. Marr.....	198	Municipal votes and notes.....	264
Beasley, Thomas, city clerk, Hamilton,	243	Innisfil, Township of, v. Grand Trunk	27	New Brunswick, the Province.....	266
Bell Telephone Co., rights of as to use	266	Railway Co.....	27	Nominations.....	140
of streets of municipalities.....	54	Johnston v. Village of Point Edward	25	Obituary.....	277
Board, Provincial, needed.....	160	Lasby v. Pilkington.....	28	Office experience in.....	277
Bonds, treasurer's and collector's.....	113	Macdonald and Village of Alexandria,	260	Officials, prerequisites of.....	263
Bridges, highway.....	209	Re.....	199	Oxford Clerks and Treasurers.....	111
Bridge, sites.....	9	Mahoney v. City of Ottawa.....	280	Public business, effect of popular pre-	32
Bridges, stone.....	207	Medler and Town of Toronto Junc-	199	judices on.....	110
Burying ground cannot legally be sold	200, 240	tion, Re.....	199	Public companies using the highways,	6, 84
for taxes.....	85	Medler and the City of Toronto, Re..	26	assessment of.....	6
Business tax, the.....	223	Meldrum and Town of Peterborough,	259	Public officers, encouraging.....	54
Canadian municipalities, the union of,	202	Re.....	27	Railways, assessment of.....	226
Charities conference.....	246	Metropolitan Life Assurance Co. As-	26	Railways, taxation of.....	268
Christian duty and public affairs.....	24	essment, Re.....	199	Railways, valuation of.....	10
Church property, taxing.....	24	Mills v. Town of St. Marys.....	260	Road construction.....	114
City, a garden.....	138	Moore v. Hamill, Rex. ex. rel.....	260	Road drainage.....	164
Concrete abutments.....	249	Orillia, Town of, and Township of	258	Road grader, the.....	59
Concrete abutments; specification for..	197	Matchedash, Re.....	259	Road improvement and maintenance on	116
Consolidated schools.....	22, 52, 55, 263	Osgoode and Mountain Re Union	26	a business basis.....	60
County councils, constitution of.....	158	School Section No. 9.....	260	Road improvement in the United States	187
County houses of industry and refuge	115	Ottawa Assessment Appeals, Re.....	198	Road maintenance.....	113
for the poor.....	247	Ottawa, City of, v. Ottawa Electric	260	Road-making, golden rules in.....	206
County roads.....	28	Railway Co.....	279	Road-making, the science of.....	207
County road inspector, a.....	200	Pillar v. Bourdeau, Rex. ex. rel.....	200	Road metal, hauling and spreading.....	183
Damages caused by accidents, actions	24	Price and the City of Hamilton, Re..	25	Road problem, the.....	61
for.....	28	Rawdon Voters' Lists, Re.....	28	Road question, the, in Brant.....	269
Debentures, equal annual payment on..	200	Roger v. Town of Petrolia.....	278	Road surface, the.....	139
Drainage Act amendments.....	270	Russell and Doyle, Re.....	260	Roads, Lanark county.....	249
Drainage, better.....	180, 202, 222, 242, 262.	Scott v. Township of Ellice.....	259	Roadways, narrower.....	8
Editorial notes..... 2, 30, 54, 84, 110, 134,	158	Smith and Township of Collingwood,	279	Roadwork, county, in Simcoe.....	62
180, 202, 222, 242, 262.	181	Re.....	240	Roads, county, in Perth.....	227
Election methods, improved.....	257	Sombra School Section No. 26, Re..	279	Roads, county, in Simcoe.....	248
France, dustless roads in.....	5	Stitt v. Town of Port Arthur.....	33	Roads, county, in Wentworth.....	9
Franchises, special assessment of.....	135	Sydenham School Section No. 5, Re..	32	Roads, good.....	61
Gibson, Hon. Jno. Morrison.....	267	Todd v. Town of Meaford.....	265	Roads, good, why needed.....	9
Gravel, placing on the road.....	208	Toronto, City of, v. Mallon.....	265	Roads, no toll, in Oxford.....	35
Gravel, purchase of.....	90	Toronto, City of, v. Toronto R. W.	263	Roads, what is being done for better...	181
Good Roads Association, Eastern Ont-	225	Co.....	263	Separate school teachers, qualification	161
ario.....	162	Vassar v. Brown.....	184	of.....	89
Good Roads Association, Western Ont-	187	Ward v. Lowthian.....	220	Statute labor.....	184
ario.....	245	Wason v. Douglas.....	240	Statute labor commutation by-law, East	89
Good roads convention, the inter-	159	Wigle v. Township of Gosfield South	240	Zorra.....	184
national.....	203	Williamson v. Tp. of Elizabethtown..	279	Statute labor, utilizing.....	89
Good roads record, a.....	162	Less in proportion.....	33	Steam road rollers in Ontario.....	140
Houses of industry, care of destitute	225	Lighting plants paying.....	32	Street cleaning.....	164
insane in.....	245	Local option by-laws.....	265	Street grades.....	8
Houses of industry, management	203	Local improvement system, the.....	265	Street work, tax for.....	7
House of refuge, county of Elgin.....	159	Manufacturing industries, competition	134	Streets, town.....	207
House of refuge, county of Lambton...	247	for the location of.....	9	Streets, village.....	90
Inspection.....	88	Market.....	263	'Swamp roads.....	208
Kingston municipal lighting.....	90	Men, only the best should control.....	184	System being adopted by townships...	263
Land surveyors, Ontario.....	280	Metal concrete bridge floor, specifica-	220	Taxation.....	202
LEGAL DECISIONS—	280	tion for.....	244	Voters' list, clerk's fees on revision of..	33
Adjala, Township of, and County of	280	Municipal accounts.....	270	Water meters.....	132
Simcoe.....	240	Municipal Achievements, Berlin's.....	218	Water softening.....	164
Arthur and Minto School Question, Re	27	Municipal Association, The Ontario.....	37, 58	Waterworks improvements, St. Thomas	164
No. 17.....	25, 279	Municipal candidates, resignation of...	218	Waterworks reports.....	229
Biggart v. Town of Clinton.....	258	Municipal debentures in the money	218	Waterworks, the, of London, England..	163
Bourque v. City of Ottawa.....	239	market.....	218	Wide tires.....	23
Canada Co. v. Town of Mitchell.....	279	Municipal Government in Ontario.....	219		
Canadian Oil Fields and Township	279	106, 112.	152, 177		
of Enniskillen, Re.....	279	Municipal history.....	131		
Clipsham v. Town of Orillia.....	279	Municipal legislation, 1904.....	34		
Cook v. Town of Collingwood.....	279	Municipal organization in Ontario. 39, 86,	266		
Doyle v. Drummond School Trustees	279	131	257		
East Toronto, Town of, and County	259	Municipal ownership.....	32		
of York, Re.....	239, 279	Municipal ownership and operation.....	225		
Emerson v. Melancthon School Trus-		Municipal ownership in Barrie.....	52		
tees.....		Municipal ownership in Campbellford..			

Title and Classification of Acts and Number of Questions Referring Thereto.

ASSESSMENT ACT, THE

CHAPTER 224, R. S. O., 1897.

Preliminary provisions ss. 1-5.....	156, 200, 270, 356, 365, 617
Property liable to taxation ss. 6-12....	225, 227, 286, 300, 308, 325 637.
Exemptions, s. 7... 1, 85, 144, 156, 174, 225, 264, 301, 312, 459, 489 498, 590.	
s. 7b.....	1

ASSESSORS.

Duties of assessors, ss. 13-17....	15, 121, 157, 173, 200, 215, 473, 479
Mode of assessing real property, ss. 18-34	2, 19, 29, 34, 60, 122 123, 144, 156, 189, 200, 227, 241, 248, 264, 265, 286, 294, 299, 300 324, 355, 356, 365, 376, 377, 384, 446, 489, 617, 656.
Mode of assessing personal property, ss. 35-46....	156, 224, 299, 301 533.
General provisions, ss. 47-57.....	78, 207, 215, 265, 320, 431
Special provisions as to cities, towns and villages, ss. 58-61....	1, 78 93, 111, 161, 187, 212, 310, 338, 490, 558.

APPEALS.

To Court of Revision, ss. 62-74... 29, 68, 85, 121, 320, 406, 412, 425 430, 438, 443, 450, 485, 549, 590.	
To County Judge, ss. 75-85.....	99, 414, 431
Statute labor, ss. 96-128.....	

Section 96.....	28
" 97.....	22, 37, 222, 458, 652
" 99.....	37
" 100.....	458, 564
" 101.....	83, 398, 457, 574
" 102.....	52, 398, 491, 590, 630
" 103.....	75, 83, 173, 244, 374, 383, 398, 457, 458
" 104.....	564
" 106.....	15
" 107.....	564
" 108.....	270
" 109.....	231, 258, 493
" 110.....	124, 244, 554, 673
Collectors' duties, ss. 133-149.....	
Section 134.....	198, 558
" 135.....	25, 65, 107, 119, 198, 359, 365, 371, 656
" 135a.....	16
" 142.....	300, 362
" 143.....	379, 583
" 144.....	116, 287, 506
" 145.....	116, 331, 506
" 147.....	26, 89, 331, 371

ARREARS OF TAXES.

Duties of treasurers, clerks and assessors, ss. 152-172....	40, 152, 229 232, 379, 391, 648, 678.
Sale of lands for taxes, ss. 173-192....	65, 171, 336, 379, 391, 489, 506 510, 674.
Certificate of sale, tax deed, ss. 193-208.....	250, 399
Arrears in cities and towns, ss. 224-226.....	336

DITCHES AND WATERCOURSES ACT.

CHAPTER 285, R. S. O., 1897.

Appeal under, cannot be withdrawn.....	177
Award of engineer, appeal from.....	230
Award, proceedings to enforce.....	410
Award, reconsideration of.....	547, 657
Award under, collection of costs of.....	24
Councillors' fees superintending work under.....	582
Declaration of ownership, who may file.....	410
Drain, liability for neglect to maintain.....	177
Drain liability of municipality to build bridge over.....	671
Drain, proceedings to construct under.....	621
Drain, proceedings to enforce cleaning of.....	255
Drain, responsibility for cleaning portion of.....	639
Engineer, cannot employ substitute.....	290
Engineer, obligation of.....	177
Non-completion of drain within time limited, remedy for.....	579
Road, drainage of.....	235

DOGS AND SHEEP.

CHAPTER 271, R. S. O., 1897.

Bitches, assessment of.....	109
By-law, a deficient dog tax.....	125
Damages, payment of, for sheep killed by dogs.....	38, 158, 172
Damages, payment of, for sheep killed when running at large, by dogs.....	86

Damages, payment of, when no dog tax collected.....	625
Dogs, assessment of and collection of tax.....	270, 485, 498, 556
Dogs, collector cannot enter on roll.....	629
Dog tax, collection of, charge for.....	536
Dog tax, by-law abolishing.....	266, 324
Dog tax by-law, requisites of.....	388
Dog tax, disposition of.....	21
Dog tax omitted from roll, collection of.....	8
Dog tax voluntarily paid, refund of.....	15
Dog under six months' old, assessment of.....	12

DRAINAGE ACT.

CHAPTER 226, R. S. O., 1897.

Agricultural Societies, assessment of lands of, for drainage work.....	403
Amendments to.....	290
Assessments may be paid any time before issue of debentures.....	581
Bridge over drain, failure of engineer to provide for.....	390
Bridges, construction of, over drains.....	610
By laws, procedure in passing.....	17
Clerk, payment of fees of.....	638
Court of Revision, powers of.....	327
Court of Revision, adjournment of.....	520
Courts of Revision.....	145
Culvert on highway, dimensions of.....	394
Debentures, issue of by servient municipality.....	578
Ditches and watercourses drain, changing municipal drain to.....	484
Drain, construction of on townline.....	439
Drain, council should not construct for private owners.....	672
Drain, issue of debentures for cost of maintenance of.....	675
Drain, day work on, unauthorized by engineer's report.....	582
Drain, effects on by-law of delay in construction of.....	646
Drain, proceedings for construction of.....	219
Drain, repairing under section 75.....	645
Drain viewers, council not bound to appoint.....	63
Drainage assessment, council may levy in one year.....	45
Drainage assessment, payment of.....	374, 579
Drainage contract.....	484
Drainage rate, levy of before work commenced.....	145
Drainage work, collection of excess of cost of construction.....	653, 662
Drainage work, payment of part of cost of before work is com- pleted.....	663
Engineer, contract with.....	145
Engineer, fees of.....	291
Engineer's report, duties of clerk on filing.....	160
Obstruction of drain, power of owner as to.....	390
Outlet, drain should be continued to.....	196
Petition.....	142
Petition, council not bound to entertain.....	177
Petition, limit of time for entertaining.....	177
Railway lands, drainage on.....	196, 645, 646, 654
Repair of drain, assessment for.....	180
Report on drain continued into adjoining municipality, duties of reeve, clerk and council as to.....	165
Road, drainage of.....	235, 389
Scheme initiated under section 75.....	129
Streams, compulsory clearing of obstructions from.....	178, 186

JURORS ACT.

CHAPTER 61, R. S. O., 1897.

Clerk, fees of.....	191
Selection of jurors, assessor need not be present at.....	606
Selection of jurors, reeve need not be present at.....	625

LINE FENCES ACT.

CHAPTER 284, R. S. O., 1897.

Award of fees viewers, enforcement of.....	561
Line fences, liability for building.....	451, 517
Line fences, liability for building between bush land.....	491
Line fences, liability for building when creek on boundary line.....	495

LIQUOR LICENSE ACT.

CHAPTER 245, R. S. O., 1897.

By-law fixing license fees, time for passing.....	50
Hotel and shop license, by-laws fixing.....	285
Hotel regulations.....	304
License inspector, township clerk may be.....	460
License commissioners, appointment of.....	659
Local option by-law, duties of clerk after vote on.....	47
Local option by-law, qualification of voters on.....	4
Local option by-law, publication of.....	5
Referendum vote, payment for polling booths at.....	168

Title and Classification of Acts, and Number of Questions Referring Thereto.

MISCELLANEOUS.

Action, settlement of, without consent of solicitor..... 234
 Agricultural Society, date of holding meeting of..... 146
 Agricultural Society, municipal aid to..... 504
 Approach to farm, liability of municipality to build..... 182, 469, 640
 Assessment Act, the new..... 236
 Assessment excessive, right to recover taxes paid on..... 407, 493
 Automobiles, regulation of speed of..... 563
 Bailiff, collector may appoint..... 212
 Bailiff of Division Court can be collector..... 481
 Bridge contract, a..... 482
 Bridge, liability of owner of defective dam for injury to..... 397
 Bridge, liability to build on township road..... 426, 433
 Bridge, obligation of council to maintain..... 416
 Bridges, when town should strengthen..... 326
 Building obstructing highway, removal of..... 316
 By-law, time for submission of the second time..... 437
 Cattle, assessment of..... 603
 Cellar door in sidewalk, council should not allow..... 530
 Cement walks, proportion of cost of laying paid by town..... 282
 Cemetery fence, liability for damage to..... 303
 Cemetery, proceedings to provide drainage for..... 436
 Clubs, law as to..... 333
 Committees of council, composition of..... 348
 Contractor, council's liability for negligence of..... 19
 Contractors, defaulting..... 556
 Contractors and carpenters, licensing of..... 569
 Conveyance of road, payment of cost of..... 371
 Conveyance, signatories to municipal..... 328
 Coroner, duties of..... 676
 Corporate seal, custodian of..... 251
 Crown lands, collection of taxes on..... 19
 Culvert on highway, construction of..... 572
 Death, issue of certificate of registration of..... 676
 Debentures, mode of issuing..... 614
 Debenture payment, mode of calculating..... 568
 Destitute insane, care of..... 126, 584
 Diseased horse, liability for damages occasioned by..... 505
 Division Court sittings, payment of cost of court room for..... 91
 Division registrars, payment of..... 3
 Drain tile, manufacturers of, in Montreal..... 387
 Drainage for private parties, council should not construct..... 179, 434
 Drunken man, payment of doctor's bill for attendance on..... 496
 Early closing by-law does not apply to blacksmith shops..... 364
 Electric Co., by-law and agreement need not be registered..... 81
 Electric railway by-law..... 320
 Electric railway, mode of constructing..... 572
 Electric railway, running of cars of, on Sunday..... 20
 Fences, removing of, causing accumulation of snow..... 46, 147
 Fences, removal of from road allowance..... 302, 313, 461, 476, 563, 650
 Free library, regulation of use of books in..... 192
 Gravel, power to take from road..... 93
 Government land, removal by municipality of timber from..... 85
 Guarantee companies, addresses of..... 77, 613
 Highway, drainage on..... 333, 358, 618
 Improvement of highways, township's right to part of grant for..... 374
 Indigents, support of..... 81
 Industrial schools, liability for maintenance of children at..... 647
 Justice of the peace, appointment of..... 71
 Justice of the peace, fees of, for taking affidavits..... 386
 Justice of the peace may be compelled to act..... 71
 Land adjoining highway, right to use when road impassible..... 46, 49, 608.
 Land, possessory title to..... 3
 Law of the road, the..... 221
 Lord's Day Act, The..... 601
 Mails, method of delivering..... 193
 Mechanics' institute, changing to public library..... 22
 Mistake, liability of municipal officer for..... 220
 Mutual Fire Insurance Co., election of directors of..... 315
 Noxious weeds, compelling cutting of..... 490, 500
 Obstruction of road, council cannot grant privilege for..... 254
 Palmistry and fortune-telling, prohibition of..... 425
 Park commissioners, appointment of..... 110
 Park, fencing land used for..... 435
 Pathmaster, refusal of, to act..... 507
 Pathmaster, right to take gravel from highway..... 632
 Perjury, liability for..... 585
 Pigeons, trespassing, remedy of party injured..... 133
 Plant, light and power, operation of by private parties..... 380
 Plough broken doing statute labor, liability for..... 273, 296, 464, 566, 665.
 Police trustees, jurisdiction of, over sideroad..... 93
 Police trustees not compelled to pay part of clerk's salary..... 82

Pathmaster, hotel-keeper may be..... 10
 Post office may be kept in hotel..... 10
 Private owner, power of to close road..... 423
 Public highway, definition of..... 201
 Public road, what constitutes..... 108, 637
 Railroad, collection of arrears of taxes from..... 103
 Railroad, running powers of one over another..... 523
 Railway Act, notice of application for passing..... 339
 Railway, crossing of road allowance by..... 242, 337, 453, 552
 Railway fence, height of..... 528
 Railway lands, building of sidewalks on..... 470
 Reservation around lakes, right of public to..... 600
 Right of way, dedication of..... 13
 Road allowance, opening..... 447
 Road, ascertaining correct line of..... 361
 Road, compulsory opening of to proper width..... 643
 Road, disputed ownership of..... 404
 Road-furnishing of to private parties..... 569
 Road grader, method of working..... 284
 Road grader, payment of price of..... 228, 427
 Road on private property, council cannot assist in making..... 43
 Road, private ownership of..... 571
 Road, power to close..... 635
 Road through Government land, closing of..... 165
 Roadway across dam, status of..... 539
 Road washed away, liability to restore..... 175
 Rural mail delivery..... 194
 Sand, prevention of accumulation of on highway..... 644
 Sidewalks, council may remove..... 636
 Sidewalk on townline, maintenance of..... 513
 Single tax, non-existence of in Ontario..... 58
 Snow fences, a by-law..... 184
 Snow fences, compensation for erection of..... 79, 661
 Snow fences, compulsory building of..... 67
 Snow, removal of from street..... 214, 382
 Station, liability to build road to..... 193
 Stationary engineer, employment of..... 569
 Stream, wrongful diversion of..... 538
 Street, compulsory opening of, in village..... 598
 Street, removing obstructions from and opening new..... 185
 Streets, right of private parties to use of..... 380
 Stone abutments, cost of building..... 197
 Stock in manufacturing concern, town cannot take..... 188
 Subscriptions gravelling, collection of..... 484
 Subways under railways, dimensions of..... 521
 Taxes, collector should accept wherever tendered..... 31
 Taxes, effect of neglect to collect..... 309
 Taxes, neglect to collect..... 350
 Taxes on timber sold, payment of..... 396
 Taxes, part of, collector should not accept payment of..... 399
 Telephone Co., council cannot make grant to..... 54, 239, 241
 Telephone lines, private parties may erect..... 241
 Tenant, liability of for taxes..... 295
 Tile drainage rate, payment of..... 592
 Timber, damages for illegally cutting..... 272
 Timber on highway, restraining cutting of..... 217
 Timber on townline, ownership of..... 277
 Timber, sale of, on Government lands..... 372
 Townline, assessment of property of Telephone Co. on..... 357
 Township land, title to by possession..... 328
 Traction engines, law as to..... 283, 428, 508, 557
 Tree growing on highway, property in..... 53
 Trees, trimming and cutting..... 546
 Undertaken, liability of for burying without permit..... 492
 Volunteer grants, taxes on..... 208
 Water, responsibility for deposit of, on private lands..... 21, 401, 409, 457, 623, 652.
 Water, restoring, to natural course..... 421
 Waterworks and sewers, payment of debenture rate of..... 36
 Waterworks maintenance, supplementary estimate in aid of..... 190
 Written order, right to cancel..... 41
 Work unauthorized by council, payment for..... 420

MUNICIPAL ACT, THE CONSOLIDATED, 1903.

CHAPTER 19. 3 ED. VII. (O).

Preliminary, ss. 1-3..... 458

PART I.—MUNICIPAL ORGANIZATION.

Title II.—Formation and alteration of Corporations.
 Div. I. Villages, towns and cities, ss. 11-28..... 311

PART II.—MUNICIPAL COUNCILS, HOW COMPOSED.

Title I.—The members.
 Div. I. In counties, ss. 66-69..... 124, 543, 576, 569

Title and Classification of Acts, and Number of Questions Referring Thereto.

Div. III. In towns s. 71a.....668	Sub-Div. I. Prevention of accidents, etc., s. 540.....109, 195
Title II.—Qualification, disqualification and exemptions.	“ III. Prevention of fires, ss. 542-544.....408, 511, 575
Div. I. Qualifications, ss. 76-79.....31, 44, 360	“ IV. Fences, s. 545.....240, 286, 580, 661, 677
“ II. Disqualification, ss. 80-83.....44, 59, 133, 149, 150	“ V. Pounds, s. 546.....159, 370, 574
159, 169, 179, 204, 259, 305, 311, 318, 349, 363, 401	Div. VII. Public morals, s. 549.....304
481, 490, 510, 585, 589, 625, 641, 659.	“ VIII. Public health.
“ III. Exemptions, s. 84.....150	Sub-Div. II. Sanitary measures, ss. 551-553.....658
PART III.—MUNICIPAL ELECTIONS.	“ IX. Highways and bridges, ss. 557-560.....63, 303, 441
Title I.—Electors.	471.
Div. I. Qualification, ss. 85-93.....378	“ X. Statute labor, s. 561.....75, 83, 244
Title II.—Elections.	“ XI. Wharfs, harbors, rivers, streams, etc., ss. 562-563
Div. II. Returning officers and deputy-returning officers, ss.	178, 186, 329.
106-111.....3, 70, 98, 166, 385	“ XII. Water, light and heat, ss. 564-568.....368, 511
“ IV. Proceedings preliminary to the poll, ss. 118-163.	“ XIII. Street railways, telephone services, etc., s.
Section 118.....181, 238	569-573.....320, 572
“ 124.....655	“ XIV. Trees, planting, protection and removal of, ss.
“ 128.....73, 238	574-575.....546, 582
“ 129.....141, 660	“ XV. Public parks and drives, etc., s. 576.....435
“ 131.....57	“ XVII. Fairs and markets, ss. 578-582.....298, 502, 591
Div. V. The poll, ss. 164-187.....55, 61, 112	“ XVIII. Regulation of trade, ss. 583-585.....154, 288, 313
“ VI. Miscellaneous provisions, ss. 188-206.....42, 70	467, 531.
“ VII. Vacancies in council, ss. 207-218.....7, 61, 112, 168,	“ XIX. Nuisances, s. 586.....392
309, 318, 349, 589, 593.	“ XXII. Aids, bonuses, etc., ss. 591-591a-591c.....51, 56, 88
“ VIII. Controverted elections, ss. 219-244.....42, 168, 205, 226	120, 127, 138, 174, 278, 292, 357, 454, 504, 515
PART IV.—MEETINGS OF MUNICIPAL COUNCILS.	Title II.—Powers and duties of councils as to highways and
Div. I. When and where held, ss. 259-266.....130, 162	bridges.
“ II. Conduct of business, ss. 267-275.....11, 108, 210, 211	Div. I. General provisions, ss. 598-636.
237, 269, 346, 442, 465, 486, 490, 516, 534, 551, 586	Section 601.....463
620, 624, 628.	“ 606.....173, 263, 266, 330, 344, 352, 389, 401, 413, 462
PART V.—OFFICERS OF MUNICIPAL CORPORATIONS.	478, 491, 512, 526, 587, 654, 664.
Div. I. The head, ss. 278-281.....670	“ 607.....463
“ II. The clerk, ss. 282-287.....59, 98, 135, 149, 166, 191, 206	“ 609.....263, 260, 462, 572
262, 292, 319, 321, 349, 374, 460, 472, 604, 651, 667	“ 613.....66
“ III. The treasurer, ss. 288-294.....119, 149, 175, 287, 369, 555	“ 614.....218
559, 669.	“ 615.....228
“ IV. Assessors and collectors, ss. 295-298.....33, 76, 166, 193	“ 616.....340
199, 207, 212, 287, 300, 314, 354, 459, 524, 584, 592	“ 617.....243
“ V. Auditors and audit, ss. 299-309.....11, 23, 74, 113, 119	“ 617a.....106, 567
237, 256, 262, 271, 520, 550, 559.	“ 620.....66, 104, 247
“ VII. Duties of officers as to oaths, etc., ss. 311-319.....175	“ 621.....136
176, 199, 209, 507, 527.	“ 622.....66, 104, 136, 247, 257, 277, 599
“ VIII. Salaries, tenure of office and security, ss. 320-323.....105	“ 623.....279
135, 147, 287, 321, 381, 509, 612, 677.	“ 625.....136
PART VI.—GENERAL PROVISIONS APPLICABLE TO ALL	“ 629.....273, 373, 416, 537, 599
MUNICIPALITIES.	“ 630.....402, 404
Title I.—General jurisdiction of councils.	“ 632.....43, 94, 97, 100, 104, 131, 143, 223, 244, 272, 273
Div. I. Nature and extent, ss. 325-332.....30, 346, 673	373, 419, 483, 494, 514, 537, 544, 588, 602, 605, 619
Title II.—Respecting by-laws.	626.
Div. I. Authentication of by-laws, ss. 333-335.....393	“ 633.....481, 483, 514, 599, 626
“ III. The voting on by electors, ss. 338-374.....267, 417, 429	Div. II. Counties, townships, cities, towns and villages,
458, 473, 474, 499, 542, 573, 594, 634.	ss. 637-646.....13, 43, 90, 94, 97, 100, 104, 131, 143
“ IV. Confirmation of by-laws, ss. 375-377.....440, 603	218, 223, 244, 272, 273, 277, 323, 341, 366, 373, 494
“ VI. By-laws creating debts, ss. 384-395.....36, 40, 91, 228	514, 517, 537, 544, 599, 602, 619, 626.
368, 418, 445, 659.	“ III. Powers of townships, cities, towns and villages in
“ VII. Registration of by-laws and notice thereof, ss. 396-401	relation to roads and bridges, ss. 647-656.....247, 248
440, 481, 607, 634.	405, 675.
“ VIII. By-laws respecting yearly rates, ss. 402-413.....445, 577	“ V. County councils, ss. 658-659.....218
Title III.—Respecting Finance.	“ VI. Township councils, ss. 660-663.....341, 514, 599, 626
Div. I. Accounts and investments, ss. 417-427.....27, 353, 551	Title III.—Powers of municipal councils as to improvements to be
Title IV.—Debentures and other instruments, ss. 429-436.....208, 445	paid for by local rate.
Title V.—Arbitrations	Div. I. Townships, cities, towns and villages, ss. 664-686.....233
Div. I. Lands taken or injuriously affected, ss. 437-447.....13, 43	307, 345, 358, 375, 395, 415, 470, 477, 487, 560, 570
94, 469, 494, 514, 526, 544, 626.	580, 597, 609, 627, 658, 662.
“ II. Appointment of arbitrators, ss. 448-457.....626	Title IV.—Powers of municipal councils as to railways and street
Title VIII.—Administration of justice.	railway companies, ss. 694-699.....9, 85, 102, 160
Div. III. Boards of commissioners of police and police force in	340, 440.
cities and towns, ss. 481-499.....71, 72, 354, 527	Title VII.—Powers as to enforcement of by-laws.
“ IV. Court houses, gaols, etc., ss. 500-529.....666	Div. I. By-laws for imposing penalties, s. 702.....46, 124, 126
PART VII.—POWERS OF MUNICIPAL COUNCILS.	507, 575, 591.
Title I.—Powers in general.	PART IX.—POLICE VILLAGES.
Div. I. As to the municipality itself, ss. 531-534.....75, 91, 118	Div. III. Duties and powers of police trustees, ss. 736-757.....154
288, 328, 449, 480, 669.	155, 173, 260, 261, 278, 375, 458, 478, 508, 590, 597, 634.
“ II. As to municipal elections, ss. 535-536.....161, 385, 448	MUNICIPAL INSTITUTIONS IN DISTRICTS.
“ III. As to municipal officers, s. 537.....46, 124, 159, 237, 245	CHAPTER 225, R. S. O., 1897.
303, 367, 381, 382, 472, 490, 541, 556, 562.	Arrears of taxes, collection of, in.....362
“ IV. As to payment of members of the council, s. 538.....317	Arrears of taxes, interest on.....40
673.	Assessor, council should appoint annually.....274, 280
“ VI. As to protection of life and property, ss. 540-548.....548	Collector in, dispensing with.....274
	Constable, powers and mileage of.....518, 548, 588
	Constables, appointment of.....588
	Courts of Revision, powers of, in.....39

Title and Classification of Acts, and Number of Questions Referring Thereto.

Criminal prosecutions in districts.....501
 Indigent lunatics, expenses of.....92
 Overhead crossing on railway, compelling building of.....548
 Previous years assessment in, adoption of.....92
 Roads, width of, in.....402
 School taxes, assessment and imposition of.....2
 Townline between municipalities, maintenance of.....548
 Union school assessments, equalization of, in.....167
 Villages in, councils of, cannot license peddlers.....153

POUNDS ACT.

CHAPTER 272, R. S. O., 1897.

By-law respecting pounds.....444
 By-law, respecting, when to take effect.....468
 Cattle, damage by, when no fence along road.....444, 468
 Cattle trespassing, liability for.....411
 Poundkeeper, duties of.....400
 Pound, requisites of.....468
 Sale by poundkeeper, disposition of surplus.....292

PUBLIC HEALTH ACT.

CHAPTER 248, R. S. O., 1897.

Churches and schools, authority of local board of health to close.....137
 Clerk, fees of, as secretary.....191
 Disinfection, payment of expenses of.....203
 Examination by board of health, payment of expenses of.....565
 Injured indigent, maintenance of at hospital.....300
 Medical health officer, duties of.....276
 Medical health officer, legality of account of.....529
 Medical health officer, school trustee may be.....117
 Members of local board, remuneration of.....163
 Nuisance, penalty for creating.....248
 Nuisance, responsibility for abatement of.....553
 Quarantine, payment of expenses of family under.....17, 39, 132
 134, 179, 183.
 Reeve and clerk, fees of, as members of local board.....96
 Sanitary inspectors, fees of.....248

PUBLIC LIBRARIES ACT.

CHAPTER 232, R. S. O., 1897.

Public libraries, grants from municipal and school corporations in aid of.....394, 332

PUBLIC SCHOOLS ACT.

CHAPTER 39, I. ED. VII. (O).

Arbitration, costs of, to be determined by arbitrators.....35
 Arbitrators, powers of.....322
 Assessments, correction of mistakes in.....48
 Attendance, trustees cannot close school for lack of.....69
 Chairman of board, voting powers of.....532
 Contract for building school house, payment of extra on.....245
 Debentures, issue and sale of.....642
 Debentures, liability for payment of.....289
 Debenture rate, collection of.....102
 Equalization of union school assessments, payment of assessors for.....87, 456, 616, 633, 649
 Fence around school premises, responsibility for building.....497
 Improvements, trustees authority to make.....281
 Loan, time for making application for.....14
 Loan, time of meeting of ratepayers for sanctioning.....80
 Married woman may vote for trustees.....146, 431, 535
 Mutual Insurance Co., right of school board to vote at.....193
 Non-resident pupils, collection of fees from.....334
 Premises, assessment of, for school purposes.....231
 School accounts, municipal auditors should audit.....550
 School boundaries, alteration of.....228, 594
 School cheques, collection of interest on.....350
 School house in union section, levy for building second.....525
 School levy, disposition of erroneous.....6
 School levy, error in, correction of.....118, 366
 School maps, clerk must prepare.....292
 School rates, collection of from ratepayers a long distance from school house.....95, 101
 School section, division of.....289
 School section, formation of.....585

School section, proceedings to divide.....251
 School sections, numbering of.....286
 School site, proceedings on change of.....216, 506, 519
 School taxes, disposition of.....432
 Secretary-treasurer, inspection of books of.....64
 Secretary-treasurer of board may be collector.....459
 Site, proceedings to expropriate and build new school.....425
 Taxes, payment of on land more than three miles from school house.....19
 Teacher, duties of as to punishment of pupils.....202
 Teacher, liability of trustees to.....281
 Teacher's salary, payment of.....585
 Township, division into school sections.....349, 585
 Township school levy, collection of and payment over.....293, 297, 370
 Township school levy, limit of.....128, 140
 Truant officer, appointment of.....139
 Truant officer, salary of.....164
 Trustee, assessor cannot be, of union section.....148
 Trustee can be medical health officer.....117
 Trustee can be township auditor.....113
 Trustee cannot legally contract with his board.....139, 585
 Trustee disqualified, procedure to unseat.....73
 Trustee, effect of absence of from meetings of board.....475
 Trustees, election of, in new section.....451
 Trustee, election of, to fill vacancy.....422
 Trustee may be municipal treasurer.....119, 249
 Trustee, non-resident cannot be.....148
 Trustee, procedure on refusal to act.....228
 Trustee, qualification of in urban municipality.....18
 Trustee, town solicitor can be.....151
 Trustees requisition, levy of amount of.....27
 Trustees requisition, municipality should pay full amount of.....62
 Treasurer of board can be township auditor.....119
 Union between rural and urban municipality, no general levy in.....252, 540
 Union school assessments, an irregular equalization of.....84
 Union school assessments, equalization of in districts.....167
 Union school assessments, time for equalization of.....140, 351, 376
 Union schools, basis of grant to.....170, 545
 Union school section. collection of general rate in.....85, 275, 306, 343
 488, 522.
 Union school in district. dissolution of.....246
 Union school section, payment of levy to.....391
 Union school section, proceedings on formation of.....213
 Union section formed of organized and unorganized territory, collection of taxes in.....253

SEPARATE SCHOOLS ACT.

CHAPTER 294, R. S. O., 1897.

Arrangement for sending Protestant children to R. C. separate schools.....122
 Assessment for separate schools.....119, 164, 268, 347, 608, 611
 Debenture rate, payment of.....455, 615
 Unorganized territory, separate school supporters in.....32

SPECIAL AUDITS OF MUNICIPAL ACCOUNTS.

CHAPTER 228, R. S. O., 1897.

Provincial municipal auditor, power of.....424
 Provincial municipal auditor, reference to.....466

THE SURVEYS ACT.

CHAPTER 181, R. S. O., 1897.

Highway, limitation of.....335
 Surveyor, fees of.....324
 Surveyor, qualification of.....522
 Surveyor, power of.....43

VOTERS' LISTS ACT.

CHAPTER 7, R. S. O., 1897.

Clerk, fees of.....191, 206
 Notice, services of uuder.....608, 617
 Omission of voter from list, effect of.....55
 Voters' list, duties of clerk and council as to preparation of.....328
 Voters' list, revision of.....431
 Voters' lists, revision of, assessor need not be present at.....606
 Voters, qualification of.....378

The Municipal World

PUBLISHED MONTHLY IN THE INTERESTS OF EVERY DEPARTMENT OF THE MUNICIPAL INSTITUTIONS OF ONTARIO.

Volume XIV. Number I.

ST. THOMAS, ONTARIO, JANUARY, 1904.

Whole Number CLVII.

CONTENTS

	PAGE
Editorial.....	2
Taxation.....	3, 4, 5, 6
Engineering Department—	
Town Streets.....	7
Tar for Street Work.....	8
Hauling and Spreading Road Metal.....	8
Better Roads, Better Materials.....	8
County Roads in Perth.....	8
Good Roads.....	9
Markets.....	9
Stone Bridges.....	9
No Toll Roads in Oxford.....	9
Organization in Road-Building.....	10
Question Drawer—	11
1 Assessment of Rectory—Uncollected Percentage.....	
2 School Taxes in Unorganized Territory.....	
3 Dep.-Re. Officers—Div. Registrars.....	
4 Qualification of Voters on Local Option By-Law.....	
5 Publication of Local Option By-Law.....	
6 Disposition of Erroneous School Levy.....	
7 Three Months' Absence Vacates Seat of Councillor.....	
8 Collection of Dog Tax Omitted from Roll.....	
9 Council Cannot Take Stock in Electric Railway Co.....	
10 P. O. in Hotel—Hotelkeeper P. M.....	
11 Voting Power of Mayor of Town—Qualification of Auditor.....	
12 Assessment of Dogs.....	
13 Powers of Owner and Municipality re Right of Way.....	
14 Time for Making Application for School Loan.....	
15 Farmers' Sons' Statute Labor—Voluntary Payment.....	
16 Collection of Taxes on Goods of Insolvent Debtor.....	
17 Expense of Family Quarantined—Passing Drainage By-laws.....	
18 Qualification of School Trustee in Urban Municipality.....	
19 Taxes on Crown Lands—Taxes on Land Three Miles from School House—Council's Liability.....	
20 Electric Cars Can Run on Sunday.....	
21 Surface Water—Disposition of Dog Tax.....	
22 Poll Tax in Village—Public Library from Mechanics' Institute.....	
23 Qualification of Auditor.....	
24 Costs of Award, The Ditches and Watercourses Act.....	
25 Purchaser of Timber not Liable for Taxes on Land.....	
26 These Taxes do Not Remain Charge on Lands.....	
27 Council Should Levy Amount in Trustees' Requisition.....	
28 Liability Member of Volunteer Force for Statute Labor.....	
29 Finality of Roll—Taxes on Mill—Liability for Illegal Seizure—Assessment Station Houses.....	
30 Expenses of Persons Quarantined—Meeting After 15th December.....	
31 Qualification for Councillor—Tender of Taxes.....	
32 Separate School Supporters in Unorganized Territory.....	
33 Same Person Cannot be Treasurer and Collector.....	

CALENDAR FOR JANUARY, 1904.

- 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 8, (1), (2).
By-Law establishing Township Boards take effect.
Separation of Junior Township takes effect.
4. Election Day.
High Schools open, second term.—H. S. Act, Section 45.
Public and Separate Schools open.—P. S. Act, Sec. 96, (1, 2); S. S. Act, Sec. 81.
5. Trustees' Report on Truancy due.
Make return of deaths by contagious diseases registered during December.—R. S. O., Chapter 44, Section 11.
6. Polling Day for Trustees in Public and Separate Schools.—P. S. Act, Section 60, (3), S. S. Act, Section 31 (3).
Annual Meeting of Township Agricultural Societies, at 1 p. m.
First meeting of Rural School Trustees.—P. S. Act Section 17 (1).
7. Treasurer and Registrar of Deeds, making payments to other municipalities, to send detailed state ments to head of same.—61 V., Chapter 23, Section 11.
11. Councils of Townships, Villages, Towns and Cities to hold their first meeting at eleven o'clock, a. m.—Municipal Act, Section 259.
Members of Library Boards to be appointed by Councils in Cities, Towns and Villages. Public Libraries Act, Section 9.
13. Clerk of municipality to be notified by Separate School supporters of their withdrawal.—S. S. Act, Section 47 (1).
14. Names and addresses of Sep. School Trustees and Teachers to be sent to Dep't. 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.
Meeting of Ontario Legislature.
15. Annual Report of Separate Schools to Dep't due.—S. S. Act, S. 28 (18), S. 33 (9).
Trustees' Annual Report to Inspectors due.
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.
18. 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. s. 737.
20. First meeting of Public School Trustees in Cities, Towns and Incorporated Villages.—P. S. Act, Section 64, (1).
26. County Councils to hold 1st meeting, 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, s. 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.
-
- 34 Liability of Owner of Island for Statute Labor.....
- 35 School Arbitrators May Determine Liability for Costs.....
- 36 Collection of Debenture Rate for Sewer and Waterworks.....
- 37 Poll-Tax Liability.....
- 38 Damages for Sheep Killed by Dogs.....
- 39 Powers of Courts of Revis. in Districts.....
- 40 Expense of Sidewalks in Village—Interest on Arrears.....
- 41 Right to Cancel Written Order.....
- 42 Irregularity in Appointment of Dep.-Returning Officer.....
- 43 Making Road on Private Land—Powers of Reeve and Surveyor.....
- 44 Qualification of Town and County Councillor.....
- 45 Council Can Levy Drainage Assessment in One Year.....
- 46 Using Land Adjoining Road—Removal of Fences.....
- 47 Duties of Clerk After Vote on Local Option By-law.....
- 48 Correction of Mistake in School Assessments.....
- 49 Use of Land Adjoining Road.....
- 50 Passing By-law Fixing License Fees.....
- 51 Grant of Bonus and Tax Exemption to Mill Owner.....
- 52 Mode of Calculating Statute Labor.....
- 53 Property in Tree Growing on Highway
- 54 Township Council Cannot Make Grant to Telephone Company.....
- Legal Department..... 25, 26, 27, 28
General..... 21, 22, 23, 24



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

K. W. MCKAY, EDITOR.

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

TERMS.—\$1.00 per annum. Single copy, 10c.; Six copies, \$5.00, payable in advance.

EXPIRATION OF SUBSCRIPTION.—This paper will be discontinued at the expiration of term paid for, of which subscribers will receive notice.

CHANGE OF ADDRESS.—Subscribers who may change their address, should give prompt notice of same, and in doing so, give both old and new address.

COMMUNICATIONS.—Contributions of interest to Municipal Officers are cordially invited.

HOW TO REMIT.—Cash should be sent by registered letter. Draft, express or money orders may be sent at our risk.

OFFICES—334 Talbot Street, St. Thomas. Phone 189.

ADDRESS all communications to THE MUNICIPAL WORLD, LIMITED,
Box 1321, St. Thomas, Ont.

ST. THOMAS, ONTARIO, JANUARY 1, 1904.

THE MUNICIPAL WORLD

Vol. XIV. No. 1.

Whole Number CLVII.

During 1903 THE MUNICIPAL WORLD subscription list was the largest in the history of the paper. The Question Drawer occupied 327 columns and contained answers to 1,298 questions in reference to municipal law. There was also a large increase in the number of private questions which were not published. Subscribers have found the Question Drawer to be a convenient and reliable independent source from which to obtain legal and other information in reference to their duties.

Co-operation on the part of municipal officers generally with THE WORLD and its supply department has, in the past, done much to improve the municipal government of Ontario.

Subscription orders are usually for the whole council and its officers at the expense of the corporation.

The expense is trifling when compared with the possible benefits to be derived from the special privileges extended to subscribers.

THE MUNICIPAL WORLD should be in the hands of every councillor and official interested in the good government of his municipality.

The lamentably sudden death of Mr. Andrew Pattullo, M.P.P., of Woodstock, which occurred in London (Eng.) on 29th December, removed one of our most prominent public men. As editor of the *Sentinel-Review* he promoted the successful organization of the dairy interests of the Province and the formation of the Ontario Good Roads Association of which he was President. He was one of the most active and useful private members of the Legislature. In municipal matters he was in advance of his colleagues. Mr. Pattullo was a scholarly man, an original thinker, and an eloquent speaker. He stood for all that was good in public life.

Municipal corporations should be progressive.

We hope that the extended reference to municipal taxation in this issue will lead to a correct understanding of this most important question.

Continuance in office should be the reward for efficient service. Independent, capable, permanent officials are a necessity in every municipality.

The organization of a department controlling road improvement or a public utility, electric lighting plant, water works, etc., is worthy of the best effort of any one interested in his municipality.

A copy of the index of contents of THE MUNICIPAL WORLD for 1903 is enclosed with sample copies, so that everyone may determine whether the information published in these columns is sufficiently comprehensive to make it worth the subscription price.

The possible co-operation of towns and cities for the purpose of obtaining electric power from Niagara Falls is to be thoroughly investigated. The commission appointed in accordance with the legislation of last session, has engaged an engineer and apportioned the cost to the municipalities interested.

If, in connection with a commutation system, Township Councils would consider the purchase of special gravel wagons, several of which can be drawn by a traction engine, they will do much to solve the problem of economical road building. The only objection to this is that the money paid for drawing gravel is not wasted amongst the ratepayers, who have the votes. Farmers have special machinery for all kinds of work. A council applying the farmers' reasons for this to road improvement work, cannot be progressive without machinery.

The Ontario Statutes for 1903 contains 133 chapters or separate acts. Of the thirty-seven public acts, nineteen refer to municipal and educational matters. Fifty-two private acts were passed at the request of municipal corporations, and twenty-nine other private acts refer to electric and steam railways in which municipalities were interested. Private bills are usually supported or opposed when up for consideration before the Legislative Committees. This accounts for the large number of deputations continually in attendance. Deputations should be composed of those best informed in reference to the proposed legislation. The members of the Legislative committees have a great deal of work to do in session and out. They are continually meeting those interested in private bills. It is always well to include a good speaker on a deputation as it is sometimes necessary to force the attention of the members, from persistent lobbyists.

“THE MUNICIPAL WORLD is regarded by those directly interested in local government as indispensable.

Mr. John Burnett, who for many years faithfully and efficiently filled the office of Clerk of the Township of Middleton, died last month. Mr. D. W. White has been appointed to succeed him.

Municipal Taxation

TO DEVISE and carry out an equitable system of taxation is one of the most profound problems of political economy. A perfect result has never yet been attained. Every scheme proposed involves more or less injustice or gives place to evasions or frauds, which renders its application inequitable.

The Ontario law relating to municipal taxation is the result of a gradual development. The first Act was passed during the second session of the first Legislature in 1793: "To authorize and direct the laying and collecting of assessments and rates in every district within this Province." This provided for the appointment of assessors, and the valuation of the real and personal property of householders. The taxes were levied by the Justices in Quarter Sessions. When the present system of municipal institutions was established the authority to levy taxes was transferred to the municipal councils.

TAX REFORM.

The Legislature, in 1878, appointed a special committee to consider and take evidence on the subject of municipal taxation and exemptions. Their report was presented in 1879 without recommendations. The most important questions which then engaged the attention of the committee are still under consideration.

The Municipal Commission Reports of 1888 contain an extended reference to taxation.

In 1892 a commission was appointed to collect information in regard to the subject of direct taxation for municipal purposes. Their report was published in 1893. The only important change up to this time in the basis of taxation first established was made in 1888, when the live stock and implements of a farmer were exempt from assessment as personal property.

The agitation for further reform in the assessment of personal property in cities, towns and villages resulted in the appointment in 1900 of a Commission to consider the whole question. Their report, together with a consolidation of the assessment law of the Province, was presented to the Legislature in 1902. The Bill was introduced in 1903, and referred to a special committee. The principal recommendations contained in the report of the commission are as follows:

INCIDENCE OF TAXATION—LAND.

In 1901 ninety-five per cent. of the municipal taxation of the Province was levied on the assessed value of land and buildings. In townships 99.5% or practically the whole tax was derived from this source.

The main basis or incidence of taxation proposed by the Commission is *the same*, the actual value of land which is defined to include buildings and special franchises. New values from railways and other public service corporations are included for assessment and some exemptions removed. Personal property and machinery are to be exempt from assessment in all municipalities.

ADDITIONAL TAXES.

New sources of municipal revenue, which must not be considered as being in lieu of the tax on personal property, are proposed for police villages and urban municipalities for protection services, necessary and incident to the concentration of population within a limited area, to be levied on the *annual value of land* on which buildings occupied for business or residence purposes have been erected. It is to provide for police and fire protection, street lighting, hospitals, parks, sanitary regulations, including water supply, drainage and improved streets, etc., that police villages are set apart

and urban communities incorporated. It is the occupation of land that renders the additional expense necessary.

The annual value of land is fixed at a sum equal to 7% of the assessed value.

BUSINESS TAX.

Many years ago the principle of this tax was favorably considered and included in The Assessment Act. It was, however, optional with the councils whether they adopted it in lieu of the personal property tax or not.

It is impossible to evade it and do business. This may have been the reason it was never adopted.

The evidence before the Commission directed attention to the business tax systems of adjoining Provinces as an important consideration in the competition Ontario merchants and manufacturers have to contend with.

The tax is to be paid by all persons engaged in a trade, manufacture, financial or commercial business at a fixed rate of from 7½% to 10% on the annual value of the premises occupied for the purpose of business. All personal property and income derived from businesses is to be exempt from taxation. A business property assessed for \$3,000.00 would pay from \$15.75 to \$21.00, as the council determined.

CALLING TAX.

A distinction is made in the case of persons having or practicing or carrying on any office or profession; they are only to pay the business tax when the income derived therefrom exceeds \$1,000.00. Income derived from a calling or profession thus assessed is to be exempt to the extent of \$4,000.00.

HOUSE TAX.

A supplementary tax is imposed on all owners and occupiers of houses who are to pay a tax of from 5% to 7½% on the annual value of the house premises, subject to exemptions graded according to the population of the municipality. These are as follows:

Population.	Assessed value.	Annual value.
4,000 or less	\$1,000	\$ 70
4,000 to 10,000	1,500	105
10,000 to 20,000	2,000	140
20,000 to 75,000	2,500	175
over 75,000	3,500	245

The exemption is intended to be proportionate. A house renting for \$70.00 per year in a village would rent for \$175.00 in a city of 75,000. A house assessed for \$2,000.00 in a town of less than 4,000 would pay from \$3.50 to \$5.25.

INCOME.

Persons paying the business or calling tax and having income derived from other sources are to pay a tax directly upon such income without exemption. All other persons are to pay a tax upon income, subject to an exemption of \$1,000.

The rate for income tax is fixed at from five to seven mills.

PROVINCIAL BOARD.

The assessment valuation of ordinary land and income is to be made by the municipal assessors. The lands of railways and special franchise corporations and special franchises are to be assessed by a Provincial Board. This provides for a uniform valuation by experts.

RAILWAYS.

Railway land, buildings and improvements are to be assessed as other land at actual value. *The special*

franchise value of railways is not included. This is determined very largely by population either within or without the Province, and is properly the subject for a Provincial tax for supplementary revenue.

SPECIAL FRANCHISE CORPORATIONS.

The land of special franchise corporations and the value of special franchises are to be assessed as other land at actual value.

All values determined by the Provincial Board are to be apportioned to the municipalities entitled thereto for taxation at the local rate.

PUBLIC OPINION.

There is no subject about which the public generally knows so little as the theory of taxation. They are more concerned in providing for the present payment of their share of cost of municipal government than in considering whether the tax paid is an equitable one or not.

The public discussions in reference to the system of taxation proposed by the Royal Commission have been most interesting and suggestive.

The arguments in opposition to the exemption of personal property appear to be based on the supposition that the incidence of taxation under the present Act is a proper one, and that the tax on land must not be increased.

Additional revenue will be derived in most municipalities from the assessment of the land of railways and other transportation and transmission companies at actual value.

That the business, calling and house tax will provide as much or more revenue than is now derived from the assessment of personal property and income is assured. This source of taxation will increase with the development of a municipality.

Objections to the appointment of a Provincial Board have been raised by the representatives of the larger cities, where an assessment commissioner and experienced staff are employed. The assessment of railways and other public service corporations using the highways, by a Central Board, is necessary to secure a full and uniform valuation of this class of property throughout the Province.

The consideration of a growing necessity for additional Provincial revenue (a question that was not referred to the Commission) may necessitate some changes in their recommendations. The appropriation of special franchise values for Provincial purposes is suggested.

Under the provisions of The Supplementary Revenue Act the Government now receives succession duties from large estates of deceased persons and annual contributions from financial corporations and other joint stock companies rendering public services.

The special taxation levied under The Revenue Act is based upon no definite principle. This, however, will no doubt be considered in dealing with the question of local taxation. The one principle to be observed is, "That no subject should be directly taxed more than once or by more than one taxing body." The separation of the values of corporations for the purposes of municipal and Provincial taxation, directs attention to the necessity for a uniform assessment by a Provincial Board to prevent double taxation.

PRINCIPLES OF TAXATION.

The application of a few fixed principles to all propositions will explain away many of the arguments now being used in opposition to the changes recommended by the Commission:

1. Equality of taxation consists in a uniform assessment of the class of property made subject to taxation.

2. The disagreement among economists in reference to taxation is owing to their failure to distinguish between taxation and spoliation.

3. All assessments made on persons or property, which are not uniform, are spoliations.

4. Taxes levied with uniformity upon tangible property will, by diffusion, compel every man to bear a portion of the burden of public expenditure, although he is not entered on a collector's roll.

5. Taxes are an item of expense in all businesses; the consumer pays the cost of production.

6. A municipal tax is the compensation paid for protection services provided by the municipal government.

7. Municipal taxation should not be measured wholly by ability to pay, but also by what ought to be paid by reason of the benefit derived.

Remarks suggested by public criticism of the report of the Commission.

PERSONAL PROPERTY AND MACHINERY.

Reasons for Exemption.

1. It is impossible to make a uniform assessment of personal or moveable property. In Ontario the total assessed value of personal property and income is gradually decreasing.

2. A personal property tax is opposed to industrial development.

3. Moveable property will locate where it can do the best. Any taxes levied on it, although hardly perceptible, will affect it and prevent other moveable property from coming. Under the present personal property taxation, a system of bonuses and exemptions to secure the location of manufacturing concerns has developed.

4. The value of land and buildings or unmoveable property is determined by the amount of moveable property located on it or is reflected from the employment of moveable property on unmoveable property near by. The establishment of industries increases the value of land and buildings.

5. We should not tax anything of value to a municipality that could or would be removed, or that could or would come to it.

BUSINESS OR CALLING TAXES.

The calling tax is to be paid by those who derive an income of \$1,000 or over from a profession or calling. Income in this case is the same as net revenue, which may be varied by expenditures and statements made correct at any amount. The tax will, in many cases, be evaded and prevent the uniform assessment necessary to the equality of taxation.

To prevent this, make professions and callings liable for the business tax, and exempt all income derived therefrom.

There seems to be some necessity for a classification of the different kinds of business. In this, wholesalers, retailers, and those engaged in professions and callings, should be considered, the rate payable to be within the limits specified for business tax purposes.

In determining the rate to be paid for business calling and house taxes the proportion which the annual cost of municipal services bears to the total expenditure of the corporation should be considered.

HOUSE TAX.

It will promote uniformity and equality of taxation if the exemption provided for in connection with this tax is reduced or removed entirely. The suggested change in the calling tax and further exemption of income favors this.

INCOME TAX.

The exemption of income derived from business and callings is provided for. Experience has shown that a uniform assessment of income is impossible, and in the interests of equality of taxation it should be entirely exempt.

SPECIAL FRANCHISE TAX.

The special franchise value, as distinguished from the land value of a railway, telegraph or telephone company, whose business is Provincial in its nature, should pay a Provincial rather than a municipal tax.

DISTRESS FOR TAXES.

Some changes are recommended to simplify the present law in reference to distress for taxes. Every person interested in the land, at the time of its assessment, as owner or tenant and every future owner is made liable to pay the taxes on the land. The owner's goods are made liable for distress to enforce payment, and also the goods of the tenant who is assessed for the land, but

only to enforce payment of the tax for the years in which he is assessed. The goods of a tenant are not to be liable to be distrained unless his name is on the collector's roll, and all tenants are relieved of liability for arrears of taxes that accrued before their tenancy. It is also provided that any neglect, omission or error of officers and agents of the municipality, shall not affect the right of the municipality to collect the taxes.

ARREARS OF TAXES.

An important recommendation provides that all of the municipalities are to handle their own arrears of taxes, but tax sales are to be conducted by the sheriff of the county or district in which the municipality is situated, such counties or districts to be divided into tax-sale divisions, the sales for municipalities situated in each division to be held at the same place.

The new Assessment Bill includes a great many changes in the present law, which will recommend it to municipal officers, who may have to enforce it.

Assessment of Special Franchises

The report of the Ontario Assessment Commission includes in the definition of land :

"All machinery, fixtures, buildings, structures and other things existing, erected, or placed upon, in, over, under, or affixed to, land or any highway, road, street, lane or public place or water; but not the rolling stock of any railway or street railway."

This class of property is to be assessed as the

"Real estate of the person owning, operating or using the same at the actual value thereof."

The present Assessment Act, as amended in 1902 to do away with the celebrated scrap iron valuations, provides for the assessment of similar property, except when used exclusively in running trains or for any other purpose of a steam railway, as land

"At actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights, franchises, etc."

This definition of actual cash value includes the value of what the Commission recommend for assessment as the *special franchise*, which means

"Every right, authority or permission to construct, maintain or operate within Ontario in, under, above, on, or through any highway, road, street, lane, public place or public water, any such structures or other things, for the purposes of bridges, railways, tramways, or for the purpose of conducting steam, heat, water, gas, oil, electricity, or any property, substance or product capable of transportation, transmission or conveyance, for the supply of water, light, heat, power, transportation, telegraphic, telephonic or other service."

Either the present law or that recommended by the Commission is necessary to provide for the uniform assessment of this class of property with ordinary land.

VALUE OF LAND.

In determining the value of ordinary land an assessor must consider: 1. The actual value of vacant land similarly situated. 2. The actual value of buildings, which is the amount by which the value of the land is thereby increased.

The value of land is and must always remain an expression of opinion only. For taxation purposes the placing of a uniform value on land similarly situated is all that is required.

It is easier to determine the value of a building which is limited, and may vary from the lowest or scrap value of materials used in its construction to the highest value or cost of reproduction.

VALUE OF LAND AND BUILDINGS.

The lowest value of land and buildings combined is the scrap value of the buildings. The highest value

includes the land value and cost of reproducing the buildings.

When the actual value is greater than the cost of the land added to cost of buildings, the increase is in the land value only. This increase, which may be caused by a great many circumstances, is equivalent to the special franchise value of a company using the highways and other land exempt from assessment.

SPECIAL FRANCHISES.

In determining the value of the special franchise of a corporation, the following classification of their property is necessary :

1.—*Poles, Wires, and Other Property on the Streets, etc.*—The value for taxation is limited, as has been suggested in referring to buildings on ordinary land. The lowest would be scrap value of materials and the highest value cost of reproduction. This would be affected by state of repair and profitable use to which the property is or could be applied.

2.—*Land and Buildings.*—To be valued for taxation same as other land.

3.—*Personal Property.*—Actual value (exempt from taxation.)

4.—*Special Franchise.*—The actual value may be determined by ascertaining: 1. Par, or if lower average, market value of bonds for five years. 2. Average market value of stock for five years. Under ordinary conditions the value of stock and bonds combined will be the actual value of the company. From this deduct the value determined: 1. For plant on streets, etc. 2. For ordinary land and buildings. 3. For personal property. The balance will be actual value of special franchise. Before finally determining value for the purposes of local taxation the proportion of assessed value of ordinary land to actual value should be considered.

The reports of the Bureau of Industries show that in townships this varies, the proportions of actual value assessed being :

In the County of York.....	66%
" " Wentworth.....	70%
" " Halton.....	57%
" " Lincoln.....	40%
In the Province.....	57%

In cities and towns the assessed value is nearer the actual value.

In the case of an inter-provincial company, such as the Bell Telephone or a Telegraph Company, the special franchise value would have to be divided. The number of miles of wire or phones in each Province has been suggested as the basis of division.

Provincial Revenue.—If the subject of additional Provincial revenue is to be considered in connection with that of municipal taxation, the special franchise values

thus ascertained should be taxed for the benefit of the Province at an equivalent to the average municipal rate. This would separate the sources of municipal and Provincial revenue, which is most desirable.

A Provincial Board is the only authority competent to assess special franchise corporations if equality of taxation is desired.

Taxation of Railways

A general agitation for the more equitable assessment of railways has developed throughout the Province. Two Bills dealing with the question are now under consideration.

The first one, introduced by Mr. Pettypiece, representative for East Lambton in the Legislature, provides for the appointment of a Provincial Board of Assessors, one of whose duties will be to assess for the purposes of taxation all the property owned, leased or operated by every steam railway company and corporation. The term "property" is defined to include all realty and personalty, roadbed, stations, rolling stock, bridges, poles, wires, instruments, etc. The board is given full power to determine the average rate of taxation in the municipalities through which the railway passes and to collect taxes, a portion of which is to be paid to the Provincial Treasurer, the balance to be divided between the municipalities in proportion to population.

The other Bill is that reported by the Commission, which provides for the assessment by a Provincial Board of the land of railways, which is defined to include fixtures, buildings, structures, etc., on the land. The special franchise value of a railway is not included. The objections offered on behalf of the railway companies appear to be based on the supposition that an unfair valuation would be determined by the Provincial Board, and that all values were to be taxed for local purposes.

Railway land, including right of way, should be valued as other land similarly situated in the municipality.

It has been suggested that the cost of earth-work improvement on right of way does not increase the ordinary land value, and that it should only be considered in connection with the special franchise.

The superstructure of a railway, including buildings, rails, bridges, etc., should be valued the same as buildings on ordinary land, and the poles, wires, etc., of other special franchise corporations. The value in all cases to be proportionate to other assessed values.

Railways have for many years had the benefit of a special valuation of land and buildings, superstructure being exempt for purposes of municipal taxation. They were largely bonused by municipalities and subsidized by Governments; they have added materially to the growth and wealth of the Province; their values are established in the financial world, where the money for their first construction and operation was advanced on the security of bonds and stock. There is now no necessity for continuing railway property in a special position as regards municipal taxation. The Commission's recommendation is that this should be gradually increased for ten years so as not to affect the value of the stock or bonds and through them the credit of the Dominion or Province. If, after a first assessment, the values determined, show that it is not necessary to spread the increase over so many years, the question can be reconsidered; if, on the other hand, the Government decides to levy on the special franchise values for Provincial purposes it may be necessary to extend the term of gradual increase.

Valuation of Railways

The last report of the Michigan State Tax Commission gives particulars of the present value of 7,000 miles of main line railway, with 3,800 miles of branches, spurs and sidings and second track. The average value per main line mile in Michigan of the railway property proposed for assessment by the Ontario Commission, would be \$15,000, and without grading and ballast \$11,000:

Right of way, station grounds and real estate..	\$ 4000 00
Bridges, trestles and culverts.....	900 00
Ties.....	800 00
Rails.....	3100 00
Track fastenings.....	400 00
Frogs, switches and crossings.....	150 00
Fencing.....	230 00
Crossings, cattle guards, etc.....	60 00
Interlocking and signal apparatus.....	60 00
Telegraph lines, etc.....	20 00
Station buildings and fixtures.....	450 00
Shops, roundhouses and turntables.....	200 00
Water and fuel stations.....	100 00
Elevators.....	150 00
Warehouses.....	20 00
Miscellaneous structures.....	120 00
	<hr/>
Grading.....	\$3100 00
Ballast.....	550 00
	<hr/>
	\$ 10760 00
	<hr/>
	\$ 3650 00
	<hr/>
	\$ 14410 00

PRESENT ASSESSMENT.

The total railway mileage of Ontario is 7,000. The Grand Trunk Railway in Ontario operates 2,700 miles. The particulars of assessment and taxation are as follows:

	Assessment	Taxation
12 cities.....	\$3,832,446 00	\$ 75,154 00
66 towns.....	998,093 00	22,787 00
80 villages.....	533,298 00	9,104 00
239 townships.....	1,161,666 00	13,314 00
	<hr/>	<hr/>
Total.....	\$6,525,503 00	\$ 120,359 00
Average per mile, 8 acres...	2,400 00	44 00

FRANCHISE VALUES.

The special franchise value of the Chicago and Northwestern Railway in Michigan was ascertained to be about 1/7 of the present value of the whole property. The total value of Grand Trunk property complete, including rolling stock on the Michigan basis of present value would be \$54,000,000. The special franchise value 1/7, or 8,000,000, @ 16 mills, average rate municipal taxation \$128,000, or \$47 per mile, an allowance of 40% for proportionate assessment of land not taxed would reduce this to \$28 per mile, or nearly six times the present provincial tax.

Engineering Department

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

TOWN STREETS.

There is no truer indication of the refinement, intelligence and prosperity of a community than well designed streets, with good roadways and walks, trim boulevards, handsome shade trees, and nicely kept lawns on either side. Throughout Ontario, until but recently, streets had been neglected. They were little better than the township roads from which they had developed—or perhaps degenerated. But a new order has taken possession, and in street and road construction and maintenance, more than any other branch of municipal work, there is a determined effort being put forth to effect an improvement.

The old-time plan of a residential street was to lay plank sidewalks on the street allowance immediately beside the fence. Outside the walk a row of trees was planted; outside the trees was an open ditch or gutter; and then the roadway in the centre of the street.

The more modern practice is to remove the sidewalk from its old position and place it outside the row of trees, high-board and other disfiguring styles of fences are removed, and the boulevard where the sidewalk had been, is, in effect, added to the lawn. Walks when outside the trees are more effectively lighted from electric arc lamps suspended in the center of the street, and the public are farther from the citizen's portico or verandah.

The township style of roadway is giving place to one more distinctly urban. There is no longer an open ditch with the road a mound of gravel. Instead, the road is levelled down, under-drains keep the sub-soil dry and displace the deep open ditch. The latter becomes a shallow gutter for surface water only, and is often merely the angle between the gentle camber of the roadway and the curb. Between the curb and the sidewalk there is frequently room for a strip of sod, the road way being narrowed to a width of twenty or thirty feet.

The narrowing of the roadway between the curbs reduces the cost of construction and maintainance, and the widths given are found quite sufficient to accommodate traffic on the majority of residence streets, even in large cities. The narrow roadways give vehicles ample room to pass one another, while to turn, it is always convenient for them to go to a street intersection where there is sufficient space.

Good streets are of prime necessity to the welfare of a town. They are the objects of an annual outlay which, if wasted, re-acts in a two-fold manner by increasing taxes, at the same time permitting the evils of bad streets

to remain. With town streets as with country roads, the object of the road and street reform movement is not to urge increased expenditure but to obtain a better use of the money now expended.

The defects most observable as a rule arise from the fact that durable and permanent work is not undertaken; in order to correct which, there is need of reforming the present systems of street management in two particulars—the method of expenditure, and the method of oversight.

THE EXPENDITURE.

The expenditure should not be distributed over the street area in patchwork and repairs, but a reasonable amount should be provided for permanent work. Small sums of five, ten or one hundred dollars quickly exhaust an entire yearly appropriation, whereas one-half the appropriation spent in properly macadamizing a few blocks, would in a few years revolutionize the condition of the streets in most towns.

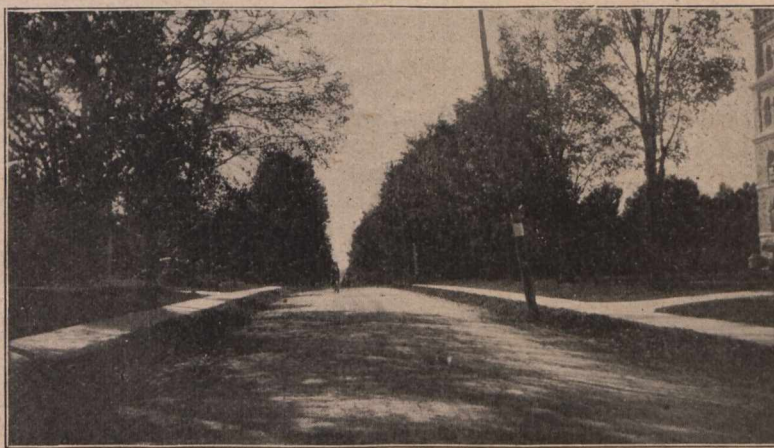
The annual expenditure is usually divided among the different streets and wards of a town, and this is again subdivided by the ward representative in doing odd jobs

here and there. It is not spent in accordance with the needs of the work, but as certain electors think it should be spent. The logical outcome of the system is that this money becomes a legitimate campaign fund; the people expect it and the council has no other course to pursue. It is the inevitable result of such a system that too much money is provided for one piece of work, and not enough

is devoted to another—usually the latter. It is productive of shoddy roadways, and is always wasteful in the end.

Many towns have been making an effort to keep in repair a class of roadways not suited to the traffic over them. They might be considered very good township roads. Cheap in first construction, they are expensive to maintain, and after a term of years, are very costly. The repairs made to these streets are supposed to be such as will eventually provide a solid roadway; but this method of sinking stone in the mud year by year, and in the spring carting off the mud which has been forced to the surface, is an extravagant and useless process, which will not make good streets. The waste that arises is of a two-fold nature, combining high taxation and bad streets. It is not to be supposed that streets can be built without money, but when the expenditure is made as now, it should be to provide good streets.

In order to get the best result from street construction, the work has to be undertaken on a proper scale. A roadway, like a house or any other structure, should be



A STREET IN WOODSTOCK

built from the foundation upwards, and should be completed, if only in short sections, before it is used. The roadbed should first be graded, underdrained and otherwise prepared to receive the gravel, broken stone or other road metal; which last should be placed on the roadway with proper machinery and in accordance with the best principles of roadmaking. To do this, the expenditure now extended over a term of years on a badly formed roadway, should be concentrated so as to secure permanent and durable work. To this end there are three courses open: 1. To set apart a portion of the present annual appropriation for permanent work. 2. To issue debentures for the amount necessary to do finished work. 3. To adopt the frontage tax system.

OVERSIGHT.

The oversight should be delegated to a competent supervisor, instead of being left to the council or a committee. On business principles there is every reason for placing this work in the hands of one man. Street construction is a matter requiring experience and special training. The plan of leaving it to the councillors is the path-master system of the towns. It is even more objectionable in the towns, since the streets demand more skill than do country roads. The supervision of street construction should rest with one who has a knowledge of the subject, together with good business ability and who will retain office from year to year.

The supervisor would prepare plans and specifications for all work. These having been submitted to and passed upon by the board of works and council, he would further relieve the council by taking full direction of the work.

CLASSIFYING THE STREETS.

One of the first duties of a supervisor in arriving at a plan whereby street improvement may be undertaken systematically would be to classify the streets according to the traffic over them, the character of the street, whether a residential or business thoroughfare, the nature of the soil, grades, etc., of roadway required.

Certain streets, the main business streets, have a large amount of heavy traffic over them, and a strong form of pavement is needed.

Another class would include the thoroughfares over which traffic from the country reaches the centre of the towns. That these are residence streets, and that the travel is less severe than on the main streets, should evidently influence the character of the pavement.

A third class would include such streets as are residential, but are not called upon to support either heavy or frequent travel, and the roadway should be built accordingly, at a correspondingly less cost.

By placing before a council such a report upon the streets, showing the present requirements, the special improvements in the way of culverts, grading, etc., the council would be in a position to undertake the improvement of streets on an intelligent basis. At present there is apt to be no definite object in view. When permanent improvements are undertaken much of the work now being done will be found premature or unnecessary, and will be torn up. This is especially true of the grading, and the coatings of broken stone and gravel. There should be definite plans, which successive councils can follow, and toward which all work and expenditure will tend.

A municipal conduit system for all power, light, telegraph and telephone wires, thereby removing the overhead wire nuisance, is proposed in Ottawa. A by-law to raise \$50,000 for the construction of a municipal electric plant is under consideration.

TAR FOR STREET WORK.

Coal tar is a by-product resulting mainly from the manufacture of charcoal, coke and gas. The nature of the tar varies with the character of the coal and also with the process employed in manufacturing the gas, coke or charcoal. The amount of bitumen in coal tar varies from 60 to 92 per cent. The quantity and quality of the oil contained in the tar also varies. The non-bituminous matter, which is usually in the form of carbon, also varies in quantity.

The coal tar cement which is used in street construction is a residuum from the distillation of the crude coal tar. The proper consistency or hardness of the tar is obtained by removing a portion of the oils by distillation. The amount of oil removed at any given temperature depends upon the nature of the oil. The temperature at which coal tar can be distilled depends upon the content of oil.

As in the case of asphalt, skill and experience are necessary in the selection of any coal tar to be used in street constructions. A knowledge of its purity and chemical composition as well as its physical characteristics are necessary in the selection of a suitable brand for work of this character. Care in the selection and compounding of the materials to be used with the coal tar is also essential.

HAULING AND SPREADING ROAD METAL.

Excellent wagons, with a hopper-shaped opening between the front and rear axles, are now made expressly for drawing gravel and distributing it over the road. The opening of the hopper is controlled by a lever beside the driver. The metal can be distributed to any required depth, after a little experience, by regulating the extent to which the hopper is opened.

For screenings especially, in distributing them evenly over the stone, these wagons are particularly useful. A number of these wagons coupled together and drawn by a traction engine affords one of the cheapest methods of hauling gravel or stone for considerable distance, under certain conditions.

Teams and teamsters should be hired to haul gravel by the load or cord, not by the day, and the size of each load should be specified. Care should be taken at the pit to see that only suitable road metal is put in the wagons, and that clay, sod, large stone or very sandy material are excluded.

BETTER ROADS, BETTER MATERIALS.

The sentiment, so often reiterated, that the coming generation should be satisfied with those conditions which have served the present, is entirely out of harmony with the thought of progressive civilization. The sand, mud and stumps, through and over which some of the people of Ontario have driven for years should be removed, their delight being to make the road smoother and easier for those who will follow the same track.

In buying a pavement, the same principles apply as when a coat is purchased. Shoddy costs less, looks worse, wears out quicker and is more expensive than wool. Use good materials in the construction of a pavement, and ten years hence it will be the best and cheapest.

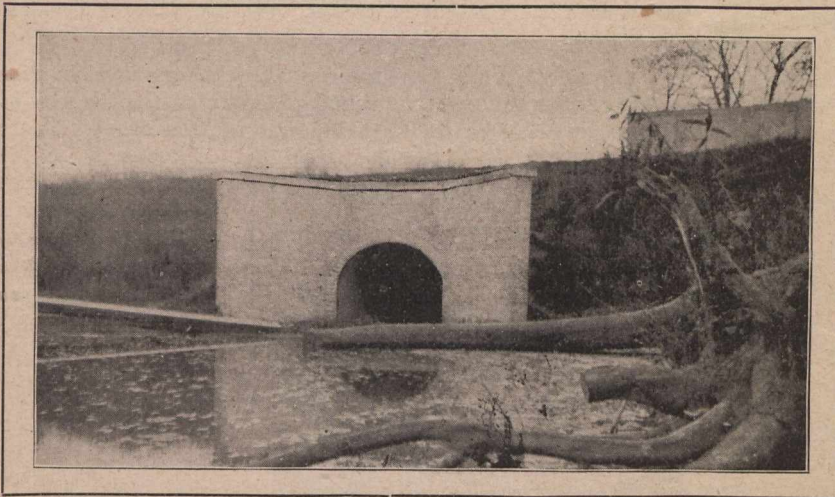
COUNTY ROADS IN PERTH.

A convention of county and township councillors of the County of Perth was held at Stratford last month, at which a proposed system of county roads was the subject of consideration. The plan of Provincial aid was explained by A. W. Campbell, Commissioner of Highways, and was favorably received by those present. It was decided to call another convention early in January, the township councils to then report their views regarding the matter.

GOOD ROADS.

The purchaser or seller who is separated from the railroad station by ten miles of paved roads, is actually nearer the market than the person who is separated by five miles of unimproved roads. Good roads mean heavier loads, more rapid transit and a longer life for vehicles and horses.

The introduction of the telephone and extension of the mail service has brought the producer and consumer much closer together, and ought eventually to assist in better maintaining an equilibrium between supply and demand. However, as long as the highways remain unimproved, the telephone and mail service can only have their full value during good weather. Heavy roads, deep with sand or mud, permit the carrying of only partial loads, while the injuries sustained by vehicles and



CONCRETE CULVERT

horses on rough roads frequently eliminate a large portion of the profit which would otherwise result from a rise in the market price of farm produce.

It is said that in many of the European countries a dog is often able to draw a load to market which a horse cannot draw in the United States. The Carthaginians, living on the northern coast of "Darkest Africa," first inaugurated the public road as a necessity of commerce. The Roman roads had for their object the quick movement of troops. However, they were built in such a substantial and permanent manner that they have outlived the empire itself and have now become routes of commerce.

James D. Reid, commercial agent at Dunfermline, Scotland, in 1891, said in a special report on "Streets and Highways": "Roads are the life and necessity of all Scottish industries and their value increases rather than diminishes with railroad extension. Property would, without them, be comparatively valueless."

MARKETS.

What is needed in most of our cities and towns, in the interests of health and economy, is good municipal markets for the sale of meats, fruits, and vegetables. The concentration of this sort of trading in one or more markets makes efficient inspection much easier. It also lessens rents and other running expenses, and gives customers a wide range of choice with little loss of time or energy. The plan also affords an opening to the small dealer having little capital or credit.

Cleanliness should be the motto of every market. To this end nothing can contribute more than the prompt disposal of all wastes and ready means for cleaning floors by washing rather than sweeping. Tile, cement, or

artificial stone floors may be employed, so laid as to drain freely, but with every precaution against contaminating the air of the market with the gases of decomposition from the market drains and from the city sewerage system. The prompt removal of meat and vegetable refuse from market stalls is easier than its final disposal. The waste meats and bones are eagerly sought by grease and fertilizer manufacturers. The fats of the meat render it easily burned, where no other means of disposal is available, but if this is attempted on the premises, attention must be given to the design and operation of the furnaces. The vegetable wastes are of comparatively little value. They may be mixed with the kitchen wastes of the city and then be burned, or else treated in reduction plants.

In Germany each town council has authority to erect and maintain public slaughter-houses, and to forbid slaughtering elsewhere within a prescribed area. It may enact that fresh meat brought from outside that area for the use of restaurants and hotels shall not be prepared for food until it has been inspected. The importation of prepared meats may be, at the discretion of the town council, entirely prohibited. The council may also order that meat not slaughtered at the public slaughter-houses shall be exposed for sale in a separate place; it may prohibit the sale of meat which has been killed outside the public slaughter-house area and within a prohibited district.

The question of meat inspection is handled with equal thoroughness and efficiency. In Germany it is compulsory that all meat should be inspected and stamped before it is offered for sale. Many stamps are placed on each carcass, and as

the stamp is a guarantee of soundness, the purchaser is unwilling to accept unstamped meat and therefore enforces the work of the inspector.

STONE BRIDGES.

For beauty and durability a stone bridge surpasses all other kinds of bridges, and where stone is plentiful, no other bridge material is so economical in the long run. A wooden bridge soon rots out, and even when new it has a look of insecurity. A well-formed iron bridge looks better than a wooden one, but it will soon rust out unless it is kept well painted, and it requires constant watching in order to keep all the bolts and rivets in their proper places. But a stone bridge once well built requires very little care and expense to keep it safe and in good order. Then, too, it always wears the appearance of strength and security, and if tastefully constructed it remains a delight to every beholder. On ordinary country roads, large and rough stone bridges harmonize perfectly with their surroundings, and when well put up are almost as lasting as the neighboring hills. In rocky parts of our country, there is no good reason why every highway should not be made safe, and enhanced in beauty by a stone bridge wherever needed.

NO TOLL ROADS IN OXFORD.

The county council of Oxford, at its last session in December, approved of a by-law to purchase all toll roads within the county, and to expend a further sum of \$160,000 in improving a system of main roads throughout the county. The council was addressed by Mr. A. W. Campbell, Commissioner of Highways, who discussed the different features of The Provincial Highway Improvement Act.

ORGANIZATION AND SYSTEMATIC OPERATION IN ROAD-BUILDING.

The mistake is made in road-building of studying the question solely from a physical and constructive standpoint rather than from one of organization and systematic operation. Where we have bad roads we are disposed to criticise them from a constructive standpoint. If a road fails, we say that it is because it is not well built, because the right material was not used. In this our view is superficial. Organization, system, constant and uninterrupted care, a vigilant road patrol are required for the purpose of immediately detecting and remedying the slightest defect. The cheapest way to care for a road is by never allowing it to get into a bad condition, or to deteriorate in the least. A road properly cared for gets better every year. It improves constantly. This is the way to make a road. The most systematic, the most economical, the most painstaking road-builders are the French. They have better roads, at a less cost, than any other nation. Their results are ideal, both from the standpoint of cost and the character of the roads. They are a people heavily burdened with taxation. With them economy is necessary; it is the saving born of necessity. It is the kind of economy that, among other things, develops the perfect roadway.

In the South most of the roads are macadam, and are altogether pleasanter and more satisfactory for general travel. During all the time of their existence they have been subject to constant inspection and repair as soon as the slightest defect has shown itself. One man with a horse and cart can care for many miles of roadway when he has nothing else to do, and when he undertakes the work before the imperfection is great. When we wait for our roadways to be cut to pieces, to reach an almost impassable stage before we do anything for them, the work of repair is laborious and expensive. With constant inspection there is required only a few shovelfuls of broken stone for each little defect. In France all roads are again subject to the general inspection of a general road officer, who holds his subordinates responsible for results, and makes reports upon the improvement of bridges, drainage and affairs of this character. Any defect, of however slight a character, in any roadway comes about through some one's neglect. Through the perfection of the organization in France, it is entirely possible to place the responsibility. For this reason neglect of duty is a rare occurrence.

The French macadam roads, roads made of broken stone, are of the ideal character, smooth, reasonably permanent and best suited to the comfort of the horses and animals which travel over them. A macadam roadway is in every way ideal when we consider it with respect to the comfort of those who travel over it. It is even a

question in the minds of many engineers if a macadam roadway is not superior in all ways to asphalt, wooden-block, stone-block or other artificial street coverings.

A chief engineer is at the head of each department, and he has several assistant engineers, each in charge of a sub-division called an *arrondissement*. All the roads in these *arrondissements* are visited and examined by them at least quarterly, and oftener if necessary. These engineers in turn have lieutenants, called conductors, who oversee certain lengths of road, which they must look over in detail at least semi-monthly. Under the conductors come the *cantoniers*, who do the manual labor, each one caring for a *canton*, or a stretch about two miles long. Five or six *cantons* are grouped together and their *cantoniers* form a brigade, one of whom is made chief, and has a shorter stretch to care for in order that he may oversee the others. If a piece of road absolutely requires it, one or more laborers, called auxiliaries, are given a *cantonier* to aid him.

Besides overseeing their roads the conductors give all orders to the chief *cantoniers*, examine their work and report on their conduct, and make written reports to the

engineers twice each month. They keep the accounts of their divisions and report on petitions or new projects. They are obliged to do all their travelling on foot, examine into the smallest details and give the necessary explanations and directions to the *cantoniers*.

The *canton* of the chief *cantonier* must be the best kept of the brigade, in order to show his superiority over the other men.

These men are nominated by the prefect of the de-

partment according to certain conditions. They must be between twenty-one and forty years old, suffer from no infirmity that interferes with daily labor, have previous experience in workshops appertaining to their work or have worked on the roads in some capacity, possess a certificate of good conduct and be able to read and write.

The *cantoniers* must remain on the roads from sunrise to sundown in winter, and from 5 a. m. to 7 p. m. in summer. They are allowed to build shelters or have movable shelters in which they can seek refuge during storms, but they cannot absent themselves from the roads. Each one has an account-book and a register, and keeps a daily account of his work and the time occupied in each task. At the end of each month the conductor recapitulates the account and sends it to the engineer.

In this way the roads are never without the most careful attention, and expensive and annoying repairs are rendered unnecessary.



A STEAM ROAD ROLLER AT WORK.

QUESTION DRAWER

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

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

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

Assessment of Rectory—Uncollected Percentage on Overdue Taxes, an Asset of the Municipality.

1—SUBSCRIBER.—1. Is the Rectory, that is a separate building and lot from the church, exempt from taxes, the trustees having returned the tax bill and refused to pay?

2. A by-law has been passed charging 2% on uncollected taxes paid after the 14th day of December. In preparing the financial statement will the 2% be an asset?

1. Sub-section 3 of section 7 of The Assessment Act as amended by sub-section 2 of section 1 of The Assessment Amendment Act, 1903, exempts from assessment and taxation "every place of worship and land used in connection therewith, churchyard, or burying ground," (except for assessment and taxation for local improvements. See section 7b of The Assessment Act, enacted by section 5 of The Assessment Amendment Act, 1903.) A Rectory or other minister's residence is liable to assessment and taxation the same as any other real estate.

2. Yes.

Assessment and Imposition of School Taxes in Unorganized Territory.

2—J. G.—Our school section is in unorganized territory (Rainy River District.) Our mode of assessment has been as follows: Cleared land at \$20.00 per acre; buildings and improvements at or nearly cost; wild bush land at \$1.00 per acre. The rates have been struck five mills on the dollar on improvements and cleared land, and 3½ cents or 35 mills on bush land. Is this legal, or must we put the same rate on all?

This method of assessment and taxation is clearly in contravention of the provisions of The Assessment Act. All assessable property in the school section should be assessed at its actual cash value, as it would be appraised in payment of a just debt from a solvent debtor. (See section 28 of the Act, sub-section 1.) The rate of taxation should be uniform throughout the whole school section, and should be levied against and collected from all assessed property therein equally and rateably.

Appointment of Deputy-Returning Officers by Clerk—Payment of Division Registrars—Possessory Title to Land.

3—F. L. T.—1. Has the Clerk the right to appoint a returning officer in his place without consulting the council?

2. Is it necessary that the certificate received by the Division Registrar from the Registrar-General for the returns of births, marriages and deaths, be presented before the council for payment or only to the treasurer of the municipality?

3. A side-line has been cut out at random without the aid of a surveyor from two lots of 100 acres each, a few years ago. Suppose that one of the proprietors has more than his 100 acres, could he possibly retain the surplus that he gets on his neighbor?

1. Yes, but only under the circumstances mentioned in section 108 of The Consolidated Municipal Act, 1903.

2. The Division Registrar is required to present the certificate for his fees received from the Registrar-General to the treasurer of the municipality only and the latter should honor it. Section 36 (sub-section 1) of chapter 44, R. S. O., 1897, provides that "every municipality in the Province of Ontario shall pay annually to

the Division Registrar appointed therefor under this Act a fee of twenty cents for each complete registration of a birth, marriage or death returned according to the schedule provided under this Act on the presentation of the certificate of the Registrar-General to the *Treasurer of the municipality.*

3. Not unless he has enjoyed the peaceable and uninterrupted possession of it for ten years or over.

Qualification of Voters on Local Option By-Law.

4—J. C.—Would you please inform me who may vote on a Local Option by-law pursuant to section 41 of chapter 145, if such should be submitted to the ratepayers of a township municipality? Give chapter and section.

Sub-section 1 of section 141 of The Liquor License Act (R. S. O., 1897, chapter 245,) provides that a by-law of this kind must receive the assent of the "electors of the municipality." We are of opinion that this means that the parties entitled to vote on such a by-law are those having a right to vote at municipal elections in the municipality.

Publication of Local Option By-Law.

5—W. J. B.—This municipality is submitting a by-law on Local Option on same date as municipal elections, and the Clerk has been instructed to advertise the by-law in the newspaper published in the town in which the regular minutes of council are published, and this town is a corporate town and situate in an adjoining municipality. You see the paper is published not in the adjoining municipality, but in a corporate town situate in an adjoining municipality and some 15 miles distant. Is this sufficient advertising, including posters, or must I publish in the county town to be legal?

The Clerk will be following a legal course if he publishes this by-law as instructed. In re Huson and the Township of South Norwich (19 A. R. 343, and 21 S. C. R. 669,) where notice of intention to submit a Local Option by-law to the votes of the township electors was given in the proper form, and for the requisite number of times, in the Village of Norwich, in the County of Oxford, which does not touch the boundaries of South Norwich, but which is completely surrounded by North Norwich, which does touch the said boundaries. This paper was the nearest paper, it had a large circulation in the township, and was that in which the township council had been in the habit of publishing their notices and by-laws. No paper was published in the township in question. The court refused to quash the by-law, and on appeal to the Supreme Court, it was held that as the village of Norwich was geographically within "an adjoining local municipality" the requirement of the section had been substantially complied with.

Disposition of Erroneous School Levy.

6—INQUIRER.—In striking the school rate in this municipality a mistake was made in levying the rate at 11 mills when it should have been about six mills. The collector got the roll in this condition and has been collecting the rate as levied. This mistake occurred only in one section. Please advise council what to do in this case. A number have paid their taxes and some are holding

back until this is settled. The clerk asked the collector to return the roll to him until he would correct the mistake, but the collector refused to do so and went on with his work.

The council should refund to those ratepayers who have paid their taxes that portion of them which represents the excessive school rate, since they have paid the amount under a mistake as to the facts, and instruct the collector by resolution not to collect such rate from the ratepayers against which it is charged, who have not yet paid their taxes, but to accept from them the amount of their taxes less the school rate entered in error. The clerk has no power to correct the roll.

Three Months' Unauthorized Absence Vacates Seat of Councillor.

7—SUBSCRIBER.—A councillor was elected here last January and sat until April, then left the place, and did not return to the council meeting until September.

1. Should the council have declared the seat vacant, or does the law declare the seat vacant?

2. Does the fact that the council did not declare the seat vacant make him a councillor legally when one councillor objected to him taking his seat on his return?

1. Section 207 of The Consolidated Municipal Act, 1903, provides that "if, after the election of a person as a member of a council, he absents himself from the meetings of the council for three months without being authorized so to do by a resolution of the council entered upon its minutes, his seat in the council shall thereby become vacant, and the council shall forthwith declare the seat vacant and order a new election." The provision of the statute is positive that the seat shall become vacant on the expiration of the three months' unauthorized absence, and the council should have forthwith declared it so.

2. The fact that the council did not comply with the provisions of the statute and forthwith declare this councillor's seat vacant and order a new election, does not entitle him to retain his seat in the council.

Collection of Dog Tax Omitted From Roll.

8—J. J.—When a township clerk omits to place on the collector's roll a ratepayer's dog tax, and the mistake is only discovered after the ratepayer has paid all the taxes shown on the collector's roll, is there any remedy? If there is, what is the remedy?

We do not see that there is now any method whereby the dog tax can be collected.

Council of Incorporated Town Cannot Take Stock in Electric Railway Co.

9—SUBSCRIBER.—1. An incorporated town is asked to take stock to the amount of \$1,500.00 in an electric railway. Is it necessary that the ratepayers should petition the council to submit a by-law before the council takes any action?

2. Would the stock be assessable, and to what extent?

1. We are of opinion that the council of an incorporated town has no authority to subscribe for or take stock in an ELECTRIC Railway Company. Sections 694 to 698 (both inclusive) of The Consolidated Municipal Act, 1903, apply only to such railways as are governed by The Railway Acts of the Dominion of Canada and Province of Ontario, which do not include ELECTRIC Railways. Section 699 of The Consolidated Municipal Act, 1903, authorizes the council of such a town "to aid any Street Railway Company by granting money or debentures by way of bonus or gift, or by way of loan to such company to assist in the construction of the railway, etc.," upon the terms and conditions mentioned in this section, but this does not authorize the taking of stock in the company.

2. Our answer to question number one renders it unnecessary to reply to this.

Post Office May be Kept in Hotel, and Hotel-Keeper May be Postmaster.

10—S. S.—1. Can a post office be held in an hotel?

2. Can an hotel-keeper have the post office?

3. An hotel-keeper has divided his house into two parts. In one part he has the bar or saloon, in the other part a store and post office. Is it legal to have the post office in such building?

1. Yes.

2. Yes.

3. Yes.

Voting Power of Mayor of Town—Principal of Public School in Town Cannot be Auditor.

11—H. G.—1. Council composed of five members, 3 vote for a motion and 2 against it. Can the mayor vote and make it a tie, and vote second time and declare it carried?

2. Can the principal of the school act as auditor for the town and school, he being a paid servant of the town?

1. Section 274 of The Consolidated Municipal Act, 1903, provides that "the head of the council or the presiding officer or chairman of any meeting of any council, except in cases where he is disqualified to vote by reason of interest or otherwise, may vote with the other members on all questions; and, except where otherwise expressly provided by this Act any question on which there is an equality of votes, shall be deemed to be negatived." Therefore the mayor has but one vote, and if he votes against this motion, and thus creates an equality of votes, the motion is defeated.

2. No.

Assessment of Dogs.

12—L. S. L.—Would you please say whether I can place dogs under six months' old on the list for dog tax?

Yes. A dog is a dog as soon as it is born, and as such, is liable to assessment and taxation.

Powers of Owner and Municipality as to Right of Way.

13—PARRY SOUND.—About 15 years ago the farmers in this neighborhood, in order to avoid a bad hill, made a road around the hill on private property, and came back on the concession about 40 rods farther on. This deviation was made for convenience in teaming heavy loads, and was made without any authority from the council, and no objection made by the owner of the property at the time. This road has been used all the year round, though the concession at this hill could have been made passable for heavy loads by the expenditure of some money. About two weeks ago the owner, without any further notice, forbid travel on this road and posted notices to that effect. (This deviation is on the uncleared portion of the property and is practically valueless, as it has been burned over several times and the timber all blown down, and is not enclosed by fence of any kind and is half a mile from owner's residence).

1. Can he legally close this road?

2. Does the length of time it has been travelled give the public any right to it?

3. Would the public be liable for trespass to go and draw off the obstructions the owner has hauled on and continue using the road?

3. Council are willing to fix the hill, but it was too late to do it this fall when the trouble started. Owner has been offered a fair price for road till April 1st, but wanted an unreasonable price. Owner says he notified the pathmasters several times to repair the hill, as he would close the road some day, but pathmaster never reported that to council.

4. A mill owner has to use part of this road to get logs to mill that he has bought from farmers in adjoining townships. What course should the mill owner take in order to get through this property, without paying anything unreasonable?

1. We are of opinion that there never was any sufficient dedication or grant of this road to the public for use as a public highway, and that therefore the owner of the land through or over which it runs has the legal right to close it at any time.

2. No.

3. Yes, if the council deems it necessary in the public interest to expropriate this land for the purposes of a public highway it may pass a by-law pursuant to section 637 of The Consolidated Municipal Act, 1903, to establish this road as a public highway, and if it cannot amicably agree with the owner as to the amount of compensation he is to receive, the matter should be referred to arbitration, as provided in section 437 of the Act.

4. If the mill owner and the owner of the land cannot agree as to the amount the latter is to be paid for the use of the road, the former has no redress so far as the latter is concerned.

Time for Making Application for School Loan.

14—T. G. M.—The trustees of a school in this municipality intend building a new school. They called a special meeting to ask for debentures. The majority of the ratepayers were in favor of raising the debentures. How long will that vote hold good?

Sub-section 1 of section 74 of the Public Schools Act, 1901, does not fix the time for which a vote of this kind shall remain effectual, but the trustees should make application to the council of the township for the issue of the necessary debentures within a reasonable time after the sanction of the ratepayers has been obtained, so as to avoid any change in conditions or other complications.

Farmers' Sons' Statute Labor—Dog Tax, Voluntarily Paid, Cannot be Refunded.

15—A. A. D.—I would like to know if it is lawful that farmers' sons assessed on the assessment roll with their fathers, should do one day's statute labor for their own person over twenty-one years of age?

2. Is it illegal that a farmer's son should be put on the assessment roll in the spring when he becomes of age on November 7 of the same year, with the understanding that if there were an election held to either the Legislative Assemblies that he might have the privilege of voting in November or December?

3. If G. M. is assessed on the assessment roll for a dog as a tenant for this year and his time expires on the 1st April, and he moves into another county, and W. M. rents the place and pays the one dollar of dog tax to the collector, and he comes to the council and asks them to refund the dollar of dog tax, as he has never had a dog. Would it be legal for the council to do so out of the general funds?

1. If farmers' sons are assessed jointly on the roll with their fathers or mothers, as the case may be, pursuant to section 14 of The Assessment Act, the amount of the statute labor should be calculated on the value of the land, according to the ratio of statute labor in vogue in the municipality, and the farmers' sons cannot each be required to perform an additional day's labor, but every farmer's son rated and entered as such on the assessment roll of any municipality, shall, if not otherwise exempted by law, be liable to perform statute labor, or commute therefor, as if he were not so rated and assessed. (See section 106 of the Assessment Act.)

2. An assessor has no authority to place the name of a farmer's son on the assessment roll until he has attained the age of 21 years. Section 1 of chapter 2 of The Ontario Statutes, 1901, adds sub-section 1a to section 14 of The Ontario Voters Lists Act. This sub-section provides that "anyone who will be of the age of twenty-one years within 30 days from the day fixed for hearing appeals to the County Judge, and who possesses the other necessary qualifications to entitle him to be entered in the voters' list shall have the right to apply to the Judge to have his name entered and inserted in the voters' list as entitled to vote at municipal elections and elections to the Legislative Assembly, but nothing in this sub-section contained shall be construed to confer upon any person the right to vote who is not of the full age of twenty-one years."

3. The council is under no obligation to refund this dog tax. The payment was a voluntary one on the part of W. M., and he cannot recover it from the council.

Collection of Taxes on Goods of Insolvent Debtor.

16—J. H.—A merchant is assessed for the property occupied by him as a tenant; he is also assessed for personal property (goods) owned by him. He was regularly notified on accepted forms after the roll came into the collector's hands 1st October, and demand made according to law. Some time after he made an assignment, placing his effects in the hands of an assignee for the benefit of his creditors. A very short time afterwards the stock (personal property) was sold to another party in the same line who did not remove the goods but removed his stock and took possession of the store in which the personal property assessed was. The collector, as soon as he heard of the transaction, verbally notified assignee that he would have to provide for the taxes, but he refused, stating that the goods were sold, transfer made, and he refused to pay. The collector then looked to the purchaser of the goods who demurred to paying the taxes on the goods purchased, claiming that he knew nothing of their being any claim for taxes on the goods. The collector insisted, claiming: 1st. That it was his place to see that the taxes had been satisfied as he had like taxes to pay. 2nd. That the goods still remained on the premises where they were assessed and therefore that they were still liable for the taxes thereon. Had the collector the right to insist in the above case under the conditions cited and were his reasons sufficient under the law? If not, what steps would legally redress, if any, in such a case?

We are of opinion that the collector cannot seize the goods in the hands of the purchaser from the assignee to realize the amount of these taxes, as he is not the "person assessed" within the meaning of section 135a of The Assessment Act, and he has brought his own stock into the premises, mixing it with that purchased from the assignee, so that the stock assessed would be hard to identify. The collector should have proceeded to realize the amount of these taxes as soon as possible after the expiration of the 14 days after the date of demand, and we do not see how they can be now collected if the assignee refuses to pay them.

Payment of Expense of Family under Quarantine. Procedure in Passing Drainage By-laws.

17—W. Mc.—1. In our township there is a family in which a number of the children have Scarlet fever. The M. H. O. appointed a neighboring farmer as constable to attend to the wants of the afflicted family, to do any necessary business required to be done for them, and to see that no person leaves the premises. He, of course, attends to his own work and goes over to the afflicted house when signalled. Who is liable for the pay of the man appointed, the municipality or the father of the sick children?

2. I have received the engineer's report, profiles, etc., for four different drains in different parts of the township, have also been served with engineer's report, profiles, etc., from an adjoining township of a drain which will benefit us, and for which some lots in our township are assessed. Could these five drains be included in one by-law and one set of debentures issued for the total amount or should each be separate?

3. In the case of the engineer's report from the initiating municipality notices having been sent by me to parties assessed as per Sec. 16, Chap. 226, and providing our part of the report is adopted by our council on the date set for hearing, in the notices (Dec. 15, 1903), and the council are of the opinion that the drainage work is desirable, is it necessary that the by-law should be introduced at that meeting, or would it be all right to introduce by-law later on, so long as it was passed in time for the money to be paid over to the initiating municipality within the four months as required by Sec. 62?

4. Regarding the engineer's report, etc., re the four drains of our own municipality, it is so late in the year that perhaps the council may not be composed of the same members next year, and no work can be done at any of the drains until April or May next, would it be all right not to do anything with these reports, etc. until new council is appointed, or should notices be sent out as per Sec. 16 forthwith?

5. If notices should go out at once, would it be all right to set the date for the consideration of the reports, etc., say on in January or February?

1. The medical health officer was acting within the range of his authority when he ordered the isolation of this family and appointed the neighboring farmer to minister to their wants while under quarantine. (See sections 38, 85 and 93 of The Public Health Act, R.S.O., 1897, chapter 248.) If the persons afflicted are financially able to pay the expenses incurred during the period of

isolation they should do so, and the local board of health or council is in no way liable. If, however, owing to their poverty, they are unable to pay these expenses, the municipality will have to do so. (See the latter part of section 93.)

2. No. A separate by-law must be passed in each case.

3. It is not legally necessary that the by-law should be passed by the council at the meeting at which the engineer's report is read, and the alternative course suggested will be sufficient.

4. The clerk should send out the notice mentioned in section 7 of The Municipal Drainage Act (R. S. O., 1897, chapter 226, as enacted by section 5 of chapter 28 of The Ontario Statutes, 1899,) "forthwith upon the filing of the engineer's report." Section 16 does not fix the time after the filing of the report, when the notice therein mentioned shall be sent out, and we are of opinion that unless such a course would impair the efficacy of the report, the parties interested in the drains may be notified that the reports will be read at some meeting of the council for the ensuing year. It is to be observed that the meeting at which the reports are to be read, must be held not less than 10 days after the mailing of the last of such notices.

5. We are of opinion that it will be legally sufficient if these notices are sent out now or later on to the effect that the reports will be considered at a meeting to be held in January or February next.

Qualification of School Trustee in Urban Municipality.

18—H. E. J.—Our municipal councillors are elected by general vote regardless of wards, but the public school board are elected by wards. Can a candidate for school trustee who has not the qualification, he being neither owner nor tenant in the ward, qualify, he residing in another ward as tenant only?

By sub-section 2 of section 56 of The Public Schools Act, 1901, "any ratepayer, not disqualified, who is a British subject and resident in the municipality, and is of the full age of twenty-one years is qualified for election as a public school trustee in an urban municipality."

Collection of Taxes on Crown Lands—Payment of Taxes on Land More Than Three Miles From School House—Council's Liability for Negligence of Contractor.

19—M. C.—1. A was located for a quarter section of land under "The Rainy River Free Grants and Homesteads Act" and afterwards left the country without having performed any of his settlement. B petitions the Crown Lands Department to cancel A's location and re-locate the land to himself (B). This the Department allows. B is now presented with a bill of unpaid taxes charged against this land for the year in which A was regarded as the locatee. B refuses to pay this bill maintaining that he got the land as a free grant from the Government, and there can be no taxes levied on Government lands. (A)—Can the municipality in which said land is situated lawfully collect said taxes? (B)—Is B right when he claims that his land is exempt from taxation for one year after location?

2.—Certain lands situate in our school section are more than three miles in a direct line from the school house. Can the owners of said lands be forced to pay the school tax for this section?

3. X, a road commissioner in our township let to Y a contract for clearing a half mile of road allowance. Y, in cutting the timber, felled a large portion of it, including brush, into Z's bush adjoining the road allowance. On becoming aware of the fact, Z requested Y to pile the remainder of the brush in the road allowance and warned him not to fell any more timber on his property. Seeing that Y paid no attention to the warning, Z procured a lawyer's injunction and read it to Y, also to X. After this Y felled the timber and brush within the road allowance but did not remove the brush previously felled on Z's property. Z demanded of X the removal of this brush as its presence in his bush endangered his timber in case of fire. X refused to have the brush removed and gave Y an order on the treasurer for payment in full for his work. Z now, through his solicitors applies to the council for the removal of the brush. (a)—Is the council obliged to remove the brush from Z's land, and neglecting to do so, is it liable to damages? (b)—Can the council claim damages from X for refusing to have the brush removed at Z's demand?

4. Is a University Matriculant legally qualified to teach in a country school in the district of Rainy River without a permit from the Public School Inspector for that district?

1. (a) The taxes cannot be collected from the present locatee of this land by seizure of his goods or otherwise, as he is not the person assessed, and no part of the land can now be sold to realize the amount, as A's interest in the land was extinguished by the cancellation of his location ticket, and the granting of a new one to B.

(b) We know of no law exempting this land from assessment and taxation for a year. The assessor appointed first after B has been located should assess his interest in the land at its actual cash value, as provided in section 28 of The Assessment Act.

2. Yes. Sub-section 3 of section 25 of The Public Schools Act, 1901, applies only to sections in *unorganized* townships. By sub-section 5 of section 95 of the Act it is provided that "when the children attending a neighboring section are three miles or more distant in a direct line from the school house of the section to which they belong, the trustees of the section in which such children are resident shall remit as much of the taxes chargeable upon the parents or guardians of such children, for school purposes, as would be at least equal to the fees paid to such neighboring section."

3. (a) No. (b) No.

4. No.

Electric Railways Can Run Cars on Sunday.

20—W. D. A.—In giving the franchise to an Electric Railway Company, there being no mention whatever in the agreement about running their cars on Sunday after the road is in operation and the company run their cars on Sunday, can they be stopped, and how?

Section 136 of chapter 209, R. S. O., 1897, and section 8 of chapter 246, R. S. O., 1897, prohibit the running of cars by electric street railways on Sunday, except for the purposes in these sections mentioned, but a recent judgment of the Judicial Committee of the Privy Council in England on an appeal from the Court of Appeal for Ontario decides that the enactment of legislation of this kind is beyond the powers of the Provincial Legislature, so that it is doubtful whether an Electric Railway Company can be prevented from operating its cars on Sunday, if it sees fit to do so.

Councils Cannot Collect and Deposit Surface Water on Private Lands—Dog Tax Need Not be Devoted to Paying Compensation for Sheep Killed.

21—J. L. M.—1. For the past twenty years water has been carried along the highway through a drain and emptied at a low point where it found its way onto the land adjoining. No objection was found all these years, but since the drain was recently renewed the owner of the adjoining land claims that it is not the natural course, but that it should first run over his neighbor's land and then over his. Has he any grounds for legal action, or will the fact of the drain being there for so many years establish it as a water course?

2. Dog tax is collected in the municipality the money going into the general funds and none being paid for sheep killed by dogs, the council some years ago passing a by-law to this effect. Have councils authority to do this?

1. The council of a municipality has no legal authority to take surface water from the highway and adjoining lands out of its natural course and conduct it to and deposit it on the lands of any private owner, as appears to have been done in this case. From the facts stated we are of opinion that the municipality is liable to the private owner for such damages as he has sustained by the depositing of this water on his land, if the council constructed or authorized the construction of the drain along the highway, which is the cause of the injury.

2. Yes. Section 8 of chapter 271, R. S. O., 1897, provides that in case the council of any city, town, township or incorporated village deems it advisable that

the tax by this Act established should be maintained, but that the application of the proceeds thereof by this Act provided should be dispensed with, it shall be lawful for such council by by-law to declare that such application shall be dispensed with."

Collection of Poll Tax in Village—Changing Mechanics' Institute to Public Library.

22—J. G. S.—1. What length of residence is required in a municipality before poll tax can be collected?

2. A person between 21 and 60 years of age pays over \$2.00 taxes in a village or town, and is working in another town, does his paying taxes in the former exempt him from poll tax in the latter, he not being assessed in the latter?

3. A man and his two sons being jointly assessed for a property pay taxes to the amount of \$3.90 exclusive of frontage tax for sidewalk, are all or any exempt from poll tax?

4. A tenant's holding is valued or rated column 13 in the assessment roll for say \$500, but is carried out to the owner only column 17. The owner thus paying taxes. Is the tenant liable for poll tax?

5. A Public Library Board, formerly Mechanics' Institute, organized under Part III. of Public Libraries Act desires to have it reorganized into a Free Library. What are the formalities to be gone through with?

1. The Assessment Act (section 97) does not prescribe any length of residence to render a person liable for the tax mentioned in the section. All persons mentioned in the section resident in the municipality, at the time the tax is to be collected, as provided in the by-law of the municipality, is liable for the tax.

2. This person is exempt from paying the tax mentioned in section 97 in the town in which he is working for, as we understand, he is not "an inhabitant" of the town, but simply working there, and has his place of residence in the town in which his property is located.

3. This man and his sons are all exempt from payment of the tax mentioned in section 97 of the Act.

4. This tenant is assessed on the assessment roll of the town, and no doubt indirectly pays the taxes or a part of them, as the amount of the taxes was likely taken into consideration by the owner when fixing the amount of rent to be paid by the tenant, and we are therefore of the opinion that the tenant is exempt from payment of the tax mentioned in section 97.

5. Section 16 of chapter 232, R. S. O., 1897, and following sections fully set forth the procedure to be followed in changing a Mechanics' Institute to a Public Library.

Qualification of Auditor.

23—SUBSCRIBER.—1. M. has been auditor. He is the owner of a bush farm outside of our village. He has on several occasions sold timber to this municipality for sidewalks and culverts. Now he proposes selling sand and gravel. While doing this is he a lawful auditor?

Sub-section 1 of section 299 of The Consolidated Municipal Act, 1903, provides that no one, who at the time of his appointment, has, or DURING the preceding year, had, directly or indirectly, alone or in conjunction with any other person, a share or interest in any contract or employment with or on behalf of the corporation, except as auditor, shall be appointed an auditor. We are therefore of opinion that M. cannot legally be appointed to this office.

Collection of Costs of Award Under The Ditches and Watercourses Act.

24—J. K.—1. On the 9th of November last the Township Engineer made an award under The Ditches and Watercourses Act. I placed the costs on the collector's roll against the persons named in the award (the collector had not taken the roll at that date, though it was completed for some time.) Did I do right?

2. An appeal has been put in against the award on the

grounds that the Engineer did not get an outlet, and that the costs are excessive. Can the collector collect the costs that are placed on the roll before the appeal is heard?

3. If it was not right to place the costs on the roll after the roll was completed, could said costs be placed on roll for 1904?

1. The clerk has no authority to place these costs on the collector's roll until after the expiration of fifteen clear days, after the filing with him of the Engineer's award, within which time any owner dissatisfied with the award has the right to appeal against it as provided by section 22 of The Ditches and Watercourses Act (R. S. O., 1897, chapter 285.) By section 27 of the Act the municipality is required to pay the charges, fees and expenses incurred in the making of an award under the Act within 10 days after the expiration of the time for appeal, and if they are not repaid forthwith by the persons awarded or adjudged to pay the same, the municipality shall cause the amount, with 7 per cent. added, to be placed on the collector's roll, etc. The clerk should notify each party to the award of the portion of the costs he has been awarded or adjudged to pay after the filing of the award and also after the appeals (if any) have been disposed of.

2. No.

3. Yes.

Purchaser of Timber not Liable for Taxes on Land.

25—J. D.—1. A. sold the standing timber on part of his lots to B. B. afterwards sold the timber to C. A. subsequently sold the land to D. D. is a non-resident and has not paid any taxes. The land is sent to the county treasurer for sale. C. has some cord wood cut which is now lying in the bush. As the collector cannot seize on anything that D. has because he has nothing to seize, can the collector seize the wood from C. which he has already cut and any he subsequently may cut?

It is not stated who was assessed for this land in the year for which these taxes are payable, but we assume that C. was not so assessed, as he appears to be interested only as the purchaser of the timber. If this is the case C. is not the "person assessed" within the meaning of sub-section 1 of section 135 of The Assessment Act, and his name does not appear on the assessment roll for the year as liable for the taxes, and the wood now cut or hereafter to be cut on the premises belonging to him cannot legally be seized and sold to realize the amount.

Taxes Returned by Collector "Instructed by Council Not to Collect" do Not Remain a Charge on the Lands.

26—J. H.—On page 2,765, section 147 of chapter 224, R. S. O., is given the three headings under which collectors are to make returns to treasurer of uncollected taxes.

Under the first two headings it is apparent that the taxes so returned are to remain a charge against the land and collectible as provided.

But under the third heading, "instructed by council not to collect," it is not so plain, besides I find no other place in the statute where this power is referred to or mentioned.

What does the clause mean? Under what conditions are the council to exercise their power? Do the taxes so returned constitute a charge against the land to be collected in the same way as is provided for the collection of all other back taxes, or are they to be considered as foreign?

A municipal council cannot legally authorize its collector not to collect any taxes on his roll, unless it clearly appears that they have been entered therein by mistake and their payment by the owner of the lands against which they have been entered cannot be enforced. Any sum that the council thus instructs its collector not to collect is, in effect, cancelled, and ceases to be a charge on the lands against which it was entered on the roll.

Council Should Levy Amount Mentioned in Trustees' Requisition.

27—A. W. W.—1. The trustees sent in enclosed requisition for school money to the municipal council for the August meeting.

The council considered that the sum of \$118 was the total amount the trustees required for school purposes, and in striking the general school rate to allow the statutory sum of \$150 for each school taught per annum.

Struck a rate that included top item in requisition \$100, and a special trustees' rate for the No. 1 School Section for the additional \$18.00.

Being not at all out of proportion to the common annual requirements of several of the schools in this township.

The secretary of No. 1 School Section claims that the whole \$118 was a special levy on the said school section that would involve a rate of about 30 mills on the dollar, \$3,025 being the assessed valuation of the section.

Also that it was not the trustees' duty to apply to the council for the general school rate to be struck, but simply to inform the council of the time the section proposed to keep the school open.

He also claims that the sum of \$100, more or less, was required to pay the teacher in the year 1904 before the rates would be struck for that year.

What in your opinion should be done in the case, the council not having provided for any sum but the \$118.00?

Can it lend the school section the money from municipal funds and strike a rate to recoup it in 1904?

The council should have levied in this school section the amount mentioned in the trustees' requisition, namely, \$118. The trustees are not required to mention the amount of the general levy. Section 70 of The Public Schools Act, 1901, makes provision for this. Unless the corporation has surplus moneys set apart for educational purposes, as mentioned in section 424 of the Consolidated Municipal Act, 1903, the council has no authority to lend this sum to the trustees. The trustees should borrow the amount necessary under the authority of sub-section 10 of section 65 of The Public Schools Act, 1901, and include it in their requisition to the municipal council next year. We do not see that any other course can now be pursued.

Liability of Member of Volunteer Force for Statute Labor.

28—C. B.—There is a person living on a property rented to him and which he was assessed for as tenant. He paid the statute labor tax (assessed against the property) to the road overseer in June last, and now makes application to the council for a refund, claiming that during his absence on duty at Deseronto, being a soldier in His Majesty's military service on full pay, he is not subject to commute statute labor tax. He also produced a certificate from Lieut.-Col. F. Strange, ordnance officer, that he is a person in His Majesty's military service. I read from the R. S. O. the clause which exempts persons in such service, but the council think that by reason of his being assessed for the property, he should not be exempt on that account, or that the property should not be exempt. Is he entitled to a refund of the commutation paid by him, or is the property exempt by reason of his being a person in His Majesty's military service on full pay?

If this man is in His Majesty's military service on full pay (and the statement as to this fact is, not very clear) he is not liable to perform statute labor or to commute therefor, but if he is a non-commissioned officer or private of the VOLUNTEER FORCE and is assessed for property he is liable for the statute labor chargeable against the premises according to the ratio of statute labor in vogue in the municipality. (See section 96 of The Assessment Act.) But in this case, as we understand it, the statute labor has been VOLUNTARILY paid, and it cannot now be recovered from the council, nor should the council refund it at the owner's request.

Finality of Assessment Roll—Collection of Taxes on Portable Mill—Liability of Collector and Township for Illegal Seizure—Assessment of Station Houses.

29—I. F.—1. In a township municipality, in a free grant district, a person is assessed for a hotel, also a farm. He appealed to the Court of Revision. His assessment was reduced on the hotel. Asked by Judge if he appealed against assessment on farm, replied "no."

Collector's roll was made up on reduced amounts. He now refuses to pay any tax by reason of assessment on farm, saying that he was not located for it at the time the collector's roll was made

up, but became located subsequently to the delivery of roll to collector.

Is he liable for the tax on farm assessment or will it have to be deducted from his total tax?

2. An owner of a portable mill was assessed for it as personal property. Assessment confirmed by Judge at Court of Revision. Has moved his mill machinery out of the township. Owns no property in township. Collector has delivered tax notice. Is there any other means to collect than for the council to enter action in court? If so, what?

3. If the collector seizes the property of the hotel-keeper for farm tax, and the hotel-keeper sues collector for illegal seizure, would the collector have to stand any expense incurred, or is it the township, he being their servant.

4. Referring to your first answer to question 450 this year, the numbers are 169 and 416, 1901.

Should the lot upon which the station is built be assessed at an increased value equal to the value of the station or as though the station was not there?

1. We are of opinion that this owner is liable for the amount of the taxes on the assessed value of the farm. Section 72 of The Assessment Act provides that "the roll, as finally passed by the court, and certified by the court as passed, shall, except in so far as the same may be further amended on appeal to the Judge of the County (District) 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 this Act, or the omission to deliver or transmit such notice."

2. If this owner has no personalty in the municipality liable to seizure for taxes, the corporation's only remedy is to endeavor to recover the amount of these taxes by ordinary action at law.

3. If the collector acts within the range of his authority as an officer of the municipality in making the seizure for these taxes, the municipality will be responsible for the expenses incurred.

4. The station house is part of the superstructure of the railway, and is therefore not assessable, under the authority of the cases cited in our answer to question number 169, 1901. We are assuming that the station is upon the roadway. In assessing the roadway of a railway company the roadway should be assessed at the same value as farm lands adjoining. (See re Township of Chatham and C. P. Ry. Co. 37 C. L. J. 791.)

Liability for Payment of Expenses of Persons Under Quarantine—Council May Hold Meeting After 15th December.

30—F. G. J.—A girl visiting at the home of her uncle, Mr. A., is taken sick with small-pox and goes to see a local doctor (not the M. H. O. who pronounced it such.) The medical health officer, when notified, advised leaving the matter with the doctor first consulted, which was done. The house of Mr. A. is quarantined and his milk stopped from the factory for over a month.

A few days after Mr. B., who has been exposed before the quarantine, was taken sick with the same disease and the doctor ordered him to the home of Mr. A., and he remained there until the quarantine was raised. Fortunately the disease spread no further.

During the time of quarantine provisions were ordered by A. through the doctor and left at A.'s gate.

1. To whom should Mr. A. look for Mr. B.'s board?
2. To whom should Mr. A. look for the girl's board, her parents being too poor to bear the expense?
3. Can Mr. A. collect pay from the municipality for the value of the milk during the time of quarantine?
4. Can a township council legally hold a meeting after December 15?

1. These persons appear to have been properly isolated, under the authority of The Public Health Act (R. S. O., 1897, chapter 248), pursuant to the instructions of the medical health officer, and if Mr. B. is financially able to do so he should pay all expenses incurred by him or on his behalf while under quarantine, including any sum to which Mr. A. may be entitled, otherwise the

municipality will have to pay them. (See the latter part of section 93 of the Act.)

2. Since the parents of this girl, owing to their poverty, are unable to pay the expenses incurred on her behalf while she was under quarantine, the municipality will have to do so, including any reasonable sum that Mr. A. may be entitled to. (See section 93 of the Act.)

3. No.

4. Yes. Section 328 of the Consolidated Municipal Act, 1903, provides that "no council of any local municipality shall, after the 31ST day of December in the year for which its members were elected, pass any by-law or resolution for the payment of money or which involves directly or indirectly the payment of money, nor shall they enter into any contract or obligation on the part of the municipality, nor shall they appoint to or dismiss from office any officer under the control of the council, or do any other corporate act after said day except in case of extreme emergency; but the council may, *before the 31st day of December*, do any necessary business which, having regard to the circumstances, may be done at such time, and which they are authorized to do at their last meeting."

Qualification of Collector and His Bondsman for Councillor— Collector Should Accept Taxes Wherever Tendered.

31—W. D.—1. Is a collector of taxes for this year qualified to be nominated on the 28th December next providing the roll has been returned to the treasurer, and is a bondsman of the collector's qualified to be nominated on the 28th inst., and to be elected as a member of the council for next year?

2. If a ratepayer offers to pay his taxes to the collector on the road as he is passing the ratepayer's property, is it right that he should take the taxes, or can he make the ratepayer come to the place where he is receiving the taxes to pay thereon.

1. If prior to Nomination Day (28th December) the collector has duly accounted to the treasurer of the municipality for all the taxes on his roll, has returned it as required by law, and all accounts between him and the municipality have been finally adjusted and closed and he has resigned his office as collector, we are of opinion that neither the collector nor his bondsman is disqualified as a candidate for election to the council of the municipality, for which he was collector, for the ensuing year.

2. The collector should accept payment of a ratepayer's taxes wherever the amount is offered him, provided the correct sum is tendered.

Separate School Supporters in Unorganized Territory.

32—K. M.—There was a separate school section formed by the organized township of A. and B.

There are a number of persons who desire to become supporters of said separate school. Those supporters live in the unorganized Township of C., and presently some of them send their pupils to this school.

In the said Township of C. there is a public school to which those supporters are attached and the debt of said public school has now been fully paid (building debts.)

1. Can those supporters of such public school who desire to become supporters of the said separate school be detached from said public school and become supporters of said separate school?

2. If they can become supporters of said public school, what steps should be taken so as to have them attached to the separate school. Explain this fully.

3. Who should be notified of their dropping off the public school?

4. When should they notify?

5. Can a man who is closer to a public school than to a separate school pay his taxes to such separate school?

6. If he lives in an unorganized township can he pay his taxes to a separate school if an organized township?

1, 2, 3, 4, 5 and 6. There is no provision in The Separate Schools Act (R. S. O., 1867, chapter 294), or elsewhere, to meet a case of this kind. Section 42 of The Separate Schools Act provides that "every person

paying rates, whether as owner or tenant, who, by himself or his agent, on or before the first day of March in any year, gives to the *clerk of the municipality* notice in writing that he is a Roman Catholic, and supporter of a separate school situated in the municipality or in a municipality contiguous thereto, etc." This means the clerk of the municipality in which the lands of the ratepayer who gives the notice mentioned in this section are located. The lands referred to are located in an unorganized municipality, of which there is no clerk to whom the notice can be given.

Same Person Cannot be Treasurer and Collector.

33—H. L. B.—We have no county council nor county treasurer for our township, and the district registrar has to refer to our township treasurer for any back taxes, etc., before giving any ownership certificate. It simplifies (and facilitates) our books and that work by making one man both treasurer and collector for our municipality.

May we not do so legally, in some way?

No. The latter part of sub-section 1 of section 295 of The Consolidated Municipal Act, 1903, provides that "the council shall not appoint as assessor or COLLECTOR a member of the council or the clerk or TREASURER of the municipality." This provision applies to organized municipalities in districts as well as to municipalities in other parts of the Province.

Liability of Owner of Island for Statute Labor.

34—G. W. T.—A non-resident owner of an island, with no connection to the mainland, is assessed two days' statute labor. He is placed on a road division, and statute labor returned unperformed by pathmaster, tax entered on collector's roll and paid amount to collector under protest. He now asks council to take action and rebate him this amount. Should council rebate this tax or not?

The payment in this case appears to us to have been voluntary and not under compulsion, that is to save the ratepayer's goods from threatened sale, and that therefore the council cannot be compelled to refund it, nor should they do so. The law is that a man who pays under protest, simply, is not paying under compulsion.

Powers of School Arbitrators to Determine Liability for Costs.

35—C. B.—A union school section had an arbitration for the purpose of altering the boundaries of the section. The arbitrators in their award charged the township with the cost of the arbitration.

1. Were they right in doing so?

2. Has the council power, or is it their duty to charge the section with the account?

1. Section 88 of The Public Schools Act, 1901, provides that "arbitrators in making their award shall, among other things, determine the liabilities of the parties concerned for the costs of the arbitration, and such determination shall be FINAL and CONCLUSIVE."

2. No. If the award fixes liability upon the municipality it cannot shift the burden upon the section;

Collection of Debenture Rate for Sewer and Waterworks.

36—O. L.—Is a person liable for debenture rates for waterworks and sewer in a town when such person derives no benefit whatever from such waterworks or sewer?

We assume that the sewer was not constructed pursuant to the provisions of the local improvement clauses of The Consolidated Municipal Act, 1903, and that the debentures for the repayment of which rates are to be levied were issued in pursuance of by-laws which had been submitted to and received the assent of the electors of the municipality. If this is so, the money was borrowed on the credit of the whole municipality, and each parcel of property therein must bear and pay its proportionate part of the rate levied annually to meet payment of the debentures as they mature whether the owners derive any direct benefit from the construction of the waterworks or sewer or not.

Poll-Tax Liability.

37—J. B.—A. and B. own property in a village, pay taxes and do road work and live there six months in the year. Their employer operates another business in a neighboring town in same riding and takes them with him to operate his mill there.

Can they be made to pay poll-tax in the latter town. They live in latter town from September to March.

No. All they are required to do is to procure and produce the certificate mentioned in section 99 of The Assessment Act of having performed statute labor in the town in which their property is located, and they will be exempt from performing the labor mentioned in section 97 of the Act, in the town in which they are, for the time being, working.

Payment of Damages for Sheep Killed by Dogs.

38—G. L.—Council appoints sheep valuers every year, also collect dog tax. We pay two-thirds the amount of valuation. At last meeting of council a ratepayer presented a valuator slip which read as follows: Four lambs badly bitten by dog or dogs, valued at \$20.08; 70 lambs worried, valued at \$35.00. The man who placed the value is one of the township's valuers, also joint owner of said lambs. There are two other valuers in same district. In reply to question by the council the man who presented slip for payment said they could not prove that the 70 lambs were damaged at all, but they considered the running had damaged them to the extent of \$35.00. Council objects to pay any more than two-thirds of the \$20.00. What should the council do in the matter?

If the council is of opinion that \$20.00 represents the amount of the damages which the owners of the sheep and lambs have sustained, after having examined and enquired into all the facts and circumstances attending the case, two-thirds of this sum is all that it should pay. The amount mentioned in the report of the valuator is not conclusive or binding on the council.

Powers of Courts of Revision in Districts.

39—A. O.—I enclose report of the proceedings in connection with our Court of Revision and I wish you to give me your opinion upon the point raised by Mr. M. as to the municipalities in the district not having the advantage of The Assessment Act with respect to appeals as per chapter 224. Upon reading my report to the paper which I enclose you will see that if Mr. M. is right the municipalities in the districts might as well have no Court of Revision, as I fail to see how there can be anything but decreases of assessment, as it is not likely a ratepayer is going to appeal to be raised.

We are of opinion that the section cited by Mr. M. fully bears out his contention. This case affords further evidence of the crude condition of the law applicable to municipalities in districts and the necessity for further legislation. The council had no authority to appoint a committee of its members to file appeals against the assessment roll, who afterwards, as members of the Court of Revision, would sit in judgment on their own appeals. The council should appoint a competent man to make the assessment, and this is the extent of the council's power, in regard to the assessment, until appeals come properly before it for hearing as a Court of Revision.

Council May Spend Money in Building Sidewalks in Unincorporated Village—Duties of Officers as to Interest on Arrears of Taxes.

40—P. A. C.—1. Has the council of a township power to spend a large sum of money on sidewalks in an unincorporated village, the council having to borrow the money to finance the work?

2. When does the interest on arrears of taxes become due?

3. Whose duty is it to add the interest to the arrears?

4. What is the legal rate of interest, or can the council make what rate they please?

1. The council of a township has power to expend such sums of money as it may deem necessary in building and keeping in repair the sidewalks in an unincorporated village therein out of moneys which it may have on hand, but the council itself can only borrow money to the extent and under the circumstances contained in section 389 Consolidated Municipal Act, 1903.

2. Section 53 of chapter 225 (R. S. O., 1897,) provides that arrears of taxes due to any municipality in this district shall be collected and managed in the same way as like arrears due to municipalities in counties. Sub-section 1 of section 169 of The Assessment Act provides that "if, at the balance to be made on the *1st day of May* in every year, it appears that there are any arrears due upon any parcel of land, the TREASURER shall add to the whole amount then due ten per centum thereon."

3. In this district the duty is cast upon the treasurer of the municipality.

4. Ten per cent., as mentioned in our answer to question number 2. This percentage is fixed by the statute, and the council has nothing to do with it, nor can it alter it in any way.

Right to Cancel Written Order.

41—KENT.—Agent canvassing Kent County for subscribers to Biographical Commemorative Sketches of families at \$15.00 for copy of book containing said sketch, history of family to be type written and returned to subscriber for correction and alteration before printing. I was over-persuaded and subscribed without giving the matter due consideration. The company has not commenced to print yet. Can I cancel the order by writing to them, as I find that the book will not be of any value to me?

We cannot say anything as to this unless we are given an opportunity of examining the written order you signed, but the chances are it contains no provision allowing you the privilege of cancelling it.

Irregularity in Appointment of Deputy Returning Officer.

42—D. McC.—At our last meeting in December, 1902, a by-law was drawn up and passed by the council appointing deputy-returning officers and a place for holding nomination. Also a motion of adjournment was passed by council. Said council rose and left council chamber. About an hour or so afterwards four members of the council met in a private room and changed one of the deputy-returning officers and put another in his place. I was made acquainted with the change the following day and I strongly objected to the proceedings and claimed that their actions were illegal. However, the week intervening and the nominations and polling day (a poll being demanded) the then Reeve and one Councillor of 1902 who were both candidates for reelection went to the Clerk of the township and told him to deliver the ballot box to the deputy-returning officer appointed by by-law (and whose name is still in the by-law book), but he positively refused to do so.

1. Was the election legal as the man who acted as D. R. O. was not appointed by by-law and his name is not in the by-law book?

2. How many electors would it require to protest against the election and how would they go about it?

3. If election was declared null and void who should pay the costs, those who were responsible for the wilful illegal act or the municipality?

1, 2 and 3. The appointment of this deputy-returning officer was clearly irregular and unauthorized by The Municipal Act, and might have resulted in the voiding of the election, had proceedings with that end in view been instituted within the time prescribed by law. (See section 220 of the Act) But it would be open to the tribunal having cognizance of the question to hold, under section 204 of the Act, that the irregularity was such as did not affect the result of the election, and to therefore refuse to interfere. However, as the time for taking the necessary proceedings has long since expired, nothing can now be done in the matter.

Council Cannot Assist in Making Road on Private Property—Powers of Reeve and Surveyor.

43—J. P.—At our last meeting of the council a ratepayer came before the board of council asking for some money for a road he had made on his own property for himself to get on to the public road, he claiming that the council had to provide him a way to get to the public road. It was a hard road to make and he a poor man. What I would like to know is this:

1. Has the municipal council the authority to grant any money to a ratepayer to make a road on his own property to get to a public road?
2. Is the council liable to provide a man a way to get to a public road?
3. Can the reeve of a municipality order out the municipal road surveyor to survey a road before the matter is brought up at a council meeting?
4. Can such a surveyor go on to any person's property to survey a road before notice is given to the person owning the land where such surveying is going to take place?

1. No.

2. No, unless by constructing a drain, or by raising or lowering the roadway or otherwise, the council has destroyed his means of ingress and egress to and from his premises. In this event the owner of the premises would be entitled to compensation for the damages he has thus sustained. The measure of damages would be the cost of building a new approach to the premises, and we are of opinion that the best course for the council to pursue would be to build it for him.

3. No. The reeve is only a member of the council or governing body of a municipality and should not transact corporate business independently of his colleagues.

4. We gather that it is the intention of the council to establish a new road. If this is so, it should pass a by-law pursuant to the provisions of section 637 of The Consolidated Municipal Act, 1903, after the preliminary proceedings mentioned in section 632 of the Act have been strictly observed. If it is necessary to expropriate the land necessary for this road, and the council and owner cannot agree as to the amount of the compensation to be allowed him, the matter will have to be referred to arbitration as provided in section 437 of the Act. It is not necessary, however, that the amount of the compensation should be paid before the land is entered upon for the purpose of building the road.

Qualification of County Councillor and Councillor and Mayor of Town.

44—J. E. S.—1. Can a member of county council legally act as public school trustee of a school in his district?

2.—Can the mayor of a town legally sign and assist in passing through the council a by-law granting a Street Railway Company right of way through the town and exemption from taxes for twenty years, himself being a director of said company?

3.—Can a man legally act as a councillor or mayor of a town who cannot do business in his own name, but signs all bills and receipts in his wife's name?

1. Sub-section 1 of section 80 of The Consolidated Municipal Act, 1903, amongst other things provides that "no member of a school board for which rates are levied shall be qualified to be a member of the council of ANY municipal corporation." This applies to members of a county council.

2. He cannot legally vote for or against the by-law, but if the by-law receives a sufficient vote to carry it without his vote, we do not see why he should not have the right to formally sign it.

3. Yes, if at the time of his election he had, or his wife had, 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, rated in his own name or that of his wife on the last revised assessment roll of the municipality to the amount mentioned in sub-section 1 of section 76 of The Consolidated Municipal Act, 1903.

Council Can Levy Drainage Assessment in One Year.

45—F. M.—1. After adopting the report of an engineer, in respect of a drainage work, under the Municipal Drainage Act, has a township council authority in preparing the necessary by-law, to levy and collect upon and for the lands assessed, the total amount required in one payment, or must they borrow the money,

issue debentures, divide the special rate into a number of equal parts, and collect one part each year during which the debentures have to run?

The council can legally levy and collect the cost of the construction of drainage work under the provisions of The Municipal Drainage Act in one payment, but it should not do so if the amount is large, and the payments would, as a consequence, prove burdensome to the owners interested.

Right to Use Adjoining Land when Road Impassable—Removal of Fences Causing Accumulation of Snow—Liability of Pathmaster.

46—J. E. H.—A and B are the only ratepayers on a beat, A being pathmaster. The roads filled up and were impassable, C and D were coming through and got stuck, took B's field to the village. B summoned them before the magistrate for trespassing and they had to pay \$15.00, were told to look to the council for redress. By-law states that pathmaster must keep open road under penalty of fine and to warn out his men to do so, and if they did not go may be fined. The fences are post and rail and always fill the road in snow storms.

1. What steps should the council take to recover the \$15.00 to pay C and D. Could A and B not have done their road work for next year in breaking it open?

2. Should the fence not be removed as it is a nuisance to the public for blockade, at the owner's expense?

3. Is the pathmaster and ratepayer not subject to fine?

1. We do not understand how C. and D. were required to pay this \$15.00 or to be found guilty of trespassing under the circumstances mentioned. If, by reason of obstructions, or want of repair, a highway has become impassable, travellers may enter upon adjoining lands to obtain a free and safe passage, doing no more damage to such lands than is necessary under the circumstances without incurring any liability as trespassers. Mr. Justice Hagarty so decided in the case of Carrick v. Johnston (26 U. C. Q. B., 65,) and Lord Mansfield in the case of Taylor v. Douglas (Douglas 749) remarks that "highways are for the public service, and if the usual tract is impassable, it is for the general good that people should be entitled to pass in another line." The council is not concerned in this dispute and should not interfere in the matter at all. If the council has passed a by-law pursuant to sub-section 3 of section 537 of The Consolidated Municipal Act, 1903, A. and B. can be allowed for work in keeping this road open in their next season's statute labor.

2. The council can require the removal of these fences in the manner provided by sections 1 and 2 of The Act Respecting Snow Fences, (R. S. O., 1897, chapter 240.)

3. Yes, if the council has passed a by-law pursuant to the authority of section 702 of the Consolidated Municipal Act, 1903.

Duties of Clerk after Vote on Local Option By-law.

47—W. J. B.—1. This municipality intends to vote on Local Option by-law on same date as municipal elections are held, and if the by-law is carried or has a majority of votes, what is the duty of the clerk thereto, viz., declare the by-law carried, or is it necessary to register it, promulgate it or not?

Sub-section 1 of section 141 of The Liquor License Act (R. S. O., 1897, chapter 245.) provides that a by-law of this kind shall be duly approved of by the electors of the municipality in the manner provided by the sections in that behalf of The Municipal Act. Section 364 of The Consolidated Municipal Act, 1903, provides that "the clerk, after he has received the ballot papers and the statements before mentioned of the number of votes given in each polling place, shall, at the time and place appointed by the by-law, in the presence of the persons authorized to attend or such of them as may be present, without opening any of the sealed packets of ballot papers, sum up from such statements the number of votes

for and against the by-law, and shall then and there declare the result, and shall forthwith certify to the council, under his hand, whether the required majority of the electors voting upon the by-law have approved or disapproved of the by-law." A by-law of this kind need not be promulgated as required by section 375 of The Consolidated Municipal Act, 1903, nor registered pursuant to section 396 and following sections of the Act.

Correction of Mistake in School Assessments.

48—J. E. D.—A has a parcel of land forming part of P. S. S. No. 2. The assessor wrongly assessed it in Public S. S. No. 9. No notice was taken of it at the Court of Revision and now the trustees of S. S. No. 2 demand of the council the amount of Trustees' levy from said parcel of land. Has the council any authority to pay same to Section No. 2, and if so paying can the amount be deducted from the amount due S. S. No. 9?

Yes. Sub-section 3 of section 71 of The Public Schools Act, 1901, provides that "every municipal council shall have power, and it shall be their duty to correct any error or omissions that may have been made within the three years next preceding such correction in the collection of any school rate duly imposed or intended so to be, to the end that no property shall escape from its proper proportion of the rate and that no property shall be compelled to pay more than its proper proportion of such rate."

Users of Highway May Enter on Adjoining Lands to Avoid Obstructions.

49—J. M.—If roads are drifted full of snow, can parties going along leave down fences and drive through the fields, a lawyer and police magistrate held it was trespassing?

If by reason of obstructions or lack of repair a highway has become impassable, travellers may enter upon adjoining lands to obtain a free and safe passage, doing no more damage to such land than is necessary under the circumstances, without incurring any liability as trespassers. (See also our answer to question No. 46 in this issue.)

Time for Passing By-law Fixing License Fees.

50—I. I.—At last meeting of our town council a by-law was passed fixing the license fee for hotels and liquor stores at \$270 for the term beginning May 1st, 1904.

1. Is it legal for the outgoing council of 1903 to pass such a by-law?

We are of opinion that the council had no power to pass the by-law in question at a meeting held last year. If the license fee is fixed at more than \$200, namely \$270, it can have no force until it is approved by the electors in the manner provided by The Municipal Act, with respect to by-laws which before their final passing require the assent of the electors of the municipality. (See sub-section 1 of section 42 of The Liquor License Act, R. S. O., 1897, chapter 245.)

Grant of Bonus and Exemption from Taxation to Mill Owner.

51—W. P.—An application was made to the municipal council by "A" for inducements to build and operate a mill in the municipality. The council offered "A" exemption from taxes for the term of a year and also believing that the municipality owned a mill site offered the site also. Upon investigating the claim of the municipality to the site "A" found that others claimed a right to it. Eventually "A" abandoned the site. "A" then ascertained that the G. T. R. company owned a site that would suit him and gave the council to understand such fact. "A" living away from the municipality the Clerk was orally instructed by the council to notify "A" that as the site which the council considered it had at its disposal would not suit, he "A" had best make his own terms with the G. T. R. company. "A" did so without referring the G. T. R. company to the council in any way. "A" built the mill and then applied to the council to pay the rent charged by the G. T. R. company for the site. The council passed a motion attaching the seal of the corporation to the effect that "A" be paid the rent for the past year and that he be paid the same annually for the next five years.

1. In doing so did the council act legally.

2. No money has as yet been paid "A" owing to a divided opinion as to the legality of the action of the council. No doubt there is considerable irregularity on the part of both parties. Would not the rent be equivalent to a bonus?

3. Has the council the power to make the grant?

1, 2 and 3. The council did not act within the scope of its legal authority in making a grant for the payment of this rent, or in exempting this mill from taxation. They are both "bonuses" within the meaning of sub-section 12 of section 591 and section 591a of the Consolidated Municipal Act, 1903, and by-laws providing for them should have been submitted to the duly qualified electors of the municipality.

Mode of Calculating Statute Labor.

52—T. W. W.—Re Statute Labor No. 1 By-Law which reads: \$300.00 to \$700.00 three days, \$700 to \$1,000.00 four days, and for every additional \$500.00 or fractional part thereof one day.

1. If a farm was assessed for \$1,850.00 calculating the statute labor from the above, how many days' labor will the farmer of such a valuation have?

2. Or if the by-law read thus: \$300.00 to \$700.00 three days, \$1,000.00 four days, and for every additional \$500.00 and fractional part thereof one day?

3. A farm assessed for \$1,850.00, calculating the statute labor from the above, how many days' labor would such a farmer have?

1. Six days.

2. Five days. The use of the word "and" instead of "or" in this instance renders it necessary to include the \$500 and fractional part thereof together in calculating this statute labor.

Property in Tree Growing on Highway.

53—C. W. R.—Where an elm tree stands on the road some two or three feet from the farmer's road fence whom does the tree belong to? Is it to the man living on the lot or the municipality?

Sub-section 3 of section 2 of chapter 243, R. S. O., 1897, provides that "every tree so planted on such highway, etc., shall be deemed to be the property of the owner of the lands adjacent to such highway, etc." However, the property of an adjoining owner in trees growing upon a highway is of a somewhat peculiar character. Such trees cannot be cut down without notice to him, nor (if he has planted or protected them) without his being entitled to compensation, yet he cannot himself cut down, or remove them, unless under a special resolution of the council, without becoming liable to fine, and possibly to imprisonment.

Township Council Cannot Make Grant to Telephone Company.

54—J. B.—Our municipal council has voted \$100 by resolution in help to buy the telephone poles to connect this village with the neighboring one in the same municipality.

1. Has the council the power to grant money for that purpose?

2. Could the resolution be legalized by taking a referendum at the next municipal election?

3. Must the vote be taken upon a by-law?

P. S.—The line when completed will be the exclusive property of the Bell Telephone Company.

1. No.

2 and 3. Our answer to question number one renders it unnecessary to reply to this.

Owing to his departure from the municipality, Mr. John Johnston, clerk of Bagot and Blythfield, has resigned that office, and Mr. Patrick Barrett has been appointed to succeed him. The council at its meeting on the 3rd October last passed the following resolution: "That a hearty vote of thanks be tendered the retiring clerk for the able, efficient and gentlemanly manner in which he has discharged his duties since he has been appointed an officer of this council."

Auditors—Appointment and Duties

The appointment of an auditor or auditors is an important duty every council has to consider. Section 299 of The Con. Mun. Act, 1903, which requires the appointment of two auditors at the first meeting, is subject to the provisions of sections 301 and 309. Section 301 provides that an auditor or auditors may be appointed in November or December of each year for the succeeding year, and section 309 authorizes the appointment of an auditor or auditors to audit the accounts of the corporation, in conformity with any regulations or by-laws of the council.

The council determines the auditors' remuneration, which should always be sufficient to pay for doing the work in a thorough manner. Appointments of this kind should not be considered as so much patronage to be awarded for assistance at elections or to persistent applicants. The welfare of a municipality, the efficiency of a council and its officers, very often depends on the annual review of their official business by an auditor competent to point out errors and recommend improvements. An auditor's duties do not end with an examination of the treasurer's books and vouchers. The minutes of council meetings, reports of committees, by-laws, etc., all come within the range of a complete audit.

COLLECTORS' ROLLS.

An intelligent examination of a collector's roll will necessitate a reference to the clerk's office. The correctness of the roll will depend entirely on his efficiency. An auditor should know more than that the amounts entered thereon have been accounted for. He should verify the authority for each rate and ascertain by an examination of the records whether rates have been omitted or not.

ARREARS OF TAXES.

It is the exception rather than the rule to find that the provisions of The Assessment Act in reference to arrears of taxes have been complied with. To ascertain this an auditor should examine: 1. The non-resident collector's roll. 2. The treasurer's return of lands in arrear for three years, liable to be sold. 3. The assessor's occupied return to clerk and the clerk's report to treasurer. These should refer to errors in description of property in previous assessments and generally such information as the assessor or clerk deems important. 4. The treasurer's return of arrears of taxes to be entered on the roll. 5. The collector's statement of uncollected taxes, the clerk's record of notices mailed to each person whose taxes have not been paid and treasurer's return to county treasurer, all of these returns should be available in the office of either the clerk or treasurer, and sometimes a reference to the county treasurer's office is necessary.

DRAINAGE WORKS.

In townships a careful examination of drainage by-laws and accounts is necessary to ascertain that the proper amounts have been collected, and after works are completed that by-laws have been passed to determine surplus deductions or levy for deficiencies, if any.

DEBENTURES.

All debentures should be authorized by by-law and properly registered in a book kept for that purpose. Coupons and debentures paid should be cancelled and marked off in register. The auditors' report should show amounts collected to pay debentures falling due within the year, and balance of principal for which no levy has been made.

SCHOOL RATES.

An auditor should verify the assessment of public and separate school supporters, and in townships check the collector's roll with an up-to-date school section map. The payments to school boards should agree with the amounts collected for each according to law.

LOCAL IMPROVEMENTS.

Accounts for public improvements to be repaid by frontage rates require special attention. The clerk's local improvement books should show the amounts to be entered in the collector's roll, and that they are sufficient to pay the debentures issued or amounts advanced by the municipality.

WATER RATES.

The payment of special service rates of every kind must not be overlooked. It is important that proper records of these should be kept. Any deficiencies in this respect should be reported.

GENERAL REMARKS.

No auditor's report is complete unless it directs attention to defects, if any, in the business system or records of a municipality. All should be arranged to facilitate the audit of the collector's roll—the most important source of revenue.

The report of a special audit made during last year contains the following recommendations, which will direct attention to the deficiencies found in one municipality, some of which may exist in others.

1. That assessor be supplied with maps showing school section boundaries and sub-divisions of original lots.
2. That in assessing the sub-divisions the assessor be required to adhere strictly to the plan.
3. That railway lands be properly assessed.
4. That care be exercised in entering total population, as the amount of Legislative school grant to which the township is entitled is determined by this.
5. That no change be made in the collector's roll by the clerk after it has been handed to the collector, unless authorized by resolution of council, of which notice in writing shall be given to the collector and treasurer.
6. That the collector, on returning the roll, verify by affidavit the amount of uncollected taxes, etc., as the statute requires.
7. That by-law be passed requiring the collector to pay all taxes to the credit of the township bank account. (See section 19, chapter 228, R. S. O.)
8. That the collector's rolls hereafter contain a statement showing the totals of the various rates entered therein, and that a copy be forwarded to the treasurer.
9. That the clerk be required to keep on file:—
 - (a) The collector's account of taxes returned to the county treasurer, to which he should append a memorandum, showing when the notices were mailed to each person in respect of whose land taxes appear to be in arrears, as required by section 147 of The Assessment Act.
 - (b) Copy of non-resident tax roll to county treasurer.
 - (c) County treasurer's list of lands liable to be sold.
 - (d) Assessor's occupied return.
 - (e) The county treasurer's return of taxes due on occupied lands.

10. That the clerk be required to keep a record of drainage by-laws and assessments, showing entries on collector's roll, etc.

11. That a record of the statute labor lists and the work not performed be kept by the clerk.

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

13. That the treasurer pay all accounts by bank cheque.

14. That two bank accounts be opened, one in the name of the township, all cheques to be signed by the reeve and treasurer, and one in the name of the treasurer.

15. That the treasurer furnish the reeve with a monthly abstract statement of receipts and expenditures, said statement to show cash in office, cash in bank, and cheques outstanding.

16. That the reeve present the monthly statement at first session of council after they have been received, for the information of the members.

17. That a bill book containing a proper record of all loans be kept by the treasurer.

18. That a receipt book be procured for the use of the treasurer.

19. That the treasurer be required to keep a ledger, in which any classification of accounts necessary, other than those in the Government cash book, may be kept, and that no other accounts be entered therein.

20. That all accounts to be passed by the council

should be in writing and certified by a member thereof before being presented, and that they be numbered and kept on file in the clerk's office for reference.

21. That the council's orders on treasurer should be in sheet form, and that the list of accounts be entered in the minutes.

22. That all reports of committees be incorporated in the minutes of the council, or be copied in a book kept for that purpose.

23. That orders on the treasurer passed by the council be made payable the second day thereafter. This will give time for the preparation of the proper order with every detail required and for entering a copy of the same in the minute book before it is handed to the treasurer.

24. That a proper clerk's office be established either by the council or by arrangements with the clerk and that apparatus for properly filing the records be procured by the township for the use of the clerk.

25. That the by-laws of the township, when passed, should be signed by the reeve and clerk, and be sealed with the seal of the corporation.

26. That arrears of taxes be cancelled only by resolution of council, to be certified by clerk to county treasurer.

27. That the by-laws striking the rates be prepared to show in detail the sums to be levied.

28. That a by-law levying school rates be passed each year, as required by The Public Schools Act.

29. That the treasurer be required to give a guarantee bond as security, the cost to be paid by the township.

Constitution of County Councils

The warden of the Elgin county council, in opening the November session of that body, referred to the optional law passed in reference to the constitution of county councils as follows :

"At the last session of the Legislature a great many amendments to The Municipal Act were passed and included in the consolidation of The Municipal Act. The most important amendment refers to the composition of county councils, and it is now optional with the majority of the local councils whether the county council, as at present constituted, be continued, or whether it shall, after next year, be composed of the Reeves of the various local municipalities in the county. When county councils are composed of the Reeves, the vote on every question which involves the expenditure of money to or in excess of \$1,000.00 is to be determined by adding together the equalized assessments of the municipalities whose representative voted for that expenditure or against such expenditure, respectively, instead of by a majority vote of the members, as in other cases. The passing of this legislation was, no doubt, a surprise to all of you. Previous to 1896, when the present constitution of county councils was adopted, municipal authorities and the public generally were consulted in reference thereto. The act then passed has given the greatest satisfaction throughout the Province, as far as I am aware. The division of counties into districts was well considered, as it gave to the taxpayers an equitable representation. It has been thought by many that the system of dual voting was objectionable, but the benefits only require to be thoroughly understood to be appreciated. It provides for a minority representation, and equalizes the influences of the political parties. This system of voting is in operation in some of the United States and in England and Scotland for the election of members of School Boards, and at the last session of the Legislature was introduced in special legislation, providing for the election of the Board of Education and Board of Control of municipal affairs for the City of Toronto. This system of election is bound to be introduced sooner or later in Ontario for the purpose of promoting a more equitable representation in municipal councils. Many objections may be urged against the proposed new system. One is

that votes on financial questions are not always the most important ; for instance, the question of equalization, the appointment of officers, confirming of road by-laws of local municipalities, guaranteeing debenture by-laws of local municipalities, the designation of roads under The Highway Improvement Act, to all of which the vote, in proportion to the equalized value of the municipality represented, would not apply, are of greater importance than a vote in reference to an expenditure of \$1,000 or more.

"In 1896, when the present county council system was adopted, two of the principal arguments were that the county councils were too large and that village representatives had a voting power out of proportion to their tax-paying liability. If the local municipalities of Elgin favor the new system, villages and towns paying one-twentieth of the county rate will have five-twelfths of the representation. I am strongly of opinion that if an optional system of county council representation must be considered, that a change should not be made until the ratepayers of the county have had an opportunity of voting on the question. It is not in the interests of municipal government that a question of so great importance should be left in the hands of the local municipalities to determine whether it should go into operation or not. I would suggest that the county council consider the matter, with a view to petitioning the Legislature to repeal the county council legislation of last session, and that we endeavor to secure the co-operation of other county councils, both by petition and deputation to the Legislature, when in session."

A resolution was afterwards passed by the county council ordering a petition to the Legislature for the repeal of the legislation of 1903. The county councils of Northumberland and Kent have taken similar action, and the appointment of a deputation composed of county council representatives to interview the Government will be considered by all the councils at the January session at the request of the Northumberland council.

Municipal Reform

The municipal institutions of Ontario, during their comparatively brief life, have adapted themselves closely to local requirements. As a result, though still undergoing slight local modifications from year to year, they have reached a high state of perfection. Three important changes appear to be necessary, if this enviable record is to be maintained: (1) The election of members of all municipal councils for a longer term than one year. (2) A more efficient audit of municipal treasurers' accounts. (3) The establishment of a Provincial Local Government Board.

A COUNCILLOR'S TERM OF OFFICE.—(1) The length of time for which municipal councillors are chosen should be governed mainly by considerations of securing popular control and maintaining an experienced and capable council. In the Province of Quebec the councils of parishes, townships, towns and villages are composed of seven members, who remain in office for three years, subject to the condition that two councillors must be elected or appointed two years consecutively and three every three years. The mayor, or head of the council, is elected by a majority of the council and holds office for one year. In Nova Scotia, New Brunswick, Manitoba and British Columbia, county councillors are elected yearly. In Nova Scotian towns the mayor is elected annually and a councillor every two years. In certain Canadian cities aldermen are already elected for two and three-year terms. The number of re-elections of municipal councillors in rural Ontario is very noticeable. At the annual elections in January, 1902, two-thirds of all councillors in office during the previous year were re-elected; in the townships alone, 80 per cent. This probably indicates that legislation providing for a term of at least two years would meet with popular support. Retirement of half the council every twelve-month would secure at once that measure of continuity of municipal government which is essential, and remove a great obstacle, the turmoil of annual elections, now preventing many able men from entering the council. The County Councils Act of 1896 introduced indeed a full two-year term. A slight amendment is all that is now necessary.

PERMANENT COUNTY AUDITORS.—(2) The appointment of a provincial municipal auditor has met with general approval. But in order to establish a proper system of accounts in every municipality competent local auditors are necessary. Under the present law, local auditors are appointed annually. Capable men are, however, rarely available, either on account of the small fees usually allowed to auditors or for more potent reasons. The appointment of a municipal auditor for each county, or for a union of counties, to act with or without the auditor selected yearly by each municipal council, would enable the provincial auditor to co-operate in introducing a uniform system of bookkeeping and efficient audits throughout every municipality.

A LOCAL GOVERNMENT BOARD.—(3) In Old World countries central control of municipal government has been found necessary. The Local Government Board of England furnishes a convenient example. Mr. Albert Shaw's reference to it may be repeated here:

"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. . . . 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 experience 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 was 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 examinations which so often result from the advice that expert central officials can give."—(*Municipal Government in Great Britain*, p. 68.)

Another well-known American student of municipal problems holds a like view:

"A 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 any 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 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 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." (M. R. Maltbie in Goodnow's *Municipal Problems*, Chap. vii.)

The idea of a system of central supervision of local authorities is not in opposition to the general plan of our municipal institutions. It has already been introduced to some extent in Ontario and has proved beneficial. 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 force of law. The Provincial Instructor in Roadmaking is an official whose duties are largely educational and

advisory. The secretary of the Bureau of Industries for statistical purposes receives annually reports in reference to assessment, taxation and financial transactions of every municipality. The Railway Committee of the Executive Council of Ontario may consider municipal by-laws relating to location of electric railways, etc. The report of the Provincial Assessment Commission includes a recommendation for the appointment of a Provincial Board of Assessment Commissioners, to assess the lands of railway companies and companies using the highways and to report annually in reference to the manner in which the assessment laws are enforced. The suggestion recalls the State Boards of Equalization of the United States. The Commission also refers to the necessity for a local government board as follows :

"Municipalities would seem to be already too inclined to undertake without adequate technical knowledge local works and enterprises in the nature of permanent improvements, in the over-

DRAINAGE ACT AMENDMENTS.

The Drainage Act Amendments enacted last year provide :

1. That the council of any municipality, at its first meeting of each year, may appoint two residents of said municipality to be called drainage viewers, whose duty it shall be to accompany the engineer in laying out any drainage work and assist him in assessing the cost on the various properties benefited. At least one of the drainage viewers must agree with the engineer as to any matter required to be done or reported. The appointment of competent viewers will not only assist the Engineer and council, but will be a source of information to ratepayers interested in proposed works.

2. The second amendment refers to accounts for services of engineers or surveyors appointed by municipal councils to perform any work under the provisions of the Act. The enactment requires engineers to make oath to all accounts rendered, which must contain detailed information as to number of hours occupied in each day in connection with drainage works, plans and reports. It is also necessary to specify where the work was done and whether an assistant was employed or not. Provision is made for an audit of the account by the County Judge at the request of the council or any ratepayer interested.

This is a remarkable piece of legislation. It is paternal and inquisitorial in its character, and should be repealed. An engineer should be appointed the same as any other official. The council should assume the responsibility for their appointee. His accounts should be rendered in the ordinary way. It is sufficient to require a verification under oath when the Judge is called on to settle any dispute that may arise. This is the ordinary procedure provided by law.

A NECESSARY AMENDMENT.—When a drainage work is finished the engineer in charge should issue to the council a *certificate of completion*, showing all authorized expenditures. The council should be required to consider the certificate at the first session after it is received and determine the deficiency or surplus, if any, in connection with the work, and pass amending by-laws as required by section 66 of the Act.

TAXING CHURCH PROPERTY.

Mr. Duane Mowry, a writer in the well-known lawyers' magazine, the *Green Bag*, published in Boston, gives the following five reasons why church property should be taxed :

"First, because the church performs no public office

sanguine hope that increasing prosperity may cause the debts incurred for such enterprise to bear lightly on the taxpayer. Immediate liquidation of debts for matters not in the nature of permanent improvement should, at all events, be a rule in municipal administration, but it may be doubted whether that is a rule at all generally followed. On the contrary, it is to be feared that the debenture debt of many municipalities, if examined, would be found to include sums which should not have been carried over to swell the tax of future years.

"Some governmental supervision of contemplated permanent improvements might with public advantage be provided (as under the Local Government Acts in England) so as to require, as a condition precedent to the undertaking of such enterprises, the previous approval of a properly constituted Governmental Board."

The work of such a Board would be largely supervisory and educational, though certain powers of control would necessarily be conferred subject to legislative revision. Its benefits ought to be many. The co-opting tendencies in Ontario municipalities would thus find legitimate and helpful expression.

or function known to the laws of the land which entitles it to immunity therefrom.

"Second, because the policy of exemption from taxation of church property involves a union of church and state at variance with the fundamental principles of our Government.

"Third, because such exemptions are inequitable in that they favor a portion of the community, statistics showing that about one-third of the population are church members or communicants, only, at the expense of others not interested.

"Fourth, because the policy of exemption of church property from taxation involves a liability to the accumulation of great wealth, to be held in mortmain by never-dying corporations, independent of the state.

"Fifth, because the exemption of church property from taxation is wholly inconsistent with and totally opposed to the cardinal idea of the church, viz., that all means contributed for its support as well as all efforts in its behalf, shall be given freely and voluntarily, a tax imposed by Government never being given, voluntarily, in the sense in which church offerings are contributed.

A GARDEN CITY

It is no small tribute to the power of the wave of thought started by Edward Bellamy that one ripple from it should have the credit of starting another very notable movement here in England within the past three years, says a London correspondent of the *Boston Transcript*. Yet such is the case. With an array of more than 100 men and women of national and even international repute as vice-presidents, and backed by some of the most successful business men as well as by a membership that showed their sincerity by subscribing \$100,000 worth of stock in very short order, the Garden City Association can demand a respectful hearing for the proposition they are making, which is no less than to build from the ground up a new sort of city.

In this city there is to be no private landlord, the whole of the land being owned and controlled by the municipality. All the increase in land values is to be used for the further development of the city and the benefits shared by all citizens. This will also allow of the city's being built in a comprehensive systematic plan instead of the hit or miss makeshift plan so generally followed. Another item in their programme is that under no conditions should more than one-sixth of the land be built upon, and that each city should be surrounded by an ample zone of farming land, as well as having in its midst large park spaces, with the houses facing on broad avenues and boulevards.—*Ex.*

Legal Department

J. M. GLENN, K. C., LL. B.

Of Osgoode Hall, Barrister-at-Law

ROGERS V. TOWN OF PETROLEA.

Damages Caused by Defective Crossing—Effect of Failure to Duly Give Notice, and Bring Action Within Time Mentioned in Section 606.

The Town of Petrolea will not be required to recompense Mrs. Jane Rogers, of that place, for injuries sustained by her, owing, as she alleged, to the bad repair of the streets of the municipality. In January of 1901 Mrs. Rogers was walking along North street, and on account of the defects in a crossing over an excavation, was severely injured.

Owing to Mrs. Rogers' failure to give notice and bring an action within the time provided by statute, the trial Judge held she was not entitled to maintain an action against the town for neglect to repair the streets; and as the plaintiff failed to establish her further allegations that the town had dug a ditch at this point and left it without proper protection, thereby creating a public nuisance, the action was dismissed. A Divisional Court, composed of Chief Justice Meredith and Justice Ferguson, upheld the decision of the trial Judge, and dismissed the appeal by the plaintiff.

LASBY V. PILKINGTON.

Act Respecting Snow Fences—By-Law Granting Bonus for Erection of Wire Fences—Validity of.

County Judge Jamieson recently gave judgment in the action brought by Walter E. Lasby against the Township of Pilkington to recover a bonus of seventy-five cents per chain for erecting a wire fence along the highway. With a view to abating drifts the township council passed a by-law in November last giving the bonus. Mr. Lasby was the first claimant, and when this claim was received the township council had made no appropriation, and were as yet undecided how to raise the money that would be payable on these bonuses. Mr. Lasby sued and the Reeve filed a defence. The case was tried at Elora in July and excited large interest.

The defence claimed the by-law was illegal, that the township had no power to bonus wire fences, and that the by-law was bad, creating an indefinite and future liability.

The plaintiff objected that the council had not authorized this defence, and that it was not pleaded; that the council had promised to pay the bill and had not repealed the by-law and could not set up the invalidity of their own act. The validity of the by-law was also contended for under the powers of the councils to pass general legislation for their benefit and under the clauses relating to snow fences and repairing roads. It was particularly urged that while the courts had authority to quash a by-law if it is bad, the Judges are not bound to do so, but have discretion according to the facts of each case.

The case had stood over to see what action the township would take when they had all their claims in, but as nothing has been done Judge Jamieson gave judgment for the plaintiff for payment of the bonus due to him relying chiefly on his discretionary power to act in each case as seemed equitable.

QUINLAN V. CITY OF BRANTFORD.

Action for Trespass By Defendants—Description of Land Sold for Taxes—Validity of Tax Deed.

Judgment in action tried without a jury at Brantford. Action for trespass to lands in the City of Brantford. The plaintiffs claimed title under a tax deed given by defendants in pursuance of a sale of land assessed to Caria R. Wilkes. The land was described in the assessment rolls for 1896, 1897 and 1898 (for which years' arrears it was sold) as "S. pt. B. 2 acres, 530 feet frontage." The Chief Justice finds that the frontage which plaintiffs bid for at the sale and acquired by their deed was 176 $\frac{1}{4}$ feet, for which the amount of taxes in arrear was to be paid, and was paid, and the 176 $\frac{1}{4}$ feet plus the 300 feet excepted in the deed, plus the small unnumbered lot further to the south and east, make up the 530 feet frontage. Then the area of the land of that frontage, extending to and not beyond the high land, was almost exactly two acres. The result is that no land beyond the high land was assessed to Caria R. Wilkes for these years, and there could be no taxes in arrear therefor, and no sale or deed thereof. Evidence, parol and otherwise, was admitted, subject to objection, by which plaintiffs sought to avoid this conclusion, but if admissible it failed to do so. Action dismissed without costs.

THE CANADA CO. V. TOWN OF MITCHELL.

Action to Restrain Levy of Tax for Laying of Cement Sidewalks—Withdrawal of Name From Petition—Appeal to Court of Revision and County Judge—Estoppel.

Judgment in action (tried at Stratford) to restrain defendant corporation from assessing or levying upon lands of plaintiffs in Town of Mitchell a tax in respect of the construction of certain cement sidewalks. Defendants by by-law enacted that on and after March 5th, 1900, all expenditure for construction of sidewalks in the municipality should be by special assessment on the property benefited. Subsequently a by-law was passed providing for the assessment of property benefited by the construction of sidewalks in the Town of Mitchell as local improvements, at an annual rate, and providing that every petition for or against the construction of sidewalks should be left with the clerk of the town council, whose duty it should be to examine the same and report to council whether it was sufficiently signed, and also to ascertain and determine what real property would be immediately benefited by the local improvement, and the proportion in which the assessment of the cost was to be made on the property so benefited, etc. A petition having been presented to council, purporting to be signed by at least two-thirds of the owners of the property to be benefited, asking for the construction of a cement sidewalk as a local improvement, the council passed a resolution granting the prayer in the petition, and instructing the clerk to report as to the properties to be benefited, and as to whether the petition was sufficiently signed, which he did the same evening, before council

rose. The council forthwith adopted the report, and instructed the Board of Works to at once proceed with the work, and instructed the clerk to further report as to signatures, etc. About a week later one of the petitioners in writing withdrew his name from the petition, and plaintiffs alleged that at the time of the withdrawal of said petitioner the clerk had not determined if the petition was sufficiently signed, nor made the other inquiries directed under the by-law. Plaintiffs further pointed out that one of the other three petitioners for the work was the Mayor of Mitchell, and sat at the council board when the petition was acted on, and the by-law passed. Plaintiffs contended that the clerk made no personal examination of the properties before making his report, but simply did all the work in the office by comparing the petition with the last assessment roll, simply taking the statement contained in the petition as to the properties to be benefited as the basis of his report, considering his duty to be to simply see by comparison with the roll as to the proper number of petitioners, and that the proportion of property was correctly represented in the petition. Defendants alleged that the petitioner who had earlier requested to have his name removed from the petition had, in writing, twice revoked his withdrawal, and that in effect said petitioner's name was never withdrawn from the petition. By the eighth paragraph of statement of defence, defendants further contend that plaintiffs having with a full knowledge of all the facts allowed defendants to construct the sidewalk and incur all expenses, without any attempt to prevent them from so doing, and after the work was completed, relying for a remedy against the assessment, having appealed therefrom to a Court of Revision, basing its appeal upon the same grounds as urged in this action, and having appealed from the decision of such court (which confirmed the assessment) to the County Judge, who reduced it, the plaintiffs should not now be heard to object to such assessment, or to the proceedings upon which the same was based. Held, that the matters set up in the eighth paragraph of the statement of defence appear to furnish an answer to this action, but that there were irregularities in the proceedings, and it is reasonable to dismiss the action without costs.

RE METROPOLITAN LIFE ASSURANCE COMPANY ASSESSMENT

Municipal Debentures—Interest on Them Not Subject to Taxation—Interest Part of the Debenture.

Judge Winchester recently handed out judgment in the appeal of the Metropolitan Life Assurance Company against the finding of the Court of Revision for the City of Toronto. The question at issue was whether or not the interest on municipal debentures was subject to taxation as income. His Honor held that it was not, and in view of the many millions of municipal debentures representing the municipal debt of Ontario, the decision is important. The finding applies also to the interest on Government bonds.

The appellants claimed exemption for the interest on the debentures, the amount of interest being \$3,045, under sub-section 18 of section 7 of The Assessment Act, which among other exemptions mentions "debentures of the Dominion of Canada or of this province or of any municipal corporation thereof and such debentures."

The city claimed that sub-section 10 of section 2 of the Act authorized the assessment of the interest on the debentures: "'Personal estate" and 'personal property shall include all goods, chattels, interest on mortgages, dividends from bank stock, dividends on shares or stocks of other incorporated companies, money, notes, accounts, debts at their actual value, income and all other property

except land and real estate and real property as above defined and except property herein expressly exempted." It was claimed that the interest in question was assessable under the term "Income."

Judge Winchester summed up the question as follows: "In my opinion the whole question of whether the interest on these debentures is assessable as income or not depends upon what is included in the word 'debentures' as used in the exemption clause, that is, does it include principal and interest or principal only?"

Many American cases were cited to show that "debentures" included "interest."

Judge Winchester concludes: "In my opinion the principles upon which the United States cases were decided are the proper principles to apply in considering this appeal. I am of opinion that it would be a serious mistake, even if the law permitted it to be done, to tax the interest of the debentures issued by the City of Toronto whenever the same were brought into this country by the purchaser. It would, I consider, have a sensible influence in the prices to be obtained by the city on the sale of such debentures.

"Following the law as laid down in the cases cited I hold that the word 'debentures' in the 18th sub-section of section 7 of The Assessment Act means the principal and interest secured by such debentures and that the assessment of the interest secured by the debentures in question and held by the appellants is not authorized by The Assessment Act."

CITY OF OTTAWA V. OTTAWA ELECTRIC RAILWAY COMPANY.

Claim for Cost of Removal of Snow—For Damages to Streets in Repairing Roadbed of Electric Railway—Restoration of Roadway to Original Condition.

Judgment in action tried without a jury at Ottawa. Defendants' counsel at the trial conceded that plaintiffs were entitled to recover in respect of the claim for the costs of the removal of snow. Judgment for plaintiffs for \$79.42, the amount of that claim. The other claim was for the cost of repairs made by plaintiffs to the permanent pavements on certain streets of the City of Ottawa, on which defendants' railway ran, which, it was alleged, were rendered necessary in consequence of defendants having wrongfully broken up the pavement in order to make repairs to their tracks, and having failed to restore it to its original condition when the repairs were completed, and for the cost of repairs to the asphalt pavement on certain other of such streets, which, it was alleged, were rendered necessary in consequence of defendants having broken up the pavement in order to substitute other rails for those which had been laid down, and having repaired the pavement not with asphalt, but with another kind of paving material of an inferior kind, and less durable. With regard to the latter branch of the second claim, the Chief Justice finds that the material with which the repairs were made was used with the approval and consent of plaintiffs, and plaintiffs are not, therefore, entitled to recover. Upon the first branch of the second claim, he finds that under the agreement between the parties asphalt pavements were laid by plaintiffs on the streets in question from curb to curb, including that part of the streets occupied by the railway; that in constructing these pavements plaintiffs failed to "tamp" the concrete under the rails, as they should have done, in consequence of which, in order to make the rails firm, and to prevent their springing, owing to the concrete bed upon which they were laid being improperly and insufficiently made by defendants, it became necessary for defendants to break up the pavement, in order, by "shimming" the rails, to remedy the defect in the

concrete bed. It was not pretended that defendants broke up more of the pavements than was necessary to enable them to remedy the condition of the rails, caused by the negligence and breach of duty of plaintiffs, or that what was done by them was done negligently. Had defendants restored the pavements to their original condition at their own cost, they could have recovered from plaintiffs the expense they would have been put to, and it follows that plaintiffs are not entitled to recover from defendants the cost of these repairs. Second claim dismissed. No costs to either party.

JOHNSTON V. VILLAGE OF POINT EDWARD.

Alteration of Line of Road—Removal of Bridge on Old Road—Negligence of Corporation in Not Maintaining Barriers—Absence of Warning to Travellers.

Judgment in action tried without a jury at Sarnia. Plaintiff, who was driving in a buggy drawn by a single horse from Point Edward to Sarnia along the main travelled road, on the night of 22nd November, 1902, a dark night, drove into a canal which crossed the road at right angles, and he sued defendants to recover damages for the injuries he sustained, which, he alleged, were caused by the negligence of defendants in removing a bridge which had existed for many years over the canal in the line of the road, without providing and maintaining any sufficient guard or barrier to prevent persons using the road from driving into the canal. Held, that the evidence was sufficient to establish that the *locus in quo* was part of a highway called "the diverted road," under the jurisdiction and control of defendants, which it was their duty to keep in repair. In August, 1902, the corporation of the Town of Sarnia, with the consent of defendants, made a change in the line of "the diverted road," the effect of which was to move the travelled way from its then position a short distance to the east of it, and to carry the roadway across the canal by means of a covered sewer pipe culvert, and to discontinue the use of the former travelled way from a point near the north end of the diverted way to a point a little distance east of the bridge which was removed. No barrier or other guard was placed across the former travelled way at the point where the change in alignment began at the north end, but one was erected across it, about opposite the park gate, extending from the new culvert to within about ten feet of the park fence. This barrier was spoken of as a temporary one, and was insufficient for the purposes for which it was intended. There was a conflict of evidence as to whether it had been kept standing from the time it was put up until the time of the accident. Held, that the evidence given for plaintiff was to be preferred, and it showed that the barrier was often, in part at least, overthrown, and that for at least two days before the accident it was down in part so as to be quite insufficient to prevent persons driving along the old roadway in the dark from driving into the canal. Defendants were guilty of negligence in not providing a sufficient barrier or guard, and they were also negligent, knowing or having the means of knowing, if they had taken any reasonable care, that the barrier which had been erected was often overthrown, in not either being more vigilant in watching as to its condition, or in not, as they after the accident did, replacing it by a sufficient fence. Plaintiff was not chargeable with negligence for, although he had driven over the culvert in going to Point Edward on the same evening, he said he did not notice that the bridge had been removed, or that any change had been made in the road; when he was returning the night was dark, and it was the most natural thing that his horse should follow the old way, there being nothing at the point of divergence to prevent persons from continuing. Judgment for plaintiff for \$400 with costs.

RE OTTAWA ASSESSMENT APPEALS.

Income of Ex-Civil Servants Not Assessable—Income Earned Outside the Province Not Liable to Assessment and Taxation—Exemption of Personality to the Extent of Debts Due in Respect Thereof.

Judgment on these appeals was handed down recently by County Judge Liddell. The first case arose from the appeals of a number of superannuated civil servants against the assessment of their incomes from such superannuation.

The Judge holds that the allowance of retired civil servants of the Federal Government is not taxable for local municipal purposes. This judgment applies to the appeals of Col. Tilton, Col. White, R. Sinclair, and others. Another point decided by the Judge is as regards the income assessment of Ottawa residents, whose incomes are earned in Hull. In respect to this point the Judge holds "that the income of a resident of Ontario, wholly derived from earnings outside the Province, is not liable to taxation for local municipal purposes under any Act or authority of the Local Legislature."

An important ruling is also made relative to the assessment of personal property, the point in question arising in the city's appeal from the decision of the Court of Revision holding as non-assessable the \$10,000 personalty valuation of the Blythe estate, whose original appeal was prosecuted by the Cross Company. Judge Liddell holds "that so much of the personal property of any person or corporation as is equal to the just debts owed by such person or corporation on account of such property is exempt from taxation for local municipal purposes, even though the vendor of the same may have been paid the purchase price by money raised for the purpose by the purchaser through a third party, and money so-raised should be deducted as a debt on account of such property."

TOWNSHIP OF INNISFIL V. GRAND TRUNK RAILWAY COMPANY.

Drainage on Railway Lands—Liability of Railway for Flooding of Private Property.

This case arose out of the alleged causing of damage by washout on the 11th concession line of Innisfil, near Lockhart's farm, on the 4th of July, 1902. It was first tried in June last by County Judge Boys with a jury and a verdict obtained by the plaintiffs for \$35.00 and costs. The defendants applied for and obtained an order for a new trial and the case came on again for trial with a new jury, when the Company fared even worse than before, the plaintiffs on this occasion obtaining a judgment for \$50.00 and all costs. The case is interesting as one involving the vexed question of how far a railway company is to provide an outlet for watercourses, at times when an exceptional storm is said to have occurred. The Company contended that the 4th of July rainstorm was of such an exceptional character that they could not be expected to provide for it, and that in any case there was no "water course" across Lockhart's farm, and they need not have a culvert at all.

BOURQUE V. CITY OF OTTAWA.

Claim on Contract—Construction of—Damage to Plaintiff by Discharge from Sewers Unknown to Him—Non-Disclosure.

Judgment in action tried without a jury at Ottawa. Action for the contract price of certain work done by plaintiff, and for damages arising thereout. Two questions remained to be disposed of, all the others having been dealt with during the progress of the trial: (1) The

claim of plaintiff for payment of \$18,447.56, alleged to remain unpaid on the contract price of the work. (2) The claim for damages occasioned by the contents of certain city sewers which existed in the streets in which plaintiff was required to build the sewers which he contracted to construct, and the existence of which was not known to and not disclosed to him, flowing into the trenches dug by him and impeding and delaying him in the work and causing him additional expense in the doing of it. The first claim was based on the proposition that the contract was one for the doing of the whole work, including the rock excavation, for a lump sum of \$127,225, whether the quantity of the excavation turned out to be greater or less than 5,700 cubic yards. Held, that such was not the meaning of the contract, but that it was a contract to do the whole of the work contracted for, except the rock excavation, which was estimated at 5,700 cubic yards, for \$2.50 per cubic yard, for the quantity actually taken out. As to the second claim, the sewers were not private drains, but municipal sewers, belonging to defendants, into which the property owners were required to drain their houses and property, and which carried the drainage of the streets also. Held, that it would be most unjust if defendants were permitted to discharge the contents of these sewers into the trenches which plaintiff was required to dig, to his loss and damage, without being liable to make compensation to him for it, and plaintiff was entitled to recover from defendants \$2,810.50, which was the loss he sustained by the acts complained of, as estimated by defendants' own engineer.

RE RUSSELL AND DOYLE.

Mandamus to Provide Adequate School Accommodation—Hearing of at Trial of Action to Set Aside Award Forming School Section.

Judgment on application by Thomas Russell and others, ratepayers of school section 5, in the Township of Drummond, in the County of Lanark, for a mandamus, to the trustees of the school section to provide adequate accommodation for the school children resident in the section, and upon cross motion by the trustees to postpone the hearing of the application for a mandamus until after the trial of an action to set aside an award which purports to form school section No. 5. Held, that it will be more convenient and a saving of expense to direct that the disposition of this application shall be deferred until after the trial of the action. The trustees, defendants in that action, shall, if required, transfer the conduct of the defence to solicitors and counsel named by the present applicants on receiving indemnity against costs. The motion for a mandamus to come before the Chief Justice after the disposition of the action on the question of costs, and generally.

RE MACDONALD AND VILLAGE OF ALEXANDRIA.

Motion to Quash Drainage By-Law—Authority of Engineer as to Change of Route—Distinction Between Local Assessments and Assessment for Local Improvements.

Judgment on motion to quash by-law 243 of the village, passed on 2nd September, 1902, to provide money, by the issue of debentures, secured by a special rate, to pay for the construction of a drain on Main street, in the village, from a point 33 feet north of the northerly side of St. George street to the north side of Catharine street, then easterly along Catharine street to a point opposite to lot A, then southerly through said lot to the River Garry. The by-law recited that a petition was presented by the owners of real property to be

benefited to the council for the construction of a drain on Main street from Kincardine street to the River Garry. The total cost of the drain was \$3,644. Held, that the engineer had no authority to alter the route in the manner he did, substantially making a new work, and one not asked for. The council should not have accepted the new route without a new petition, unless they were prepared to enter upon it and proceed under section 668 of The Municipal Act. The distinction between local assessments, or assessment for local improvements, and those for general revenue purposes, must be recognized. The statute giving the power of local taxation must be strictly followed.

ACTIONS FOR DAMAGES CAUSED BY ACCIDENTS.

The present highway law of Ontario practically insures against accident everybody travelling on the highways. The section of the Act making the municipalities liable was introduced in 1850 with reference to roads in cities and towns, and in 1859 was included in The Municipal Act. A new sub-section was, however, added relating to accidents arising from persons falling owing to snow or ice upon sidewalks. The control over the highways of the Province was then in a transitory state. Municipal institutions were in their infancy, and it was thought that the council would not be able to maintain the roads. This resulted in the formation of a great many toll-road companies to take charge of the main highways, which had been or were still in some cases under the control of the Minister of Public Works, and to relieve municipalities of liability for non-repair. The road mileage throughout Ontario has gradually increased and during recent years the municipal authorities have taken over most of the toll roads. In some localities actions for damages have under these circumstances become so numerous that public attention has been directed to the misapplication of corporation funds for law costs and damages. There appears to have been some misunderstanding in reference to precedents for the section making municipalities liable. It was no doubt copied from the laws of one of the United States and afterwards looked upon as being in accordance with English law. Mr. Biggar, editor of the *Municipal Manual*, remarks in this connection that the common law obligation of parishes in England to repair their highways did not involve the existence of a civil liability to any one sustaining injury owing to the non-repair of such highway, and that a person injured by mere non-repair of a road can sue the municipality only if the Legislature gives him a right of action. It has been suggested that persons travelling on the highway should do so at their own risk, as in England and in other Canadian provinces, and that the Legislature should so amend the present law.

BERLIN'S MUNICIPAL ACHIEVEMENTS.

The Berlin town council accomplished during the past year the following: It voted \$15,000 for public school improvements; it passed a by-law granting the High School Board \$25,000 for a manual training school; it constructed cement walks to the value of \$7,300 and plank walks to the value of \$2,900; it expended \$6,641 on roadways, \$1,338 on storm drains and \$2,979 on sewers; it fought throughout the year for a new sewer farm and adopted plans for the same at a cost of \$55,000; it shelved the "new market" question for another year. And this municipality has a satisfied lot of taxpayers, nearly all of whom have already paid their contributions into the town treasury.