

# The Municipal World

Published Monthly in the Interests of Every Department of our Municipal System—the Best in the World

Vol. 3. No. 3.

ST. THOMAS, MARCH, 1893.

Whole N

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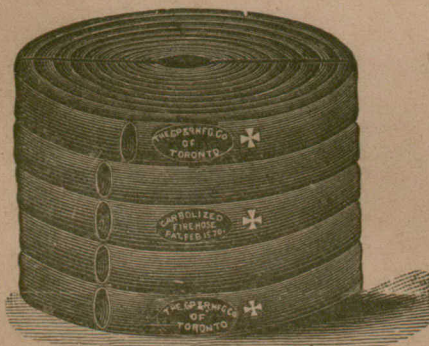
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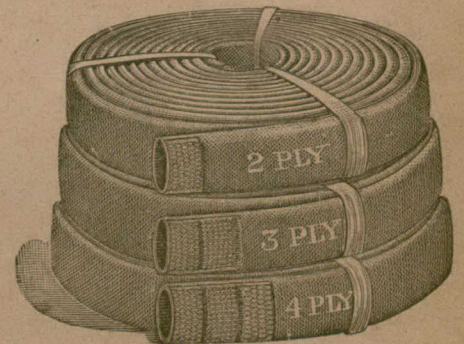
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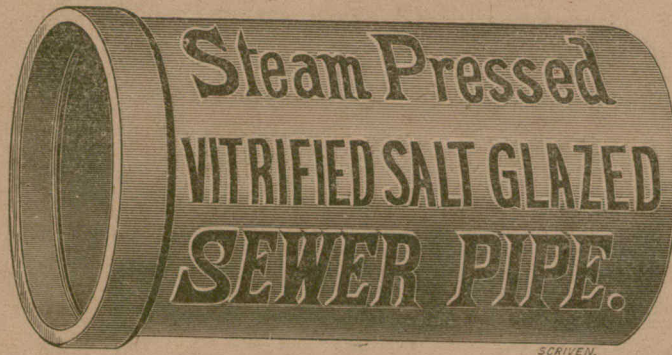
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# THE MUNICIPAL WORLD

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Who'e No. 27

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## CALENDAR FOR MARCH AND APRIL, 1893

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

#### MARCH.

1. County Clerks to transmit Minutes of County Council to the Minister of Education, also report of Auditors (Public Schools Act) Section 114. Auditors' Reports on the accounts of High School Boards and the Boards of cities, towns and villages should be mailed to Education Department. Separate School supporters to notify Municipal Clerk.—(S. S. Act, Section 40).
  30. High Schools close, second term. (H. S. Act, Section 42.)
  31. Last day for Councils of cities, towns, villages and townships to pass by-laws limiting number of shop licenses therein for ensuing year.—Liquor License Act, Section 32.
- Good Friday.  
Night Schools close (session 1892-3).

#### APRIL.

1. Return by Clerks of counties, cities, etc., of population to Department, due.—P. S. Act, Section 129. Clerks of counties, cities and towns separated from counties to make return of population to Educational Department.—Public Schools Act, Section 129. Last day for Free Library Board to report estimates to the Council.—Free Library Act, Section 6. Last day for petitions for Tavern and Shop Licenses to be presented.—License Act, Sections 11 and 31. Last day for removal of snow fences erected by Councils of townships, cities, towns or villages.—Snow Fences Act, Section 5. From this date no person compelled to remain on markets to sell after 9 a. m.—Municipal Act, Section 497 (6). Last day for Boards of Park Management to report their estimates to the Council.—Public Parks Act, Section 17.
3. Easter Monday. Reports on Night Schools, due to Education Department (session 1892-3).
4. Annual Meeting of the Ontario Educational Association at Toronto.
7. Last day for Treasurers of Local Municipalities to furnish County Treasurer with statement of all unpaid taxes and school rates.—Assessment Act, Section 145.
8. Last day for Collector to return to Treasurer the names of persons in arrears for water rates in Municipalities.—Municipal Waterworks Act, Section 21.
10. High Schools open (third term).—High School Act, Section 42. Public and Separate Schools in cities, towns and incorporated villages open after Easter holidays.—P. S. Act, Section 173 (2).—S. S. Act, Section 79 (2).

#### \* NOTICE \*

The publisher desires to ensure the regular and prompt delivery of THE WORLD to every subscriber, and requests that any cause of complaint in this particular be reported at once to the office of publication. Subscribers who may change their address should also give prompt notice of same, and in doing so, should give both the old and new address.

### Harrison's Municipal Manual—5th Edition.

This book should be on the Council table in every municipality in the Province. The notes and explanations in reference to all important sections of the Municipal Acts make it a valuable assistant to Councillors who desire to discharge the business of the municipality in accordance with the true intent and meaning of the various Acts, with which they have to deal. The numbers of the Sections of the Municipal and Assessment Acts are the same as in the Consolidated Acts of 1892. Price \$7.00. Address orders to THE MUNICIPAL WORLD, St. Thomas.

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# The Municipal World.

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Communications and advertisements for next issue should reach the office of publication on or before the 20th of this month.

Contributions of value to the persons in whose interests this journal is published, are cordially invited. Subscribers are also requested to forward items of interest from their respective localities.

Address all communications to

K. W. McKAY, EDITOR,

Box 749, St. Thomas, Ont.

ST. THOMAS, MARCH 1, 1893.

We notice that with the advent of a rival company the question of telephone franchise is being considered by the councils of many of the towns in the province. In the city of London one company has offered \$1000.00 per year for a five years' franchise, and the rival company offers 5 per cent. of gross receipts. Councils should consider that there is an important objection to granting the franchise to more than one telephone company in town. The larger the number of telephones the greater the benefit derived by subscribers, and where two companies are doing business, subscribers, unless they patronise both companies, will only be able to use the phones of one company. This would, in our opinion, restrict the benefits very materially, and that instead of asking these companies to pay larger amounts for the privilege of doing business in a town, it would be better to consider the rates to be charged by the company to whom they propose to give the franchise, and in that way very materially decrease the cost and increase the benefit to be derived from the use of this now very necessary institution.

Of course it may be argued that the franchise belongs to the municipality as a whole, and while this is no doubt right, the interests of the subscriber should be considered. The business of telephone companies will continue to increase, and while in many cases at present, the Companies may be unable to pay a very large sum annually for the privilege of doing business, still we think the rate to subscribers might be agreed upon, and after the gross receipts exceed a certain amount a percentage should be paid to the municipality granting the franchise. We understand it is the intention of the Bell Company only to enter into an agreement with such towns as are necessary to secure to them the control of the telephone business of the province. The agreements will be limited to five years, in most cases.

## QUESTION DRAWER

SUBSCRIBERS only are entitled to opinions through the paper on all questions submitted if they pertain to municipal matters. Write each question on a separate paper, on one side only. When submitting questions state as briefly as possible all the facts, as many received do not contain sufficient information to enable us to give a satisfactory answer.—Ed.

It will no doubt, be a surprise to some to read answer to question from "New Subscriber." At the last session of the legislature the declaration of office required to be made by clerks and treasurers, was amended by adding the words, "save and except that arising out of my office or position as clerk, etc." Until this question was sent in, we had no occasion to look into the effect of the amendment, and after referring the matter to the solicitor, a prominent member of the municipal committee of the local house, was consulted, who stated "that he had pointed out the members of the municipal committee present when it was considered what its effect would be. The opinion was general, that it would be well to require a severance of the two offices, and that his own impression was that a strict compliance with amendment would prohibit the holding of both offices by one individual." This opinion is concurred in, as will be seen by reading the answer to the question. We think that while it is not always as convenient, the interests of municipalities would be better served by keeping the offices separate.—Ed.

NEW SUBSCRIBER.—Can a council appoint one person clerk and treasurer at the same time? By answering you will greatly oblige.

We have given this matter our careful attention, and have to come to the conclusion that these offices are incompatible and that one person should not be appointed to fill them both. Although there appears to be no statutory provision expressly prohibiting the holding of the offices by the same person, yet, wherever they are mentioned in the statutes, the language used leads to the inference that the legislators intended that different individuals should fill these offices, as, for example, in making provision for the appointment of these officials, division II of part V of the Consolidated Municipal Act, 1892, relates to the appointment and duties of the clerk, and division III of the same part of said act, to the appointment and duties of the treasurer, implying, we think, that these officials should be different persons, otherwise one division might have answered the above purpose. There is one statutory provision which we are wholly at a loss to reconcile with the idea of these being held by one person, and that is the form of declaration of office laid down in section 271 of the Consolidated Municipal Act, 1892, and required by said section to be made and subscribed by every clerk, treasurer, etc., before entering the duties of their respective offices, etc. In the case of a clerk he must declare that he has no contract with, or on behalf of the said corporation, "save and except that arising out of my office or position as clerk," and *visa versa* in the case of a treasurer. If the same person were appointed to both offices it seems to us that he could legally and conscientiously make neither declaration, and could not, in consequence, enter upon the performance of the duties of either office. See also note (a) to sec. 245 of the Municipal Act, on

page 181 of Mr. Harrison's Manual, edition of 1889.

BAILLIEBORO.—By-Law.—Whereas the Provincial Statutes 53, Victoria, chapter 62, section 8, by amending section 8 of chapter 214 R. S. O., provides that any township may pass by-laws repealing section 7, chap. 214, R. S. O., so that any moneys received for the assessment of dogs or bitches shall not go to paying damages to sheep, but may form part of the general funds of the township. Therefore, the municipal corporation of the Township of South Monaghan by the council thereof enacts as follows: That any moneys received for the assessment of dogs or bitches shall go to and form part of the general funds of the township for the year 1893. Passed January 16, 1893.

The question is, sheep have been killed by dogs and they are trying to prove that the by-law is void so as to get compensation.

Although the by-law submitted is not, in terms, as formal as it might be, still we think it should be sufficient for the purposes for which it was intended.

W. A. H.—Would you let me know through your columns if it is necessary to get up a petition of twenty-five rate-payers each and every year in order to do away with the dog tax in a municipality, or when one has been presented to the council, and the council has passed a by-law doing away with the tax. Will the said by-law stand good until rescinded by the said council?

We assume that our correspondent refers to a by-law passed pursuant to sec. 2, of chap. 62, Ont. stats., 1890. If so, it is not necessary that the council re-enact such by-law every year, but it should remain in force and be a valid by-law until repealed by the council.

ENQUIRER.—At the municipal elections held on the 2nd inst, quite a number were nominated for municipal honors, and among the number a gentleman who happened to be security on a bond for our collector, and this man was elected councillor. Can he legally hold his seat or if his election is not legal and that there are no objections for some time, but before the expiration of the year some parties may find fault with the action of the council. What would be the result for the council work already gone over? And, if his act disqualifies him, would another election be necessary or would the man next to him in numbers at the close of the poll take his seat?

We are of opinion that the gentleman referred to was disqualified for election as councillor, particularly if the collector was engaged in the discharge of his duties at the time of the election, as we presume was the case. In this connection we would draw our correspondent's attention to the case of the Queen ex. rel. Taggart v. Hollingshead, reported on page 99 of vol. 2 of the WORLD (1892.) The gentleman elected can hold his seat as councillor unless the proceedings laid down in the Con. Mun. Act. 1892, are taken within the time mentioned in sec. 188 of the said Act, and we consider that he would have a legal right to take part in the deliberations of the council, until as a result of the taking of the proceedings against him above referred to, he has been declared disqualified to fill a seat at the council board. If no objection to the gentleman's qualification was taken at the nomination, or such notice of his disqualification given,

Continued on page 45.



## Assessor's Duties.

(Continued from last issue.)

In the last number we referred to assessment of land, income and personal property, farmers' sons, manhood franchise, school sections.

Where there are separate schools in or contiguous to a municipality, the assessor is required to accept the statement of or made on behalf of any ratepayer that he is a separate school supporter, and shall, in addition thereto, be guided by a list of names of those who have given the notice which is necessary in order to entitle separate school supporters to exemption from the public school tax.

## COMPULSORY EDUCATION ACT.

The assessor of every municipality is required, in making the assessment, to enter in a book, to be provided by the clerk, the name, age and residence of every child between the ages of 8 and 14 years, resident in the municipality, and the name and residence of such child's parent or guardian. This book is to be returned with the roll for the use of the truant officer.

## BIRTHS AND DEATHS.

In townships, towns and incorporated villages it is the duty of the assessor to enquire of each resident called on, whether there has been a birth or death in the family within the previous twelve months, and if so, whether the same has been registered or not, and shall make the entries in reference thereto in the proper column of the assessment roll.

## DOGS.

The owner or possessor or keeper of any dog shall, when required by the assessor, deliver to them in writing the number of dogs owned or kept, whether one or more, and if from neglect or refusal to do so, or if from false statement made in reference thereto, such owner or possessor shall incur a penalty of \$5 to be recovered with costs before any justice of the peace in the municipality. The assessor shall, in the proper column opposite the name of every person assessed, and also opposite the name of every resident inhabitant not otherwise assessed, being the owner or keeper of any dog or dogs, enter the number, whether one or more, owned or kept.

## GIVING INFORMATION TO ASSESSORS.

It is the duty of every person assessable for real or personal property to give all necessary information to the assessors, and if required, he shall deliver to the assessor a statement in writing, containing all particulars respecting the real or personal property assessable against such person. No such statement shall bind the assessor or excuse him from making due enquiry to ascertain its correctness. In case any person fails to deliver to the assessor the written statement mentioned when required to do so, or knowingly states anything false in the written statement required, he shall be liable to a fine of \$20. When a

corporation whose dividends are liable to taxation as against the shareholders to whom the assessor has applied, shall send him a statement setting forth the names of the shareholders who are resident in such municipality, and who ought to be assessed for the income in such municipality, and the amount of dividends and bonuses declared during the twelve months next preceding. Said statement shall be certified to under the hand of the principal officer of the corporation in the province. Every company or corporation which refuses or does not give the assessor the necessary information on request is liable to a fine of \$100.

## NON-RESIDENT LANDS.

Assessors should be very particular in entering the correct description of non-resident lots. Where it is not known to be sub-divided it should be described by its boundaries or other intelligible description. If it is known to be sub-divided into lots, and if they can obtain correct information of the sub-divisions, they should put down in the roll all the non-resident lots by their numbers, beginning at the lowest number and proceeding in regular order to the highest, and opposite the number of each lot they shall set down the quantity of land therein with the value of such quantity. In addition to assessing the lots separately, the assessor should, in the case of lots that are assessed as non-resident from year to year, see that the description agrees with that of their predecessor in office, and that it is correct.

The list of lands liable to be sold for arrears of taxes during the year, as furnished by the county treasurer to the clerk, must not be overlooked. Assessors should be particular and see that these lots are properly described, and where occupied, notify the parties that the land is liable to be sold. Every roll should be completed and returned to the clerk, with the proper affidavits attached, on or before the 30th of April.

## "Who has a Good Method?"

To the Editor of THE MUNICIPAL WORLD:

I am new at the business of municipal clerk. Your paper gives me much information that would otherwise come only by dear experience.

I should like to read in THE WORLD some experienced clerk's method of making up the voters' lists. In a municipality like this (1,300 voters) these lists are no chore. My predecessor, with twenty years' experience, required nine days. I did the work in two days. He objected to my method as liable to error—there was one voter placed in wrong ward. Now, I would like some one to give step by step his plan, and I think many clerks would profit by a discussion on this subject.

Yours truly,  
A. H. K.

## The Prison Reform Association.

The conference recently held was attended by specially appointed delegates from all the larger church organizations of Canada, as well as from thirty-two other public bodies, including the Dominion Temperance Alliance, the Women's Christian Temperance Union, and the Provincial Society of Christian Endeavor, and that he was requested, as secretary of the Prisoners' Aid Association, to call the attention of the members of the county municipal councils to the fact that the recommendations of the Ontario prison reform commissioners were fully endorsed by conference. Among the recommendations was this, the first: Every county, or group of counties combined, should establish a poor-house, so that the county goal shall not be used as such.

In the report of this conference occurs the following:

We bespeak the co-operation of the county municipal councils of the province in giving full effect to the recommendations of the prison reform commissioners, and especially with regard to poor-houses, industrial schools, classification in county goals, and supplying able bodied prisoners with proper employment.

The Collegiate Institute Board, of Toronto, offer a unique and valuable prize. They will pay the expenses of a trip to the World's Fair at Chicago for the student making the highest percentage of marks at the July entrance examinations.

\* \* \*

A reference to the proceedings of recent meetings of the local boards of health throughout the Province, shows that the members are alive to the fact that they may during the coming summer have to contend with a serious epidemic such as threatened this country last fall. The provincial and federal governments are doing all that appears to be necessary in the way of providing quarantine stations and other means of controlling those who are liable to bring cholera and infectious diseases from foreign countries. These precautions will, no doubt, be as efficient as it is possible to make them.

\* \* \*

The Ontario Department of Agriculture has assisted the agitation for good roads by issuing a special bulletin upon the making of roads. This pamphlet which was prepared by James A. Bell, P. L. S. M. C., S. C. E. will no doubt be very widely circulated, it contains much valuable information, in reference to this all important subject with diagrams showing how road surfaces should be prepared. If bulletins such as these are issued from time to time, they will have the effect of educating road makers throughout the Province which, in time, will result in placing roads in this banner province on a par with those of some of the European countries which are noted for their good roads.



Rules and Regulations for the Government  
of the Common Gaols in the Province  
of Ontario.

The expenditure in connection with the common gaols of the province is controlled in part by the councils of the counties in which they are situated. Accounts for the maintenance of the prisoners, supplies, repairs, etc., are paid by the county treasurer on an order from the county council or committee appointed by them. The sheriff is the general executive officer of the gaol in his county, and is required to exercise a general oversight so as to ascertain that the gaol rules and regulations are observed by all concerned.

Under the authority of the Gaol and Asylum Inspection Act, the inspector is authorized, subject to the approval of the lieutenant-governor to make rules and regulations for the government of common gaols in the province of Ontario. The regulations at present in force were approved by the lieutenant-governor in 1881 and as many of the rules refer to the duties of municipal authorities, we have decided to publish them for the information of those who are interested as members of the gaol committees of councils in the economical management and control of these institutions.

As provided by section 12 of the Act above referred to, nothing in the rules is intended to prevent the county councils of the province from making such regulations as the peculiar circumstances of their gaols and localities may, in their opinion, require. Such special regulations are not to be inconsistent with the act or with the general rules and regulations which are as follows :

I.—EXISTING RULES, REGULATIONS, AND  
BY-LAWS REPEALED.

1. All existing Rules, Regulations, and By-laws for the government of the common gaols of the Province of Ontario are hereby repealed, and the following rules and regulations are framed and adopted in lieu thereof.

II.—GAOL OFFICERS.

2. There shall be appointed to every gaol the following permanent, resident officers, namely :

(1) A *gaoler*, a *turnkey*, and a *matron* ; and in gaols where the number of prisoners require it, such additional *turnkeys*, *night watchmen* and *female assistants* as are necessary for the safe custody of the prisoners and the proper administration of the affairs of the gaol—the number of additional *turnkeys*, *night watchmen*, and *female assistants* to be sanctioned by the said inspector ;

(2) Where there are more *turnkeys* than one, the sheriff of the county shall appoint one of them to be *chief turnkey* ; and where the *turnkeys* shall exceed three in number, the sheriff shall appoint one of them to be *deputy gaoler* ;

(3) Where the heating of the gaol requires it, there may be appointed an *engineer* or *fireman*, who shall be subject to the same regulations as *turnkeys*.

3. Where there is no duly appointed *Chaplain*, clergymen of all denominations residing in the city or town in which the gaol is situated, shall be permitted and invited by the sheriff to visit the prisoners registered as belonging to the denominations to which such clergymen are respectively attached, and to perform such religious services as would be performed by a duly-appointed *chaplain*.

4. There shall also be appointed a medical officer, who shall be known as and designated as *gaol surgeon*.

5. If the council of any municipality in which a gaol is situated, appoint a clerk or a storekeeper, such clerk or storekeeper shall not alter the dietary or clothing prescribed for the prisoners, or in any way interfere with anything affecting the discipline of the gaol, but in all such matters, excepting the purchase of the stores required by such regulations, shall simply act upon the requisition of the *gaoler*.

6. Where possible, gaol labor shall be utilized for the performance of the duties of a clerk, and for any other supplementary labor that may be necessary, such as repairs to and the heating of the gaol.

7. All *gaolers*, *turnkeys* and *matrons* shall devote their whole time to the performance of their official duties, and shall not be concerned in any occupation, trade, or calling whatsoever ; and no sheriff or other gaol officer shall have any benefit, advantage, or interest, direct or indirect, by the sale, gift or loan of any article to any prisoner ; nor shall they or any other persons in trust for, or employed by them have any interest in any contract for or purchase of any supplies for the gaol ; nor shall they apply to their own personal use any stores or supplies of any description, purchased for the maintenance and support of the gaol and the prisoners committed thereto, except fuel, light and water as hereinafter provided.

8. All gaol officers shall perform their duties in a quiet but determined manner ; they shall avoid all discussions and disputes, especially such as are of a political or religious nature ; and, so far as lies in their power, they shall see that the gaol rules and regulations are strictly obeyed by the prisoners.

The growing net-work of overhead wires forms such an obstruction on streets in the larger towns and cities that it is impossible for firemen to do effective work without cutting them down. Electric light currents have been known to follow the stream of rushing water at a fire with fatal results to firemen holding a nozzle. The overhead wire is constantly presenting new dangers, but like other evils that have grown upon us by degrees, it will be extremely difficult to abolish.

Municipal Problems in England.

In *The Forum* for January, Frederick Harrison, referring to the Municipal problems in England and the London county council in particular, states that no municipal body ever collected such a diversity of interest and experience within one chamber. Even party rage has never ventured to hint a suspicion of jobbery, and this alone is a unique phenomenon, at any rate on our side of the atlantic. About one-eighth of the council are members of the legislature, about a tenth have hereditary titles or are immediately connected with historic families ; three ducal houses are represented ; it counts two knights of the garter, the foreign secretary, and several other members of the government.

So great a combination of interests bear witness to one of the strongest and most typical points in English life. There is no skulking or withdrawing in English public activity. All orders of men are equally eager to serve the public and contribute their experience. Duke and brick-layer work side by side in the same honest desire to do what they can and to offer what they know. Difference of principle there is, of course, and very divergent aims. But happily, in England, no class is excluded from serving the public and none excludes itself. And whatever the heat of strife may be, no section has found itself ostracized or silenced, nor has any imputed corruption to its opponents. This is perhaps of all others the most hopeful sign in English public life. Men of wealth, of culture, of social distinction, are well aware that any claims they have must be justified by their own personal competence and by proof of their devotion to the public. They know this to be the price of their very existence as a class and of any consideration they may seek. And they are willing to pay.

In any case, the growth of municipal energy is among the most stirring facts of the age. The claims which are now being matured in the London council amount to the complete reorganization of the largest city in the world.

To recast the municipal taxation over this vast area, to throw a substantial part of that taxation on the owners of the soil and not on the occupants of tenements, to do something to make the labor idea a reality, is now the ambition of the new council. England, we are often assured, is the inveterate home of feudalism, privilege and routine. It may be so ; but she is at last creating for herself municipal governments that genuinely represent the will of the people ; wherein all orders of citizens, rich and poor, noble and simple can meet on equal terms and work together with a will ; wherein no suspicion of corruption has cast its shadow, and where, on every single vote and scheme, the interests of the laboring masses are most patiently considered and are advocated with eloquence and effect by genuine and honest leaders of the people.



## ENGINEERING DEPARTMENT

A. W. CAMPBELL,

P.L.S., C.E., A.M.C.S., C.E.,

EDITOR.

## Roads and Roadmaking.

In wet seasons our roads are nearly impassible because there is no system of drainage and no outlets for water, and usually the centre of the road is the lowest part of it. The only thing they are good for is a ditch for all the surrounding fields to drain into.

Important points to be observed in the maintenance of a road are: 1. All mud and dirt should be removed as frequently as possible. 2. The entire drainage system should be carefully maintained. 3. Constant repairs wherever ruts or depressions begin to show.

A country road should have attention when the weather is favorable. The scraper and roller should be freely used to destroy ruts.

Where macadam is used the stone should be placed only on one side of the road, and the earth which is removed should be used to raise the other side and to fill in low places, as thorough drainage is the main feature in roadmaking.

Each township, where stone is plentiful, should be provided with a portable stone crusher, horse and cart, and a regular force of laborers, under a competent foreman. All work should be done by contract.

On good sustaining ground, from eight to twelve inches of metaling will be required, broken in sizes varying from two and one-half inches at the bottom to screenings on top. They should be rolled down on a well-drained, correctly-shaped surface. When a good bed cannot be found, then begin with fourteen inch stone at the centre, diminishing to eight inches at the gutter, for a sixteen-foot-wide road. Then ram, cover with sand and a top dressing of two and one-half inches of ballast, then a layer of one and one-half inch metal and one and one-half inches of screenings, each to be rolled separately with a heavy roller. On the average country road macadam will be found the cheapest and just as durable, and it need not be over eight feet wide.

Any enterprise which reduces the cost of transportation forty per cent., and increases the value of land twenty-five to fifty per cent., should commend itself to the self-interest of every farmer in the province. It would be difficult to devise a scheme that would contribute so largely to the general prosperity as a large and immediate outlay judiciously expended in the construction of first-class roads.

The good roads benefit all classes, for when they are in good condition, there is a rush, and when they are poor there is a scarcity. This state of affairs has a bad effect upon the business of the traders as well as on the pockets of both producers and consumers. Many farmers having a

choice of two markets, will go to that one having the best roads, for it is an important question to them whether they go once or twice to carry a given load.

The present method of raising money and obtaining labor for making and maintaining our public roads, and allowing inexperienced and incompetent persons to expend and direct the same, is erroneous. The pathmaster is elected without a first thought as to his fitness for the position, and when he has learned something of his duties another takes his place and begins his experience on the roads.

There is great need of civil service reform in this matter. To get rid of the abominable libels, dubbed roads and reach something near perfection ought to be the object of all true legislation on the subject. The result of the existing mode of working our taxes is a lot of muddy, treacherous paths, denominated roads, dangerous to life and limb, and causing, directly or indirectly, by wear and tear on vehicles and extra exertion of draft animals, the loss of thousands of dollars more than would make and maintain a system of roads equal to those of any country in the world.

For the better maintenance of roads, they should be divided up in lengths, and each length given into the charge of an intelligent and reliable laborer, who should never be changed from one length to another, but always remain on his own beat. This man must be thoroughly reliable and must be out wet or fine, in fact it is more important that he should be out in wet weather, because he can then readily see where the gravel is required on the road and where it needs draining. He should never be allowed to let his road get out of repair. This man should have power to obtain necessary help on emergency, as great injury may be done to the road at the breaking up of the frost if proper help is not at hand. An active man on a good main road can keep about five miles in good condition.

Nothing is so destructive to a road as visible wheel tracks formed. They not only prevent the proper drainage of the road surface, but every subsequent vehicle will be sure to follow in the same track, thereby aggravating the evil. The effect of this will be seen by examining any road showing wear. No matter how bad the roads are in a straight part of the road, the road surface will be found in good condition in all the turnings, because here every vehicle goes its own way and so keeps the surface compact and even.

All those who are interested in municipal government, at all, should become subscribers to THE MUNICIPAL WORLD, of St. Thomas, Ont. It covers every branch of our municipal system and is always full of information on this subject.—*Boston Enterprise.*

## Burnt Clay for Roads.

The Davenport *Democrat*, published in a city where brick paving has been introduced extensively, advocates burnt clay for street improvement. It says: Gumbo, or burnt clay, such as railroads are using for ballast, is the material suggested, and competent engineers and roadmakers believe that it will make a road equal, if not superior, to macadam or gravel at much less expense.

"This burnt clay ballast is peculiar in its properties. There is no other material like it, and its distinguishing characteristics are such as to make its friends believe it is the very thing for a road.

"It is made by heaping up long rows of clay with soft coal, much like the coke ovens with which travelers through Pennsylvania are familiar. Any kind of clay that is free from sand will do. The rows are fired and tended so that they burn in the proper manner and the result, when the fire goes out, is a lot of burnt clay. It is red in color, about like ordinary brick. It is porous and highly absorbent. It is as hard as anything that is of the earth or earthy. It is easily settled into a firm mass without being packed as stone and other materials are. It will not support vegetation or allow water to stand upon it. It does not wear out or deteriorate. It can be worked in midwinter, no matter how hard other materials are compacted by the frost, as well as at this season of the year. It is springy, to a certain extent, and resists crush to a remarkable degree. Twelve inches of this material placed on top of a well-drained dirt foundation, an engineer says, will make an excellent road, which will settle evenly under traffic. If it does not, holes can be readily filled from a stock of the clay as fast as they appear and the surface easily preserved. The clay shows far less tendency to cut into ruts than gravel or macadam. It is springy enough to go down in a larger area if it is going down at all, and to resume it to its place after the load has passed. No water, with a little attention to drainage, will ever be found on it.

"The cost of constructing a road out of this material, it is estimated, would not exceed \$1,200 per mile and might possibly fall even below that figure. The gumbo can be manufactured in almost any locality, so that the cost of transportation would be very small."

That the executive ability of women is being recognized is evinced by the fact that Mrs. O'Connor has been elected to the important position of chairmanship of the Toronto High School Board. This is the first appointment of the kind which has occurred in Canada. In England women have done noble work in connection with education, and there is no reason why they should not render similar service in this country.



### Bridges.

Bridges over small streams and water courses on ordinary roads may be made of iron, wood, or iron and wood combined, and these may be constructed upon a variety of plans. The engineer in charge may readily choose between them with little risk of error, when he knows the relative price of iron and wood at the site or sites at which bridges are to be constructed.

Generally, iron bridges should be used for all spans exceeding fifty feet, and in many localities are the cheapest, except where timber is plentiful and can easily be procured. The engineer will find that in any locality near a railroad, iron bridges may be erected at a low rate per foot. These are often of special designs, patented, and in every case fully tested as to strength and adaption, and may be relied on. So, also, may such wooden bridges be obtained in the same way. So that the person in charge runs but little risk, even if his experience in bridge construction or his scientific knowledge of the principles and details involved is limited.

Bridges of twenty feet span, and under, may be of the utmost simplicity, consisting only of stringers, flooring and stable points of bearing at the ends.

The simplest and best plan for such wooden bridges would be to use only one size of timber, say 2 x 12 plank. These, when used as stringers or floor beams, may be doubled and bolted together at intervals, with a strip of one-inch plank between, and bolted together. In all cases the required thickness of stringers should be obtained by using several thicknesses of plank all bound together, instead of one stringer of equivalent cross-section—for the reason that the first will last longer, will require less labor and machinery in erection, may be obtained for less money and makes a more reliable beam.

Flooring, in all cases, should be secured at the exposed ends by a strip of like timber, spiked down over the ends, thus preventing curling up under the influence of the sun.

Generally the entire floor of bridges of fifteen feet span, and under, should be covered with gravel or broken stone, when such material is used in the roadbed.

In my experience such a treatment results in great economy of maintenance—the flooring being thereby relieved of abrasion under the wheels, and lasts twice as long as when not so protected. In alluvial soils, when timber is used in abutments they may be of the very simplest form, consisting of caps, posts and a backing of two-inch plank. The posts in such cases should be sunk in post holes about five feet below the water bed, the posts caps and stringers being securely fastened together.

For spans of twenty-five feet the stringer should be supported by braces abutting against a kink post at the centre, or by

suspension rods beneath. Spans of forty feet should have three panels, with queen posts and straining beams above, or suspension rods beneath each upon plans in detail known to all engineers.

When spans exceed forty feet the bridge should be a truss with panels of about ten feet, the height and width being increased with the length of the span.

### Improved Roads.

The following remarks from Dun, Wiman & Co.'s *Daily Bulletin* are timely: "An unmistakable demand for good, common roads is occasionally being heard in all parts of Canada. This demand is rapidly growing in volume, and there is growing evidence of its being about to take on the systematic organization which alone is essential to the success of such a movement. That bad roads in this country cause an enormous loss of money each year to those who use them, may be clearly proved, but this fact is veiled from many persons because they have never known anything better. The farmers are the greatest sufferers. Where wagon wheels sink hub-deep in mud at some seasons, a farmer who has much hauling to do must keep one or two more horses than would be necessary if he had only hard, even roads to go over, and his loss in the wear and tear of horseflesh, harness and wagons is a heavy tax on his income. It often happens that a farmer finds the roads absolutely impassable with a loaded wagon just at the time when some of his produce would bring the highest price if he could haul it to a railroad, and he is forced to wait and take a lower price later. It is of primary importance that a general conviction be created to the effect that the improvements of our highways is imperative, and that money wisely expended for this purpose is sure to return. The present method of repairing and building roads by statute labor is not representative of this progressive and economic age, and consequently is frequently ridiculed by a disinterested press and others. All road making and mending should be under the charge of competent road builders.

Jamestown, N. Y., owns the electric plant which lights the town. The manager, George W. Jones, recently made a report to the common council of the cost of maintaining the lights for the eleven months from December 1, 1891, to November 1, 1892. The total cost was \$5,805.81. There were 135 lamps in use for ten months and 137 lamps for one month. This shows the cost of maintaining each lamp to have been at the rate of \$46.80 per year. But it is said that the depreciation of the property is equal to five per cent. of the whole, which would bring the total cost up to \$57.47, or say \$58 in round numbers for each lamp for one year. The lamps burn all night and every night. The cost of the plant was \$28,000.

### The Lowest Tender.

Among contractors and local authorities this question occupies the same position as that of the weather with the general public. It is always to the front, always interesting, and always personal. Most contractors wax very wroth when their tender is lowest and they are for some reason or other—the reason being mostly of an inexplicable nature—passed over. It has been left for the Whitechapel authorities to suggest the latest remedy in order to avoid offence. The proposition is, in the first place, to ascertain the persons willing to tender, and then to weed out objectionable names by not supplying the specification of work to be done. It seems to us that such a scheme is practically unworkable, that offence would be given by withholding specifications just as offence may now be given by passing over the lowest tender. Besides, although many a person might be willing to tender in the abstract, he might not be so willing to tender on seeing the specification. Often and often a specification details requirements which are subjected to patent rights, and the manufacture of apparatus that is also so subject or is a specialty of a particular firm; hence the tender of the controlling firm is the only one likely to be accepted, and other firms save the trouble and expense of preparing a tender. Of course there are scores of cases where the work required is perfectly open to every tradesman pursuing that industry, and the points we have mentioned would therefore not count, but it is always wise to see the exceptions possible before laying down a hard and fast rule. Although there are numerous difficulties to be met in free and opening tendering, we are pretty well convinced that the system is the best for all public bodies to adopt. Contractors are, after all, but human, and have to allow for the eccentricities of some strange decisions as to lowest or other tender. Thus Messrs. Jones & Fitzmaurice, of Birmingham, have been asking the Leamington town council why their tender was passed in favor of another £70 higher. During the discussion one of the councillors remarked that it would be more respectable, when it was not intended to accept the lowest tender, if it was from an outsider, if the following were put at the bottom of the advertisement: "The tender of no stranger will be entertained." —*Contract Journal.*

In the battle of the road materials, wood holds the field—at least in the large parish of Kensington, where 200,000 square yards of wood blocks are down. Various sorts have been tried—fir deals, beech, jarrow and even oak; also various methods of laying. The present wood paving is laid on a foundation of concrete, composed of six parts of Thames ballast to one of Portland cement. This is worked to a perfectly smooth face, on which, when it is hard, the wood blocks are laid in transverse rows.



### Water Supply.

The vast importance of pure water for domestic purposes and the great convenience of an ample and ever available supply is daily becoming more appreciated, and whereas, but a few years back many large towns were to be found depending upon wells and cisterns, small villages now consider waterworks a feature necessary to health as well as to comfort. The larger and more thickly settled the community becomes, the more important it is that the wells should be abandoned. Although occasionally one may be found giving pure sweet water, yet the majority are soon contaminated as they collect their supply of water from surface springs that are fed by the water shed of surrounding cultivated lands, besides, in many cases, receiving sewage from one or more adjacent dwellings. When dug or driven in a new and uncultivated portion of the country, a well will collect a pure and healthful supply of water, excepting where overcharged with objectionable minerals. But locate in this vicinity one or more dwellings with their inevitable vaults and barn yards, and stables and contamination of the well becomes a certainty. It may receive its water through some stratum of gravel which carries the ooze of the nearest vault, cesspool, or barn yard. Or it may penetrate a permeable stratum, or a seam of the underlying rock, which brings it into communication with other cesspools or vaults more or less remote. When the water in the well is high these impurities may not produce obvious effects, but when the supply fails, in time of drought, then the demand on the well is replaced by a flowing in from the foul earth and the impurities are concentrated to a dangerous degree.

Such a means of water supply, cannot, therefore, be maintained in a community without a certainty of contamination in a degree more or less dangerous to human health.

The recognition of these facts together with the great convenience of a public supply and its importance in protection against fire are the strongest inducements for the construction of waterworks.

Occasionally a town may be found so situated that an available supply of good water may be conveyed to it through a pipe or conduct it by gravity and with sufficient head for domestic and fire purposes. This, of course, is the best system to be adopted, but the percentage of such positions is small, compared with those where the water must be pumped. Where pumping is necessary, by all means the best system of supply is that where an earthen reservoir is employed for storage and head.

If a town has in its vicinity a hill of sufficient altitude, such a reservoir may be constructed on its summit or lower down its side, as the required head may determine, and of such capacity as may be considered necessary or as may be limited by

the position or cost. The most favorable conditions for the construction of such a reservoir would be where the necessary elevation is reached on a hill side of moderate grade, where one-half of the basin is excavated and the other half enclosed by an embankment formed of the excavated material, and where the soil lies on a stratum of clay which would be used for puddling the bottom and sides, and, if necessary, to build a puddle wall within the embankment. In the absence of puddling material good concrete may be used to render the basin water-tight. The inner slope of the sides and embankment should be well paved or pitched and blinded with gravel or selected material.

With a reservoir, the pumping will be done in the day time and in many cases but two or three days in the week are necessary to keep up the supply. It will be seen, under these conditions, the pressure against the pumps work will be steady and uniform with the height of the reservoir and the engines being proportioned to this even pressure and permitted to run at their most favorable speed for economy the result will be the best obtainable from the class of engine employed.

### Boards of Health.

#### THE PIED PIPER IN MODERN LIFE.

It might be a wise expenditure of money for some benevolent person interested in sanitation to present to every municipal corporation in the kingdom a copy of Browning's delightful poem, called "The Pied Piper of Hamelin;" on the understanding, of course, that every member of the corporation should read, mark, learn, and inwardly digest the same. The story is, perhaps, not so well known as it ought to be. Hamelin town, in Brunswick, some five hundred years ago (the date is Browning's) was infested with rats, and the mayor and corporation were at their wits' end to know how to get rid of the plague. The pied Piper offered his services, for which he was to be rewarded with a thousand guilders; and he piped to such purpose—so cunningly and enticingly—that all the rats in the town, save one, followed him to the river Weser, wherein all plunged and perished. Great joy naturally in the town of Hamelin. But, as naturally, the piper wanted to be paid his thousand guilders. Here, however, the mayor and corporation grew stingy; their business was done, they thought, and they would be troubled no more; but to get rid of the pestilent fellow they offered him fifty. Then comes the tragedy of the story. They had treated their deliverer shabbily; they had put him in a passion, and they found him pipe to another fashion. Again he piped, so sweetly and persuasively, that all the children in town came flocking out, and ran merrily after the wonderful music with shouting and laughter; and they followed their leader to the side of a mountain, which opened and swallowed them all up, and they were

never heard of more—in Hamelin; and the parents of that ill-fated city were left to mourn.

But it isn't true? We are not so sure of that. It is certainly in print; and if it weren't true, how would a grave poet like Robert Browning have taken the trouble to write out the story in charming verse? For our part we believe it to be perfectly true—if not in the letter, certainly in the spirit. When Browning wrote it, do you not think he had in view those municipalities that grudge the expense of paying to get rid of nuisances? There are plenty among ourselves who still act the part of the mayor and corporation of Hamelin. Clearly the meaning of the poem is that if you are mean enough to grudge the necessary expenditure for ridding your town of destructive pests, then you will have to pay for your sordid economy in the loss of your dearest. You will see your children pass away before your eyes, and you will be utterly unable to stop them or to recall them. You have to pay the piper somehow; if not in money, then in some far more costly and tragical fashion. Bacilli are more troublesome and more destructive than even rats, because they destroy the most valuable of all property; and they cannot easily be got rid of without the spending of money. Disease is the costliest of all conditions for a town; while the expenditure on sanitation is the wisest economy. The shade of Browning will doubtless forgive us if we have in any way misread the impressive lesson taught us by his "Pied Piper of Hamelin."—*The Sanitary Record*.

### Wanamaker on Good Roads.

Postmaster General John Wannamaker recently wrote as follows on the subject of good roads: "Looking at it from a postal standpoint enlarged free delivery or anything like free delivery, will have to be postponed until there are better facilities of communication through the rural and sparsely settled districts. The experiments that we have made in the smaller towns and villages have proven the practicability of greatly extended free delivery, but without good roads it must necessarily be limited to the small towns."

The assessment commissioner for Hamilton has prepared a statement which shows that the total value of property in that city which is exempt from taxation is \$3,338,000.

Books of hundreds of pages are written on roadmaking, yet the principles of successful road construction are very simple. It is water that injures roads more than any other element. The water freezes and expands, and when the thaw comes all is loose. Anyone may have observed ruts to come in roads more readily after a thaw than at any other time. If attention were given to draining water from roadbeds, macadamized roads would last double the length of time they generally do.—*Meehan's Monthly*.



## Sewerage.

A great many books have been written on the subject of sewerage, and much valuable information has been published from time to time, so that it almost seems superfluous to say much more upon the subject; however a few remarks which are particularly applicable to the work of an engineer, may be of some service.

The word sewerage may be taken as meaning a system of sewers carrying sewage, which is the fluid and feculent refuse from dwellings and their yards, etc. Sewerage is generally found mixed with rain water from the surface of the streets and roofs of houses, together with the liquid waste products from manufactories, and sometimes, although very improperly, with subsoil water.

A good system of sewerage should embrace the whole of the following requirements:

1. Each sewer should be laid at such a depth as will readily drain the basements of the adjoining buildings.

2. Its area and gradient must be so regulated as to make it self-cleansing, and in the same time carry off effectively the maximum quantity of liquid of each it is attended.

3. Each sewer should (unless quite impracticable) be laid in straight lines, and with even gradients between man or lamp holes, and these gradients must not be excessive, or damage may be caused by it to the sewer.

4. Sewers must be laid at proper levels in respect to their intersection with each other, bearing in mind that they are generally converging to one point.

5. Man holes must be of simple construction; circular brick work upon concrete is a convenient description. They may be made to serve the additional purposes of ventilating shafts, flushing chambers, junction shafts, storm over-flows, and side entrances.

6. Tributary sewers and drains should not join the main sewers at right angles, unless the bottom of the man hole is so constructed as to give the required curve in the direction of the flow of the sewage, different sized sewers should join at a height equal to the difference of their sectional diameters, the aim of all junctions being to cause as little disturbance as possible in the proper flow of the liquids along their respective channels.

7. Sewers should not be constructed of too large a sectional area, but none should be less than six inches internal diameter, as house drains in this country are never less than four inches in diameter, and the main sewer should, of course, be larger than its tributaries. It is also rather difficult to ventilate a smaller sewer than six inches and very little is saved thereby. Pipes of greater diameter than eighteen inches should never be used. Where larger sewers are constructed brick work or concrete should be employed.

In carrying out works of sewerage, the greatest care is necessary in selecting materials and in looking after the manner in which the work is executed. Tunnels and shafts should be most carefully timbered, levels very accurately given and adhered to, and for this purpose sight rails and long boning rods can be used with great advantage.

Breakage sometimes occur in stoneware pipe sewers after they are laid, which on examination, are generally found to arise from one of the following causes:

1. Laying the pipe on a rigid foundation without recessing the sockets so as to give an even bearing.

2. Laying the pipes on foundations which afterwards yield and settle.

3. Laying the pipes at too great a depth without protection with concrete or otherwise to resist the pressure of the superincumbent earth, or by not sufficiently puddling the filling in, when a sudden settlement will often crack or crush a pipe.

4. Accidental or wilful injuries to pipes which are not noticed before the trench is filled in.

5. Laying the pipes at too shallow a depth without protection, when heavy traffic or a falling weight upon the surface will crush or crack the pipe.

6. Defective or weak pipe.

And it is the duty of the engineer to see that these causes are guarded against.

A report, prepared by the city engineer of St. Thomas, Ont., shows that upwards of three miles of streets were permanently improved and five and four-fifths miles of sidewalks and crossings laid during the year 1892 by a frontage tax, at a total cost of \$32,028; that there are now altogether about thirty miles of traveled streets in the city, of which upwards of four miles are gravelled and 7,170 feet block-paved, and that there were forty miles of sidewalk and eight and a half miles of sewers.

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The Philadelphia police have notified all the merchants on their respective beats that nothing in the way of display of merchandise, signs or other obstructions should extend beyond the house line of the street in front of their places of business. The text of the ordinance requires that not even an inch of the sidewalk shall be obstructed from the ground up, and obnoxious as it may be, no exceptions are to be made. Everything on the sidewalk must be taken off, everything over it taken down. Even barber poles must go if they are placed on or project over the sidewalk. Further regulations are that occupants of every building fronting on a street must sweep the sidewalk at least twice a week, keep the gutters clean, and in winter, sweep off the snow within twelve hours after it falls, under a penalty of \$2 for neglecting it. A thousand informations have been laid against offenders against the by-law.

Lately, a northern man, who thought of buying a tract of land for occupation and handsome improvement somewhere in Maryland, in the vicinity of Washington, undertook to explore the region in question, but was so much disgusted by his experiences in trying to find his way through the labyrinth of wretched country roads, wholly unprovided with guide-boards, that he abandoned the idea of settling in a country so wanting in the rudimentary elements of civilization. This case affords an illustration of the way in which the want of good roads hinders the growth and prosperity of a country.

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The Boston Board of Health has appropriated \$5,000 for a daily medical examination of the schools in that city. The medical man passes every scholar, according to a hasty diagnosis as the names are called out from a register. Every pupil who has any symptoms of disease is sent away with a prohibition paper, signed by the doctor, and forwarded to the parents, and a copy retained by the school board. The matter originated with the introduction of the following recommendation to the board of health in the mayor's inaugural last January:—The need of daily medical attendance in our public schools, in order to ascertain the symptoms of contagious and infectious diseases, and sanitary defects may be discovered and brought to the attention of the board of health, and the importance of giving prompt and trustworthy notice and advice to teachers upon these and many other questions pertaining to the health and safety of the pupils have been witnessed and seriously felt by this department. Our plan will secure daily accounts of all pupils and buildings.

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Many elaborate plans for making good roads in the country have been presented, but they require an immense outlay of capital. Farmers are alarmed at even the mention of road improvements, believing that they cannot be carried on without an enormous increase in taxation. This is not to be wondered at, for few of them are in a condition to comfortably bear the burden now imposed upon them. But the roads may be considerably improved without much expense and with comparatively little labor. The drains at the sides of the roadways in many sections of the country are frequently choked up and seldom are in a condition to do work expected of them properly. A drain or two of tile under the roadbed would help materially in keeping the roadway dry, and without water there can be no mud. The removal of stones would make many rough places smooth. If every time a farmer passes over a road he would get rid of one of these stones they would all soon disappear, and the trouble would be well paid for the saving of damages to his wagon, harness and horses.



## LEGAL DEPARTMENT.

H. F. JELL, SOLICITOR,  
EDITOR.

## Municipal Councils.

## THEIR POWERS AND JURISDICTION—BY-LAWS.

By-laws of a municipal corporation providing for the construction of drainage works, and for the cleaning, altering and enlarging or extending such works, when once constructed, are worthy of the most careful consideration. In addition to making provision for the carrying out of the work, these by-laws are intended to provide means of defraying the cost of so doing. The by-laws are regulated by Section 569 *et seq* of the Consolidated Municipal Act, 1892. The framing and passing of these municipal ordinances is of daily occurrence, especially in the western section of the province, where the settling and clearing of new lands render a system of drainage an absolute necessity to their satisfactory cultivation. The number of cases that our courts have recently been called upon to consider and decide would indicate that these by-laws are in many instances prepared by an unskilled hand, with little care and thought, and a woeful lack of attention to the requirements of the law. We would, therefore, respectfully submit that the employment by municipal councils of one possessed of technical knowledge of the subject to do this work, would in the result prove to be an economical act.

Before a council undertakes to pass a by-law for drainage works the members should be satisfied that the preliminary proceedings laid down in the Municipal Act have been strictly observed. Generally speaking, and subject to the exceptions mentioned in sections 585 and 586 of the said act, the by-law must be founded on a petition signed by a majority in number of the persons, as shown by the last revised assessment roll to be the owners (whether resident or non-resident) of the property to be benefited in any part of the township, city, town or incorporated village. This petition should include a majority of all the persons whom the engineer finds to be benefited by the proposed work, and the engineer may leave out of his scheme, portions of the land mentioned in the petition, in which case the calculations as to the necessary majority should be made without considering the owners of such land. See the case of *Robertson vs. the township of North Easthope*, reported in the September number of this periodical, 1892, page 115. It is well to observe that on the receipt of the requisite petition the statute does not render it compulsory that the council should pass the by-law asked. This seems to be one of the powers often conferred on a municipal council, without the imposition of a duty, in which case the

exercise of the power is discretionary. The words of the statute are: "If the council is of opinion that the proposed work, or a portion thereof, would be desirable the council may pass by-laws, etc." It is thus optional with the council as to whether they proceed to pass the by-law petitioned for or not, and if of a negative opinion, there is no power to compel the council to do so, and if the work asked for is impracticable or too costly the petition should be refused. The council cannot alter the works which the petitioners ask for and change them into something they do not ask for without their express concurrence. In the event of the council being of the opinion that the carrying out of the drainage works is desirable, the next step to be taken by them towards the passing of the by-law is to procure a competent engineer or provincial land surveyor to make an examination of the proposed work, plans and estimates of the work, and an assessment of the real property to be benefited.

## Legal Decisions.

## MEAD V. TP. OF ETOBICOKE AND G. T. R.

It was held in this case that notwithstanding any liability which may be cast by statute upon a railway company to maintain and repair a bridge and its approaches by means of which a highway is carried over their railway, such highway is still a public highway and as such comes within the provisions of the Municipal Act sec. 531, requiring every public road, street, bridge, and highway, to be kept in repair by the municipal corporation, who are not absolved from liability, for default by the liability, if any, of the railway company.

## WILLIAMS VS. RALEIGH.

This now noted case, in which there have been so many adverse decisions, has settled down in the Privy Council in England. Messrs. Wilson, Rankin & Co., on the instructions of the township, sent over a petition for leave to appeal from the judgment of the Supreme Court on the ground that judgment was wrong and the judgment of the Court of Appeal right. The Privy Council has granted the prayer of the petition without even requiring the plaintiffs to be notified, and Mr. Matthew Wilson, Q. C., has been retained to go to England and argue the appeal.—*Planet*.

## HILES V. TOWNSHIP OF ELLICE; CROOKS V. TOWNSHIP OF ELLICE.

Judgment on appeal from the reports of B. M. Britton, Q. C., the referee, under the Drainage Trials Act, 1891, whereby he directed judgment to be entered for \$270 and costs in the first case, and for \$170 and costs in the second case. The plaintiffs are farmers in the township of Ellice, and claimed damages for injuries to their lands and crops by reason of the negligence of the defendants in flooding their lands and not providing a proper

outlet for a certain drain and for the subsequent construction of an outlet through the plaintiff's lands. Appeals dismissed with costs. Burton, J. A., dissenting.

## SAGE V. TOWNSHIP OF WEST OXFORD.

Judgment on motion by the plaintiffs to set aside an order of Meredith, J., at the trial at Woodstock, referring this action for trial to the Drainage Referee under sec. 11 of the Drainage Trials Act, 1891, and for a new trial. The action was brought for damages for negligence in the construction of a drain. The plaintiffs contended that this was not a case within that Act, and that the referee has no jurisdiction as such, and they feared that the defendants might at some stage set up that want of jurisdiction. At the same time the plaintiffs were willing to have a reference to the same referee under section 102 of the Jundicature Act if the court should think fit. The court held that there is power under the Drainage Trials act, sec. 11, to refer an action of this kind. Motion dismissed.

## GIBSON V. TOWNSHIP OF NORTH EASTHOPE.

Judgment on appeal by the plaintiff from the judgment of Meredith, J., dismissing the action, which was brought to recover back \$600 and interest paid by the plaintiff under protest to the defendants, being the amount assessed against the plaintiff as one of the land-owners benefited by a drain in the township which runs in a south-westerly direction through the plaintiff's lands, or in the alternative to compel the defendants to have the drain properly constructed. The plaintiff contended that there was no proper petition for the drainage work, and therefore that the by-law authorizing it was bad, and the defendants had no right to make the assessment, but if the by-law should be held good, that the drain was not properly constructed according to the original plans and profiles, though Meredith, J., found it was. The court held that the by-law was invalid, the assessments made under it illegal, and that the plaintiff was entitled to recover back what he had paid. Appeal allowed with costs and judgment to be entered for the plaintiff with costs.

## HOWARD V. HERRINGTON.

Judgment on appeal by the defendant from the judgment of the county court of Hastings in favor of the plaintiff in an action of replevin for goods seized by the defendant as distress for taxes and for damages for such seizure. The defendant was the tax collector for the township of Brighton. The plaintiff alleged that the seizure for taxes was illegal because the taxes had been paid or remitted by the council. The defendant appealed on the ground that the taxes were due at time of seizure, and that the defendant was entitled to notice of action, which he did not receive. The defendant also appealed on the ground that the county court of Hastings had no jurisdiction in this action of replevin, the



goods having been seized in another county and the amount being beyond the jurisdiction. The court held that the Replevin Act requires that the action should be brought in the court of the county where the seizure took place, and that it was not affected by the consolidated rules relating to venue; and that the Act respecting the justices of the peace and other public officers required that the action should be brought in the county where the officer resides. Appeals allowed with costs, and action dismissed with costs.

M'CORMICK VS. THE CORPORATION OF THE TOWNSHIP OF HOWARD.

It was decided in this case that a municipal drainage by-law, whether for the original construction of a drain or the improvement of an old one, and whether the proceedings are taken under sec. 583, 585 or 586, of the Municipal Act is subject to the provisions of sec. 571 and 572 requiring notice in writing to be given within ten days by anyone intending to have the by-law quashed of his intention to so apply. The notice in this case was given by a solicitor on behalf of two persons named in such notice and others. The subject matter was an application or motion to quash the by-law in question. A by-law to provide for draining parts of the township of Howard by the construction of the south marsh drain etc., made by Archibald McCormick, John White and John Leaclett who were not named in such notice. It was held that the application was not made to the court by any person who had given the notice required by sec. 571 and 572, that another ratepayer could not take advantage of the notice by adopting it as his own. And the application for which notice had been given not having been made, the by-law became a valid one at the expiration of six weeks from its final passing.

CONNELL V. TOWN OF PRESCOTT.

Judgment upon appeal by the defendants from an order and decision of the Chancery Divisional Court (Boyd, C., and Meredith, J.) dismissed, by reason of a disagreement in opinion, a motion by defendants to set aside the verdict for the plaintiff for \$3,000 damages in an action tried before Street, J., and a jury at Brockville. The action was for damages for injuries caused to the plaintiff, Thomas A. Connell, by the alleged negligence of the defendants in executing the work of blasting out a culvert or drain across Wood street in the town of Prescott. The jury found that the defendants were negligent in the conduct of their blasting operations, in consequence of which pieces of rock fell on the roof of the shed where the plaintiff's horses were standing, whereupon they started off, and in attempting to stop their flight the plaintiff was dragged down and injured. The Chancellor was in favor of dismissing the motion, holding that the negligence was the proximate cause of the plaintiff's injuries, and that

the plaintiff was not guilty or contributory negligence. Meredith, J., was in favor of dismissing the action, holding that the plaintiff was the author of his own injury, that the proximate cause of it was his voluntary act in endeavoring to stop his runaway team, and that in law he had no claim upon the defendants. The majority of the court held that the action lay and that the appeal should be dismissed. Burton, J. A., dissented. Appeal dismissed with costs.

COUNTY OF VICTORIA V. COUNTY OF PETERBOROUGH.

By sec. 535, sub-sec. e. of the Municipal Act, it is the duty of councils of adjoining counties to erect and maintain bridges over rivers forming or crossing the boundary line between the two counties, and it is declared that a road which lies wholly or partly between two municipalities, shall be regarded as a boundary line, although it may deviate so that in some places it is wholly within one of the municipalities. The boundary line between the counties of Victoria and Peterborough in part of its course formerly passed between the 10th concession of the township of Verulam in the former and the 19th concession in the township of Harvey in the latter county, the lots in the latter concession from one to fifteen being a range of broken lots forming a narrow strip of land fronting on the west side of Pigeon Lake. By chap. 47 of 42 Vic. (Ont. stats.) these lots were detached from the township of Harvey and annexed to the township of Verulam from and after the 1st of March, 1880, for all municipal, judicial, electoral, and school purposes, and for the purpose of the registration of titles, as fully as if the same had always formed part of that township, and the remainder of the township of Harvey was entirely separated from the parts so detached for all purposes. It was held that by force of this act and of sec. 10 of chap. 5, of the revised statutes of Ontario, Verulam had become a township bordering on a lake, and that the boundary line between these two townships and consequently the county boundary line, in front of the range of lots so detached, was in the middle of Pigeon Lake, and no longer on the road allowance between such lots and the lots in the 10th concession of Verulam. It was also held that the road on the former county boundary line or what might have been previously considered a deviation therefrom, was not a deviation within the meaning of sec. 535, from the road on the boundary line between the counties to the north of the range of lots transferred to the township of Verulam. And therefore that the duty of maintaining a bridge over a river crossing the road on the former boundary line, or deviation therefrom, and which was wholly in the country of Victoria, was cast upon that county alone, and that the adjoining county of Peterborough was not liable.

NOTES.

In the case of Wall vs. city of London, the Ontario Court of Appeal recently held that a firm carrying on business at Brantford were not assessable at London in respect of a large quantity of sugar stored by them in a warehouse in the latter city, orders for sugar being sent to the firm at Brantford by their traveller in London, and the invoices being made out and forwarded from Brantford, though the sugar was shipped from London, and repayment of taxes paid under protest, after ineffectual appeals to the court of revision and the county judge were ordered.

\* \* \*

The same court decided in the case in re Rounder and the village of Winchester, that a local option by-law, carried by a vote of 71 to 15, should be quashed where it appeared that the returning officer had announced that he would not accept the votes of tenant voters, seventy-four of whom were on the list, although it was not shown that more than a very small number of those voters had made any attempt to vote, or had expressed any intention of voting.

\* \* \*

In the case in re Gillespie and the city of Toronto, the same court quashed a by-law of the defendant city, imposing assessments for local improvements initiated by the city, where the work was done and the terms of payment therefor were different from those let out in the notice of intention to do the work.

\* \* \*

In the Queen vs. Butler, a by-law passed pursuant to the provisions of sec. 436 of the Municipal Act, R. S. O., 1887, Chap. 184, (see also same section of the Consolidated Municipal Act, 1892) by the police commissioners of a city, enacting that no person or persons should drive or own any omnibus, etc., without being licensed so to do, was considered. It was held that this only applied to the owner, and not to the driver of such omnibus, etc.

\* \* \*

The resolution passed by the county council of Ontario, in reference to the trial of actions for damages caused by reason of the non-repair, etc. of highways by a referee under the Drainage Trials Act, or some other referee has been very favorably received. We consider this one of the best suggestions brought before county councils for some time, and that any action taken by the legislature to bring about the change will be in the interests of every municipality.

\* \* \*

In the case of Smith v. the corporation of the city of London, it was held that it is not beyond the power of a municipal council by by-law to deal with the limitation of the hours during which intoxicating liquors may be lawfully sold.



Continued from page 36.

that after receiving same voters perversely throw away their votes, a new election will be necessary.

E. G.—I own lots 5 and 6 in township, lot 5 is in school section 5, lot 6 in S. S. No. 4. April 16th, 1892, a ratepayer's meeting was called, authorizing school trustees of school section No. 5 to apply to municipal council to issue debentures for the purpose of building a new school house. April 30th, council passed a by-law taking lot No. 5 from section No. 5 and placing it in section 4. June 11th by-law passed to issue debentures. Must I pay school taxes on lot 5 to school section 5 for 1892, and if I have to pay to S. S. No. 5 for 1892, which S. S. will be entitled to taxes on lot No. 5 for the year 1893?

We would premise our answer by calling our correspondent's attention to sub-sec. 3 of sec. 81 of the Public Schools Act 1891, which provides that by-laws providing for the alteration of school boundaries must be passed prior to the 1st day of May in any year, and shall not take effect until the 25th day of December in the same year. In view of this lot 5 would be in S. S. No. 5 when the by-law providing for the issue of the debentures mentioned was passed, and would be liable for its share of the debenture levy until the debentures are paid—lot 5 would be liable for its share of the general school levy in S. S. No. 5 in 1892 and in 1893 and thereafter assuming that the by-law changing lot 5 from S. S. No. 5 to No. 4 is a valid by-law, in S. S. No. 4.

W. H.—A lives in school section No. 2 which has been organized many years and has paid the usual school taxes, but cannot send his children to school on account of distance and no direct road; school house near the opposite side of the section from where he lives. He also claims that he is beyond three miles from the school house. Can he legally refuse to pay the school taxes on the three mile limit? Does this clause in Act only refer to unorganized township?

We assume that our correspondent refers to sec. 42 of the Public Schools Act, 1891,—if so, it applies to school sections in unorganized townships only—A cannot legally refuse to pay his share of the school taxes under the circumstances mentioned. If A be nearer to a school house in another school section he might induce the council to detach his land from the section in which it is now located and add it to that in which is situated the more convenient school house.

J. C.—1st. Would land in arrears for 1890 be liable to be sold in year 1893?

2. Is land to be considered a year in arrear when not paid in December of the year when taxes are levied?

3. Can council in striking school rates add the deficit of previous years?

4. When municipality buys in non-resident lands in arrear according to statute and time of redemption expired, should the lots be assessed to the same parties or should they be assessed at all seeing they are municipal property?

1. In order to answer this question positively and definitely we would require to know the day and month in 1890 when collector received his roll, and the day and month in 1893 when the treasurer's warrant issued. However, knowing the practice in most municipalities of handing

the collector's roll to the collector between the 1st and 15th of October in each year, we consider ourselves safe in saying that the land mentioned by our correspondent is not liable to be sold in 1893. There must be the full period of arrears due before the issue of the warrant to sell. See sec. 160 of the Assessment Act and note (f) thereto in Mr. Harrison's manual edition of 1889.

2. The weight of opinion and judicial authority seems to be in favor of the land being considered in arrears for unpaid taxes after the 31st December in the year in which they have been levied.

3. The municipal council shall levy upon the taxable property of the municipality, such sums as may be required by the public school trustees for school purposes see sec. 110, Public Schools Act, 1891. Thus the trustees fix the amount they require in any school section for school purposes, and it is the duty of the council to levy and collect the amount asked, and we do not think it is illegal that the trustees include in the amount a previous years deficit.

4. The land purchased by the municipality should be dealt with by the assessor in the same way as other municipal real estate. We would draw our correspondent's attention to the latter part of sub-sec. 3 of sec. 170 of the Con. Assesst. Act, 1892.

A. D. Y.—1. To open a road allowance fenced in, would, giving eight days' notice, as per chap. 55, sec. 553, and passing a by-law, give immediate right of way, or would the possessor require to get time to fence his farm? 2. Is it legal for members of a court of revision to put names on the roll, omitted by the assessor, without complaint being made in writing, according to R. S. O., chap. 193, sec. 64, sub-sec. 2? 3. Can any person appeal to the county judge who neglects to complain through the clerk fourteen days after return of roll?

1. The provision made by the section in question for the giving of eight days' notice of the intention of the council to open an original road allowance is intended to prevent the party receiving the same from being taken by surprise in regard to the council's intention, and we think the passing of the by-law would give the council the immediate right to proceed to open up the road allowance. We would advise, however, that the council give the party or parties in possession a reasonable time under the circumstances of the case, within which to fence their land.

2. Sub-sec. 2 of sec. 64, of the Consolidated Assessment Act, 1892, provides that notice of appeal to the court of revision shall be given to the clerk within fourteen days after the day upon which the roll is required by law to be returned or within fourteen days after the return of the roll in case the same is not returned within the time fixed for the purpose, and the latter part of sub-sec. 4, provides that no alteration shall be made in the roll, unless under a complaint formally made under the provisions of said act. We would, therefore, say that

the court of revision had no right to put the names mentioned by our correspondent on the roll.

3. No.

I. N. B.—Would you kindly inform me through your valuable paper if a by-law has to be read at the meeting at which it is passed; that is to say at which the resolution to pass such a by-law, is passed? I never saw in the Municipal Act yet that it has got to be read; though I think it necessary when it is to create a debt, etc. Your opinion on the matter would greatly oblige.

Although it is usually done, we do not consider it absolutely necessary to the validity of the by-law that it should be read at the meeting at which the resolution to pass such a by-law is read. In fact there are some cases in which this would be impossible, for instance, where the necessity for passing a by-law arose without previous notice to the council and time is required for the preparation of the by-law.

F. C.—1. On page 29, MUNICIPAL WORLD for February, 1893, in column 1 you use the words: "The holder of any particular office should be removed from the same before another person is appointed thereto by the council." This is scarcely definite enough. Can you substitute the word "must" for the word "should"?

2. In 1892 the council by by-law appointed A to an office, then in 1893 the council appointed B to the same office. Does this action constitute a legal dismissal of A? or make B's appointment legal?

3. If, in the by-law appointing B, the following clause had been inserted or one to the same effect, "All by-laws, or parts of by-laws inconsistent with this by-law are hereby repealed." Would that fact constitute a legal dismissal of A?

4. What special steps should the council take to get rid of A, also to legally appoint B?

1. Two persons cannot fill and discharge the duties of any particular municipal office simultaneously, or concurrently, one must be dismissed before the other is appointed, unless the latter be appointed an assistant to the former as in the case with clerks in several large municipalities in the province.

2. The simple fact of the appointment of B does not operate as a dismissal of A, nor does it constitute a legal appointment of B.

3. Although somewhat indefinite we think the clause you quote would be construed a legal dismissal of A.

4. A by-law should be passed in specific terms, repealing the by-law or portion thereof appointing A to the office, formally dismissing him from the same, and appointing B in his stead. If A refuses to deliver to the municipality or his successor the property of the municipality in his possession by virtue of office, he can be compelled to do so by mandamus.

F. J. C.—In the MUNICIPAL WORLD for January, 1893, on page 10, in the first column in speaking of the powers of a municipal council, you use these words: "the powers of a municipal council are therefore limited. It has no other than those which are expressly granted by statute, or such as are necessary to carry into effect the powers so expressly granted. Its actions are to be held strictly within the limits prescribed by statute." Now this is, good law, and I think no one will question it who has paid any attention to the matter. On page 28 of the MUNICIPAL



WORLD for February, 1893 in column 3, you use these words, "We know of no statutory provision prohibiting a council from appointing a person to a municipal office for a given time." To appoint municipal officers is one of the powers conferred on the council. Now the question arises can the council exercise powers on the ground that the statutes do not prohibit or is silent on the question, or is your first contention correct, that the power must be expressly granted by statute. I take it that in this last instance the council may appoint to office for a given time simply because there is no statute prohibiting it, and if this is so, then it follows that the council may exercise any power they may see fit to exercise, and to do so on the ground that there is no statute prohibiting them from doing so. If they can do so in one case then who no do it in any case? where is the limit? Please reply in the next WORLD.

We think the inference drawn or suggested by our correspondent goes farther than the words quoted by him would warrant. The power referred to is expressly conferred by statute to appoint municipal officers to transact the business of the municipality, as to whether a particular officer should be appointed indefinitely or for a given time, is a matter incidental to his power, and is one of the terms of the bargain with the officer. The meaning we wished to convey was that we considered the appointment of an officer for a given time a legitimate exercise of this power, and that we were aware of no statutory provision inconsistent therewith.

A. A. W.—1. A. B. appears on assessment roll as tenant of property of B. C., which property is rated on said roll to B. C., the owner, and no rating whatever after the name of A. B. Would A. B. be liable for statute labor or poll tax?

2. Would the said A. B. be exempt from paying poll tax if he produced a certificate from another municipality that he was rated in such other municipality as owner of real estate and that the taxes had been paid on such real estate?

1. We do not consider A. B. liable for poll tax (or the tax mentioned in sec. 91 of the Con. Assesst. Act, 1892) A. B. and B. C. are evidently assessed for the same land the one as a tenant the other as owner. The land is liable for the statute labor calculated on its assessed value. As to whether the statute labor should be actually performed by A. B. or B. C. is a question between them.

2. Assuming that A. B.'s case fell within the provisions of sec. 91 above mentioned, we think he would be exempt from performing the statute labor mentioned in said sec. 91, on the production of the certificate referred to, provided the same were given in good faith.

ENQUIRER.—1. Section 7, sub-sec. 23, of the Assessment Act provides that income to the amount of \$700 derived from personal earnings is exempt from taxation. Suppose the earnings to be \$800 what amount would be liable to taxation?

2.—A married woman being assessed as owner of property, but neither she nor her husband reside in the municipality in which the property is situated, can the husband be assessed as occupant as provided by the Assessment Act, and being a non-resident is he entitled to vote?

3.—Can both the owner and tenant vote on property valued at \$100? Joint owners are not entitled to vote on such qualifications.

4.—Section 7 A. (1) lands used as farm lands in towns and villages must be assessed as farm lands. Does this mean that they are to be assessed

at the same value as farm lands surrounding the municipality?

5. There is also some doubt about sub-sec. 2. Suppose there is no claim for exemption as mentioned in sub-sec. 3, must the council pass a by-law provided in sub-sec. 2?

6.—In case it is decided that part of block is entitled to exemption and part is entitled to taxation, but not benefitted to as great an extent as other lands for such improvements mentioned in the sub-sec., can the owner claim exemption for part of the rate for such improvements?

1. \$100. 2. No. 3. Yes. 4. Yes. 5. No.

6. The council may exempt such part of the land from the rate for such improvements as they deem just.

CLERK.—A party whose chief occupation is that of lumber merchant, owns a farm in the township on which he herds a number of cattle. Can the cattle be assessed to him as personal property? He is not a resident of the township or county.

We are of opinion the cattle referred to come within the exemption mentioned in sub-sec. 14 A. of sec. 7 Con. Mun. Act, 1892.

T. U.—Our assessor and collector has been committed by the justice of the peace to stand his trial at the next court of competent jurisdiction on a charge of stealing five pine trees. Does the fact of his committal on this criminal charge disqualify him to act as assessor?

No! He has not been attainted or convicted of any treason or felony or convicted of any infamous crime within the meaning of sec. 12, sub-sec. 2, of the Consolidated Assessment Act, 1892.

SUBSCRIBER.—Are railway companies justified in removing the planks between the rails at level crossings during the fall and winter months?

See sec. 12, sub-sec. 2 of chap. 109, revised statutes of Canada, and sec. 29, sub-sec. 2, of chap. 170, R. S. O., 1887, which provides that no part of the railway which crosses a highway, without being carried over by a bridge or under by a tunnel shall rise above or sink below the level of the highway more than one inch.

A. K.—Does the statute give the municipal council of a township authority to pass a by-law compelling owners to put tags upon dogs for which they are assessed? If so, name the act and clause.

Sec. 489, sub-sec. 15, Consolidated Municipal Act, 1892, provides for by-laws to regulate the running at large of dogs and for killing dogs running at large contrary to the by-laws.

F. P.—If a person has money invested in mortgages in the United States, and is a resident in Ontario, can he be assessed on the income he derives from his investments in the States, in the municipality in which he is a resident?

No.

W. G.—1. A lumber road was made across certain lots in this township twenty-five or thirty years ago, and has been used as a public road, although not established by by-law of the municipality. Municipal funds were expended and statute labor performed year after year. Has the owner of the lands any claim for damages, or can he close up the road, he having bought the lands about a year ago, knowing that this road ran through it? 2. Would a slight deviation at one part of the road, made by the township road overseer to avoid a swamp, interfere with the right of the municipality to the road? 3. I may say, in addition, that it would take more than the lands are worth to make a road on the original road allowance, and the land is not valuable for farming purposes.

1. We do not think the present owner of the land through which this road runs has any claim for damages, nor can he close up the road. 2. No. 3. We think, however, the council should give the owner of the adjoining land, through which the lumber road was made, the first privilege of purchasing the original road allowance.

A. R.—1. The deputy reeve of our township was elected by acclamation, he did not attend the first meeting of the council, nor of the county council. Does he lawfully hold the office? Can he at some latter meeting qualify and hold his seat?

2. Can the clerk take the deputy reeves oath privately or has this to be done at a meeting of the council? If his election is void who should take action to fill the vacancy?

1. We draw our correspondents attention to sec. 277 of the Con. Mun. Act, 1892. The deputy reeve elected, as mentioned, can legally hold the office notwithstanding his not having attended the first meeting of council. If the latter meeting referred to is not held within twenty days after knowledge of his election, the deputy reeve can still hold his seat but is liable to the fine mentioned in said section. There is nothing in the said section to indicate that the omission to take the declaration within the time limited shall be a forfeiture of office.

2. The deputy reeve can make the declaration of office and qualification before the clerk or any other person authorized to take the same either at a meeting of council or privately as he sees fit.

T. W. S.—Can a village council collect taxes on a property which was not assessed until after the court of revision, seeing that the owner did not have an opportunity to appeal, providing the assessment was too high?

Our correspondent will find a full and complete answer to his question by a careful perusal of sec. 154, of chap. 193, R. S. O., 1887, or the same section of the Consolidated Assessment Act, 1892.

J. C.—Can two adjoining township councils dispose of timber on boundary between the two townships without the consent of the county council?

2. Can the township council compel a person through whose land a forced road runs, to remove obstructions to the width of forty feet, the owner not having received any compensation for right of way, said road having been laid out by township road surveyor but never was established, said road having been travelled for about twenty years and statute labor been performed and public money expended? or can the public only claim the width of road used in travel?

1. Yes; unless the road in question has been assumed by the county council as a county road.—See sec. 538, Consolidated Municipal Act, 1892. The councils of both the townships must pass by-laws for the purpose in similar terms.—See sec. 539 of said act.

2. We are of the opinion that the public are entitled to the full compliment of land originally laid out by the surveyor as a public highway, and all obstructions thereon should be removed. It does not appear that the owner has ever made any claim for compensation for the land taken.



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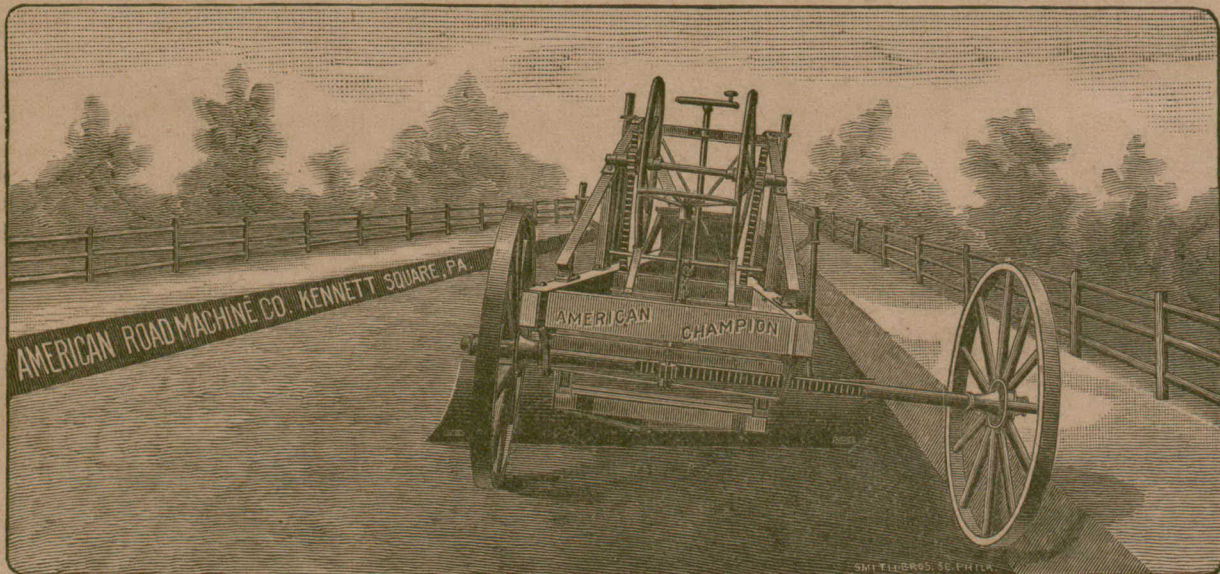
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