

The Municipal World

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

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ST. THOMAS, ONTARIO, AUGUST, 1907.

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Calendar for Aug. and Sept. 1907

LEGAL, EDUCATIONAL, MUNICIPAL AND OTHER APPOINTMENTS.

AUGUST.

1. Notice by trustees to municipal council respecting indigent children due. Public Schools Act, section 65, (8) ; Separate Schools Act, section 28, (13).
Estimates from the school boards to the municipal councils for assessment for school purposes, due.—High Schools Act, section 16, (5) ; Public Schools Act, section 65, (9) ; Separate Schools Act, section 28, (9) ; section 35, (5).
High School trustees to certify to county treasurer the amount collected from county pupils.—High Schools Act, section 16, (9).
High School trustees to petition council for assessment for permanent improvement.—High Schools Act, section 35.
Inspector's report on school premises due.
 5. Make returns of deaths by contagious diseases registered during July.—R. S. O., 1897, chapter 44, section 11, (4).
 14. Last day for county clerk to certify to clerks of local municipalities amount of county rate.—Assessment Act, section 87.
 19. Rural, Public and Separate Schools open.—Public Schools Act, section 96, (1) ; Separate Schools Act, section 81, (1)
 24. Application for admission to County Model Schools to Inspectors, due. Reg. 59.
- 28-29. **Ontario Municipal Association Meeting, Toronto.**

SEPTEMBER.

2. Labor Day.
3. High Schools open first term.—High Schools Act, section 45.—Public and Separate Schools in cities, towns and incorporated villages, open first term.—Public Schools Act, section 96, (2) ; Separate Schools Act, section 81, (2).
County Model Schools open, Reg. 58.
10. Provincial Normal Schools open.
15. Last day for county treasurer to return to local clerks amount of arrears due in respect of non-resident lands which have become occupied or built upon.—Assessment Act, section 123, (1).
County selectors of jurors meet.—Jurors Act, section 13.
20. Clerk of the Peace to give notice to municipal clerks of number of jurymen required from the municipality.—Jurors Act, section 16.

495 Salary of Medical Health Officer—Assessment of Railway Telegraph Wires..	507 Powers of Council as to Drainage of Roads—Collection of Taxes, etc.....
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499 Law as to Cattle Running at Large—Careless Handling of Collector's Roll—Payment of Surveyor's Fees.....	511 Regulation of Storage of Dynamite, etc.
500 Time for Entering Commuted Statute Labor on Collector's Roll.....	512 Payment of Physician's Bill for Examination of Lunatic.....
501 Liability of Council to Fence Grave Yard.....	513 Duties of Water Commissioners, etc....
502 Law as to Cattle Running on Highways	514 A Street Watering By-Law.....
503 Effect of Failure to Send Notice of Filing Award Under D. and W. Act in Time...	515 Liability for Accident on Highway.....
504 Power to Lease Public Weigh Scales...	516 Qualification of School Voters, etc.....
505 Finality of Assessment Roll.....	517 Application of Term "Alderman".....
506 Statute Labor on Deviating Town Line.	518 Repair of Approach to Farm, etc.....
	519 Maintenance of Indigent by Township...
	520 Proceedings to Construct Sewer.....
	521 Letting of Drain by Township Engineer
	522 Resignation of High School Trustee....
	523 Duties of Pound Keeper.....
	524 Closing Road Allowance.....
	525 Trustee May Purchase Sch. Debentures

The Municipal World

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of the Municipal Institutions of Ontario

A. W. CAMPBELL, C. E. K. W. MCKAY, EDITOR
J. M. GLENN, K.C., LL.B. HORACE F. JELL
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ST. THOMAS, ONTARIO, AUGUST 1, 1907.

J. LEWIS THOMAS, C.E., of London and St. Thomas, has been appointed engineer for the Townships of Stephen and East Williams.

* * *

The county council of Peterborough is not in favor of the indiscriminate application of The Anatomy Act. At its last session the following by-law regarding the bodies of persons dying in public institutions in the County of Peterborough was passed :

"Whereas it is expedient to provide for the proper interment of persons dying in any public institutions maintained by the county, and whose bodies are not claimed by relatives of the deceased.

"Therefore the municipal corporation of the County of Peterborough, by the council thereof, enacts as follows : That all members of the county council of the County of Peterborough, shall, pursuant to the provisions of section 41 of chapter 10 of the Ontario Statutes (1904), be deemed to be *bona fide* friends of any person lying in any public institution of the county, for the purpose set forth in section 2 of the Ontario Anatomy Act.

LOCAL OPTION IN OWEN SOUND

The Supreme Court of Canada recently handed out its decision in the case of *Sinclair v. Town of Owen Sound*. The ratepayers last January, by a substantial majority carried a local option by-law. On the application of Mr. SINCLAIR, Mr. Justice MABEE quashed the by-law. An appeal was taken by the town to the Exchequer Division of the High Court of Justice of Ontario, which reversed the decision of Mr. Justice MABEE, and restored the by-law. The latter judgment was subsequently confirmed on appeal to the Ontario Court of Appeal. The Supreme Court of Canada takes the same view, so surely the opponents of the by-law will now be assured that it was legally passed. The main point involved in this case was the right of ratepayers who owned property and possessed the necessary qualification in more wards of the town than one, to vote more than once on the by-law. The judgments of the Divisional Court, Court of Appeal, and Supreme Court decide this question in the negative. We may observe, incidentally, that these decisions are confirmatory of the opinion we expressed prior to the commencement of the litigation, in our reply to clause 3 of question 391 in our issue for June, 1906.



J. A. ELLIS

City Treasurer, Ottawa, President Ontario Municipal Association.

The ninth annual meeting of the Ontario Municipal Association will be held at the City Hall, Toronto, on the 28th and 29th August, commencing at 10 a. m. on Wednesday the 28th.

The sole object of the Association is to improve municipal administration and affairs in Ontario.

Membership is held in the name of the municipality to assure permanency of organization. If your municipality is not a member use your influence to secure such membership and the appointment of delegates. The Legislature recognized the good work the association is doing by passing the following amendment to The Municipal Act at its last session—making it clear that municipal corporations may expend money for membership fees and delegates' expenses :

Membership in Municipal Associations.

19. Section 506 of *The Consolidated Municipal Act, 1903*, as amended by section 33 of *The Municipal Amendment Act, 1906*, is further amended by adding thereto the following words : "and the council of any municipality may by resolution for and on behalf of the municipality subscribe for and accept membership in any union or proposed union of Ontario municipalities designed for the object or purpose of furthering the interests of municipalities, and may pay the fees of such membership and make any contributions for the expenses thereof, and may pay the expenses of delegates sent to any meeting of such union or upon the business thereof."—*Municipal Amendment Act, 1907*.

The names of the officers and constitution of the association will be found on another page in this issue.

Copies of the proceedings of last annual meeting will be forwarded on application to the secretary.

Mr. GEO. SNEATH, late of Midhurst, in the county of Simcoe, passed away on the 13th July last, at the age of 87 years. He had served the township of Vespra as its clerk and treasurer, faithfully and well, for over half a century. Mr. SNEATH was born in England and came to Canada in 1842. His life was long, useful and blameless.

* * *

The County's Council of Prescott and Russell will not be satisfied with the nominal attendance of members. Owing to frequent absentees the following resolution has been placed on the books :—Whereas, as many members of this council ask and obtain leave of absence after spending only two days in council, although sessions of council usually last four days, and sometimes five days. Whereas, this practice of members absenting themselves as alleged and asking pay for full sessions is contrary to the interests of this council and an injustice to the members attending the whole session. That it be resolved that in future members leaving before the termination of the session be paid according to number of days attendance.

Lambton Municipal Association Meeting

The annual meeting of the Lambton County Municipal Association was held at Petrolea on 21st June with about sixty delegates present. The president, JOHN FARRELL, presided, and opened the proceedings with a short speech.

Mayor GRANT, of Petrolea, welcomed the visitors, and was replied to by Warden DONNELLY of Alvinston, and ex-Warden WATSON of Sarnia. The Association then took up its regular order of business and appointed the various committees, after which the election of officers took place, resulting as follows—Honorary president, J. H. FAIRBANK, of Petrolea; president, JOHN FARRELL, Forest, (re-elected); vice-president, WILLIAM NESBIT, Sarnia; treasurer, D. N. SINCLAIR, Sarnia, Secretary,

choosing Sarnia as the next place of meeting.

At 9 o'clock in the evening the members of the association and their friends, to the number of about eighty, were tendered a banquet by the Municipal Association of Petrolea at the Hotel Iroquois, when a splendid programme of toasts was given.

Mayor GRANT presided and had posted on his left Hon. W. J. HANNA, Provincial Secretary, and Warden DONNELLY, while President FARRELL and F. F. PARDEE were seated on his right. Messrs. PARDEE and HANNA replied to the toast of "Municipal bodies, and their relation to the Dominion and Provincial parliaments," and the latter seized the chance to explain some features of



CHATHAM PUBLIC LIBRARY

The Chatham Public Library was erected in 1903. The first story is of stone coursed ashlar, and the second pressed brick. The main floor contains a stack room, reference library, librarians' room, mens' reading room, ladies' reading room, delivery hall and two lavatories. In the basement is an assembly hall, a board room, newspaper reading room, fuel, unpacking, boiler and store rooms. The cost of the building, was \$16' 852. 39 exclusive of site; and of the furnishings, \$2, 147. 61. The steam system of heating is employed. The first floor is finished in red oak; the basement, Georgia pine; and quarter-cut oak used in fittings.

JOHN DALZIEL, Sarnia. Auditors, W. A. GRAHAM, Weidmann, and F. C. WATSON, Sarnia; executive committee, Messrs. WATSON, GRAHAM, McMAHON and BROCK.

The association adopted a constitution which made all municipal officers and ex-officers members of the association and also fixed a fee of 25 cents per year for members who are not officers or ex-officers, but who are interested enough in municipal matters to wish to join the association.

Addresses were then given by H. J. PETTYPIECE, ex-M. P. P., on railway taxation; education as part of our municipal system, by C. A. BARNES, P. S. I.; our school system, by D. D. MOSHIER, P. S. I.; the purpose of our municipal institution by WM. NESBITT, all of which were closely listened to and discussed in an interesting way by the members. These addresses and discussions closed the business and the association adjourned after

the municipal law which adversely affected municipalities in relation to damage suits for non-repair of the highway. Both gentlemen made good speeches and were attentively listened to. Other toasts and speeches were: "The Lambton Municipal Association," responded to by President FARRELL and Mr. WM. NESBITT; "Agriculture," responded to by Mr. J. H. FAIRBANK, ex-M.P.P., W. A. GRAHAM, of Weidmann; H. J. PETTYPIECE, of Forest, and W. A. BROCK, of Enniskillen; "Industries of the County," responded to by J. E. ARMSTRONG, M. P., and "The Corporation of the Town of Petrolea," responded to by Councillors STIRRETT and CLARKE.

Between the speeches songs were acceptably rendered by Messrs. W. F. COOPER, J. A. PEAT, S. POLLARD and A. McQUIEN. The singing of Auld Lang Syne brought a most enjoyable evening to a close.—*Post*.

The Town of Port Perry

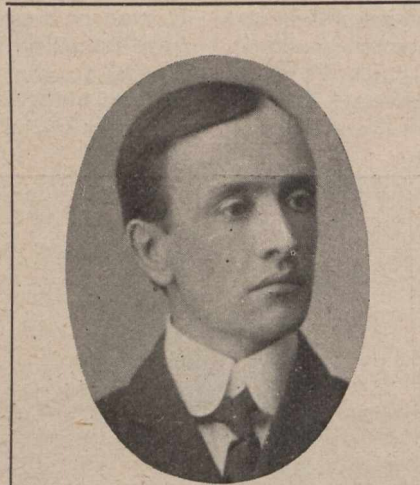
Port Perry at present contains about sixteen hundred people, and with the Prince Albert suburbs added, aggregates about two thousand. The town is situated on the west side of Scugog Lake, opposite Scugog Island, which forms a separate township, containing about ten thousand acres, and is fully settled with prosperous farmers. The Island contains an Indian reserve of 800 acres, on which is located a band of about forty Mississauga Indians.

The town is situated on ground inclining upward from the lake, rising to an elevation of 117 feet within a distance of three-fourths of a mile, in one of the finest agricultural and stock-raising districts in the Province. The highest elevation of the town is nearly 700 feet above Lake Ontario, Scugog being 568 feet above Ontario. The town is 49 miles from Toronto by rail via Whitby, and is noted as one of the most healthy towns in the Dominion. At such an altitude the air is always fresh, pure and invigorating, which makes the place a most pleasant one, summer or winter. The residential streets are embowered in shade trees, which form a wind brake in winter and a cool shade in the heat of summer, and add very materially to the beauty of the town.

Who can say Port Perry is not a most delightful place to live in having, as it has, so many local advantages. Situated on the shore of a beautiful lake, having a magnificent panoramic view of Scugog Island, forming an enchanting and beautiful scene of farm and hillside, not easily excelled. Residents of the town who have seen this panorama of nature every day for years fail to see it as strangers do when visiting the town. Strangers express themselves as delighted and surprised with the beauty of the town, the fine houses, the well-kept lawns,

fine stores, one Methodist church, one Presbyterian, a Baptist, an Episcopal, a Roman Catholic, and a Catholic Apostolic church. There is a first-class Public and High school, also telegraph and telephone services. Boats, during the season of navigation, can leave the docks at Port Perry, going as far east as Hastings on the river

Trent, via Peterborough, a distance of about 150 miles in an easterly direction, and north-westerly to Balsam Lake. On completion of the canal from there to Lake Simcoe the present year, boats can enter that lake, visiting Orillia, Barrie, Beaverton and Jackson's Point summer resorts; and on the final completion of the Trent canal vessels from here can go down the St. Lawrence to the sea, or west to the Upper Lakes, taking in all the cities of the lakes from Midland to Duluth, Chicago, Detroit or Cleveland.



W. H. HARRIS, B. A., L. L. B.
CLERK, VILLAGE OF PORT PERRY

Mr. Harris was born at Cleveland, Ohio, in 1869. He studied in Canada, graduating from the Toronto University in 1891, and after taking a legal course was called to the Bar in 1894. Mr. Harris came to Port Perry in 1901, and began the practice of his profession. The same year he was appointed clerk of the municipality, which position he holds to-day.

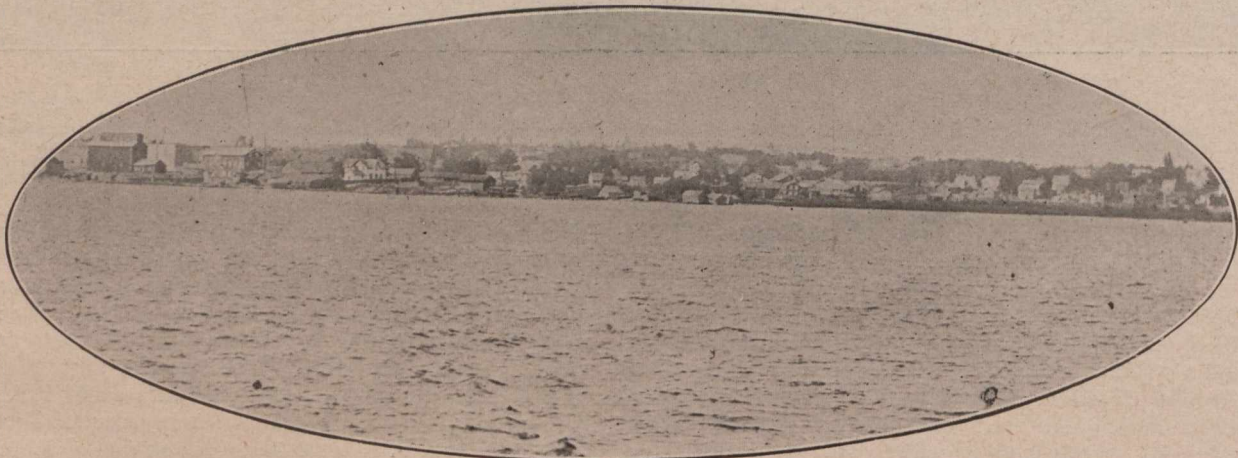
MUNICIPAL GOVERNMENT IN MICHIGAN

The league of Michigan municipalities met recently in Detroit. The following resolutions were adopted:

Resolved. That the League of Michigan municipalities recommends to the coming Constitutional Convention the careful consideration of municipal government in this State to the end:

1. That the Legislature be relieved of the burden of considering special legislation for particular cities; and
2. That all the cities and villages in the State be granted adequate powers of local legislation, subject to limitations in the constitution and general laws of the State.

That the League and all cities which are members of this League use their best endeavors to secure in the new



PORT PERRY FROM LAKE SCUGOG

the shade trees, the neat appearance of the town generally, its fine view of the Island, and its many other advantages.

The town possesses a municipal lighting and water-works system, good railway accommodation, good hotels,

constitution authority for municipal light and water plants to furnish light and water for commercial purposes.

That the League renew its endorsement of the proposed bill to establish a uniform system of accounting for counties, cities, and other local districts; and that a committee

on uniform accounting, to be appointed by the president, be continued for the purpose of promoting the passage of the proposed bill.

That the said bill be printed and presented to the members of this League for approval before it is introduced in the Legislature.

That the Committee on Non-Partisan Government, to be appointed by the President, be continued for the purpose of further investigation and report to the next convention of the League.

That the League calls the attention of city officials to the graduates of the Engineering Department of the University of Michigan, trained in the technical subjects relating to municipal public works, and recommend to the Regents of the University that a special course of study be arranged to prepare graduates to undertake the general management of the public works of cities.

That Friday, September 4, 1907, and Friday, May 1, 1908, be observed by all cities of the State as "City

thereon. That the Boards of Health and School Boards impress upon the school children the importance of good sanitary conditions, and the fact that public health depends upon a clean city.

That citizens owning wagons and horses be requested to donate them on these days for carrying away rubbish; and that each and every citizen devote the day to a general cleaning of the city.



LOOKING N. E. FROM PORT PERRY—LAKE SCUGOG AND ISLAND

RAPID CONSTRUCTION

Never in the history of building in Canada has so much been so rapidly done as at the Canadian National Exhibition in Toronto this year, where structures valued at upwards of \$400,000 have been erected in less than five months.

One of these, viz., the grand stand, is fairly entitled to be considered one of the "Wonders of the World" in building. This is a massive structure 725 feet long, 110 feet in width and 65 feet in height at its



VIEW OF THE EAST END OF QUEEN STREET, PORT PERRY

Cleaning Day." That each mayor issue a proclamation in which he shall request the school children and all citizens to join in a general cleaning of yards and places of business, and the burning of all rubbish accumulated

topmost point. On the roof there is room to simultaneously play a lacrosse match, a baseball match and a cricket match. It will comfortably seat 15,000 people without crowding.

MUNICIPALISM AND BUREAUCRACY

At a recent meeting of the Incorporated Municipal Electrical Association held at Sheffield, England, the president in his opening referred to the municipilization of electric plants, and said :

"There is a feeling in the minds of many that it is not well for the control of so many public utilities to fall in the hands of officials. This feeling is well illustrated by the following which I quote from a powerful and deservedly popular newspaper of more than local influence, the *Sheffield Daily Telegraph*. Commenting upon last year's salary increase list the writer said :

Municipalism is creating a bureaucracy which in the long run is inevitably a bulwark against advancement, progress, and individual liberty. It is evolving a class of expert, highly-paid officials, into whose hands the real reins of government must inevitably fall. The constantly changing succession of amateur administrators, which the principle of popular election provides, can only follow with more or less humility the dictates of the real powers.

"I cannot agree with this statement in any way ; the increase in the number and importance of municipal officials is only a consequence of the increased scope of corporation activities, which has at least the sanction of the electorate, and in the newer branches of corporation work, men frequently enter its ranks from private business and again leave it for the often superior inducements of service with a private firm. That, as a body, these men are bureaucratic I deny. They often have no monopoly to administer, but must compete with private trades having greater liberty of action, and can only succeed by giving the best possible service to the public unhampered by any restrictions beyond those essential to the equal and fair treatment of every member of the community."

The view taken by different parties on the influence and remuneration of public officials depends of course to a large extent upon their attitude towards the principle of municipal trading. And those who favor it, or have at least given attention to the subject, realize that the magnitude of the various undertakings controlled by municipalities to-day calls for the keen supervision and directing initiative which characterizes the management of the best class of private business, and the salaries for which, at first sight considerable, may easily prove to be the best of investments and yield a good return in a satisfactory and economical service.

The Continuity of Chairmen.

The decision of the council of one of the largest municipalities in the United Kingdom, whereby it is decreed that a member of the corporation cannot hold office as chairman of a committee for a longer period than three years, was referred to as follows :

"In my opinion the continuity of the chairman and principal members of committees is essential to the successful development and well-being of the department, particularly so in the case of an electric supply, where the intricacies of working cannot be grasped in a short time, but can only be gained gradually by actual experience. Therefore, it may happen that at the time when a chairman is compelled to relinquish his office he has become fully capable of efficiently guiding and controlling the electrical enterprise of the corporation, which would, by reason of its complexity, be left entirely to the official in charge unless the principal members of the controlling committee were prepared to devote some time and attention to mastering the principles which underlie its successful working.

"The advocates of the 'short-period' policy would probably say that the control of the department does not rest with the chairman, but is in the hands of the committee. But, as a matter of fact, the committee is largely

guided by its chairman and those members who act as chairmen of sub-committees, for the simple reason that by virtue of their offices they have familiarized themselves with the details of the administration of the department in a much greater degree than the other members of the committee are able to, and are therefore better able to explain matters relating to the working of the department and advise the committee accordingly.

Under existing arrangements there is always the risk that the policy of the department may be interrupted by a change of party in power, and although it does not necessarily follow that the installation of a new chairman denotes a discontinuance of the policy adopted, yet it may often re-act unfavorably upon the undertaking, inasmuch as the change will generally necessitate a considerable amount of work on the part of the engineer in order to put the new committee properly in possession of information which is essential to their appreciation of his schemes and requests.

IOWA ACCOUNTING LAW.

The Iowa Legislature last year enacted a municipal accounting law, the two first sections of which are as follows :

Section 1.—Annual Financial Report.

It shall be the duty of the chief accounting and warrant issuing officer of each city and town, namely, auditor or clerk, as the case may be, to prepare and to publish the annual report of the financial condition and transactions of the city and town now or hereafter required by law, and all accounting officers of all boards of commission departments and offices whatsoever within the corporate area receiving or disbursing public funds, shall file with the auditor or clerk within thirty days from the expiration of their fiscal year, a report in writing of their official transactions in the form and manner required by law. In case of refusal or gross neglect to comply with the law and provisions herein governing the method of accounting for and reporting municipal transactions herein referred to, the official so delinquent shall be deemed guilty of a misdemeanor. The auditor or clerk aforesaid is hereby authorized to institute legal proceedings to enforce the provisions herein requiring report to him.

Section 2.—How Published.

In cities having a population of five thousand or over, the annual report aforesaid shall be printed in pamphlet form. At least five hundred copies of said reports shall be printed, and the expense thereof shall be provided for annually by the city council. In cities and towns having less than five thousand population, the annual report may be published in pamphlet form, if authorized by the council.

"PEOPLE are almost afraid to die for fear there should not be room to bury them," is what a Parish Councillor at Linfield told a Local Government Board Inspector. The local Council are asking authority for a loan for cemetery enlargement.

* * *

The neighborhood of Walkerton is said to be one of the best places in Ontario for the buggy business on account of the rough roads and the great quantity of stones on the roads. A feeble agitation is being raised to improve the roads, but if the buggy manufacturers are half alive to their business, they will see that it is promptly stamped out. The idea of trying to kill the buggy business that way!—(Ex.)

ASSESSMENT OF RAILWAY PROPERTY

We are indebted to His Honor Judge CHAPPLE, and Mr. J. H. WILSON, clerk of the town of Rainy River, for the following important judgment on the assessment of the property of railway companies. The main legal point involved in this and another case reported in this issue, namely, that the provisions of section 45 of the Assessment Act, 1904, do not apply unless the assessment of the railway property has been made in accordance with the provisions of section 44 of the Act, is, we believe, a new one;

In the matter of an appeal from the Court of Revision of the town of Rainy River,

BETWEEN

*The Canadian Northern Railway Co., Appellants
and*

The Town of Rainy River, Respondents.

This is an appeal by the Canadian Northern Railway Co. from their assessment as reduced by the Court of Revision of the town of Rainy River from \$37,950.00 to \$32,950.00.

The particulars of the assessment, as it appears upon the assessment roll for 1907, is as follows :

Roadway, in town of Rainy River, 89.74 acres.....	\$12,000
Round House	20,00
Sand House.....	200
Oil House	150
Ice House	200
Station House	5,000
Freight Shed	400
Total.....	\$37,950

The assessment value of the Round House was reduced by the Court of Revision to \$16,000, and the Station House to \$4,000, leaving the total amount of the assessment at \$32,950, from which the appellants appeal on two grounds, viz. :

1st. That the assessment is too high, and that it is improper.

2nd. That under and by virtue of section 45 of 4 Edward VII., chapter 23 (Ontario Statutes, 1904), the assesment of the Canadian Northern Railway Co. as finally revised for the year 1905, must remain the amount for which the company shall be assessed for the succeeding four years. In dealing with the second objection, first, I find that section 45 of the Assessment Act does not apply to the assessment of this railway company for the years 1905 or 1906, as their assessment was *not* made in those years *under the provisions of section 44* of said Act, which is a condition precedent, the assessment appearing on the assessment rolls for the years 1905 and 1906 in one sum, viz. : "Roadway in the town of Rainy River, 89.74 acres—\$12,000," which was stated to have occurred from some alleged understanding some years ago, and never changed. Furthermore, the amendment to the Assessment Act passed in 1906, and being section 13 of chapter 36, 6 Edward VII., makes it quite clear that any assessment heretofore made may be corrected so as to conform to the provisions of said amendment, notwithstanding the provisions of section 45.

In accordance with section 78 of The Assessment Act I re-opened the whole question of the assessment and considerable evidence was given before me by both parties, which, however, was extremely contradictory, and in many respects most unsatisfactory, the parties interested apparently not clearly understanding the proper mode of assessing railway property under the provisions of section 44 of The Assessment Act. The wit-

nesses called by the appellants in most cases differed very much in their opinions as to the value of both lands and buildings. I have, however, endeavored to arrive at as nearly an equitable value of the lands and buildings as possible, not only from hearing the evidence adduced, but also from a perusal of the assessment roll and a personal inspection of the property. The roadway or right of way passes through the town from east to west and the land in some portions is much more valuable than in others, and varied according to the evidence all the way from \$8 to \$500 per acre. Last year, however, after considerable evidence being taken before a board of Judges (of which I was one) 80 acres of land belonging to the Rainy River Lumber Company in the locality of the railway was assessed at \$100 per acre. This, however, was cleared land, mostly used by the company for the purposes of its business.

It was agreed that of the 89.74 acres of land belonging to the railway company that 35 acres were cleared and used by the company, the balance being vacant or bush land not used for any purpose.

I therefore find that the Canadian Northern Railway Company should be assessed under the provisions of section 44 of The Assessment Act as amended as follows :

A		B		C none	D
Quantity of land occupied by roadway		Vacant land uncleared and not in actual use		Other real property and buildings in actual use and occupation	
Acres	Value	Acres	Value	Value—particulars under	
35	\$3,500	54.74	\$1,370	\$20,475.00	

Particulars of valuation under clause D

Round House.....	\$15,000
Sand House.....	175
Oil House.....	150
Ice House.....	200
Station House.....	4,500
Freight Shed.....	450
	\$20,475

This makes the total assessment \$25,245.00.

The assessor had assessed the quantity of land occupied by roadway at \$12,000, which is an exhorbitant figure, and for which no reason can be assigned other than that in the statement furnished by the company on the 31st January, 1907, in accordance with section 44 of The Assessment Act, they had so valued that land at that figure which they said included all their buildings, etc., which it should not have done. I have assessed the used land at \$100 per acre and vacant land at \$25, which I consider equitable under the circumstances, but must say there is a large quantity of land in Rainy River assessed at too low a value—and a competent person should be employed to assess same in accordance with the provisions of The Assessment Act.

The evidence given as to the round house, including the turning-table, pits, etc., which was very contradictory, and it is very difficult for me to arrive at its actual value, but as this assessment is likely to remain for some time and it is in a bad state of repair, I reduce the amount by \$1,000. In the other buildings I have made little change. It was urged by counsel for the respondents that the "tank" should be assessed, but I think it is clearly exempt under the amendment of 1906 already referred to (section 13 of chapter 36, 6 Edward VII.) as "being used exclusively for railway purpose or incidental thereto."

I authorize and instruct the clerk of the municipality to amend the assessment roll of the municipality in accordance with the above findings.

I make no order as to costs, as I think each party should pay their own costs, the incorrect statement given by the company to the assessor being largely accountable for his exorbitant value of the lands.

(Signed) T. W. CHAPPLE,
Judge of the District Court.

Dated this 17th day of July, 1907.

IN Re THE CANADIAN PACIFIC RAILWAY CO. AND THE TOWNSHIP OF HUNGERFORD

We are indebted to Mr. GEO. H. STOKES, clerk of the Township of Hungerford, for the following note of this appeal :

The appeal of the Canadian Pacific Railway Company from the Court of Revision of Hungerford Township was heard in the town hall, Tweed, on Wednesday, July 3rd last, before His Honor Judge FRALECK, Junior Judge of Hastings County.

The company had appealed against their assessment, asking for a reduction of \$550. Court of Revision confirmed the assessment and the company appealed to the Judge, claiming that the assessor was not entitled to raise their assessment above the amount fixed in 1905, save and except the sum of \$62.00 for one extra wire on right of way (telegraph assessment \$562.00) as provided for in section 45 of The Assessment Act.

The solicitor for the municipality claimed that section 45 did not apply until section 44 had been complied with, he claiming that the statement furnished under that section was insufficient, as it did not give the details necessary to assist the assessor in making a proper assessment, merely stating that the company owned 148 acres in Township of Hungerford, whereas the number of acres in each lot and concession should be given.

The solicitor for the company claimed they had complied with the requirements of the Act, and asked for costs against the township.

His Honor gave judgment dismissing the appeal and request for costs.

TRIENNIAL ELECTIONS AND PROPORTIONAL REPRESENTATION PROPOSED IN ENGLAND

In England, where one-third of the members of a council are elected annually, a system of elections for three years, with the proportional representation system of voting, has been proposed. The Association of Municipal Corporations recently passed the following resolution in reference thereto :

"That this council is of opinion that the present method of electing one-third of the members of provincial municipal council is preferable to the metropolitan system of triennial elections; and that even if the system of voting and obtaining the results of the poll proposed by the bill were adopted, it seems to this council doubtful whether it should be introduced into municipal elections, having regard to the complications involved and the delay which will be incurred in declaring the results, and also having regard to the desirability of maintaining the existing uniform method of voting at all elections."

The Town Clerk of Liverpool, in supporting the present law before a committee of the House of Lords, said :

It was very important that there should be as little disturbance as possible from year to year in the general policy of a town council, and such drastic changes as would result by the proposed adoption of triennial elections, and a possible return to the present system, would tend to confusion and disturbance which would be destructive of good and beneficial government, especially in those cases in which the councils are concerned with large

municipal trading undertakings, such as tramways, etc. By the present system of one-third of the members retiring every year the ratepayers were given the opportunity of expressing their views upon any particular matter or matters which had been dealt with during the previous twelve months, or were proposed by the dominant party at the time the elections took place.

Present Advantages

These views were expressed by the return or rejection, as the case might be, of certain retiring members or new candidates, and the new council was influenced very considerably by the result of the elections as given at the polls. Although the result of the elections might show that the ratepayers were not in favor of a particular policy being continued or adopted, still a complete and sudden reversal might cause more harm than good, and serious loss to the community, and consequently there was a distinct advantage in having in the council a number of members who were well acquainted with the various questions which were being dealt with by the council at the time the elections took place, and who could exert a restraining influence upon the efforts of the new members.

With regard to the system of voting, Mr. PICKMERE stated that the present system adopted in both parliamentary and municipal elections (viz., the marking of the ballot paper by a cross), had become well established and was understood by the voter. Any change, even of the simplest description might cause confusion, and result in a large increase of spoiled ballot papers, and this difficulty would be further accentuated if a council were, after adopting the Act, to return again to the present system. The drawbacks of having two systems were conspicuously demonstrated after an election of the now defunct school boards, where, in Liverpool, a voter could give from one to fifteen votes to any candidate, or divide the votes among as many candidates as he liked, provided he did not exceed fifteen in all. In the municipal elections following these school board elections the percentage of bad votes was always greater, owing to the confusion caused by the existence of two systems.

Sound in Theory

To Mr. PICKMERE the idea of proportional representation was no doubt theoretically sound, but its advantages were outweighed by the disadvantages which would arise by the complications of the system which would cause serious delay in the declaration of the polls. He feared very serious blunders would be made, and the number of election petitions increased. He pointed out that the elections referred to by previous witnesses were conducted by experts, well versed in the system, but as town clerk of a large city, having charge of the election machinery, when 100,000 votes might be polled (in the event of triennial elections), he dreaded to think of the result of introducing such an intricate system, as it would require 34 expert statisticians (one for each ward) to superintend the counting, who would have to be thoroughly acquainted with the rules.

Sir Samuel Johnson, Clerk of Nottingham,

Said it was very important that there should be as little disturbance as possible from year to year in the general policy of the town council. Under the present system continuity of policy, so far as municipal work was concerned, was obtained. The dislocation caused by triennial elections would be difficult to estimate, but he considered it would be most injurious in its results to good local self-government.—*Municipal Journal*.

Mr. IRA F. CULP, who has been treasurer of the County of Lincoln for the past ten years, died at St. Catharines on the 10th July last.

Engineering Department

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

WENTWORTH

The Wentworth county road system was established in 1902 under The Highway Improvement Act. The system, which is nearly 140 miles in total length, includes 32 miles of toll roads purchased in 1902 for \$69,104. Since that time there has been expended for permanent construction \$191,296.74; a total expenditure under the Act of \$260,400.74, of which the Province has paid \$86,800.24.

The work last year comprised 29½ miles of broken stone road, 8½ miles of gravel road, 1¼ miles of road graded, but not metalled, seven small steel and concrete bridges, and eight concrete culverts.

All work is directed by a county road superintendent. Wherever construction is in progress a foreman is put in charge. Also, for maintenance, a foreman is appointed for every five miles of road. Each foreman receives his instructions from the superintendent, who supplies him with a time book in which he keeps a strict record of all work performed. The foreman returns his book every two weeks to the road superintendent to be copied on duplicate time sheets. One copy is retained by the superintendent. The other, signed by the warden, goes to

the county treasurer who pays to the superintendent the amount in the time sheet, and he in turn pays to each person whose name is entered in the time book, the latter signing his name in the receipt column.

The following is a copy of instructions given the foreman by the county road superintendent :

1. All foremen must take their instructions from the county road superintendent, and it shall be the duty of foremen to report to the superintendent any person in the

employ of the county who refuses to comply with the instructions given to foremen.

2. It shall be the duty of every foreman appointed by the road superintendent to keep a close watch on the roads of his division and see that the culverts and bridges are in good condition, and in case of a wash-out, land-slide, or broken plank in bridges, or any other obstruction, to have the same put in repair at once, sufficient to safeguard the public from accident. Anything serious must be guard-railed and a red lantern kept in position

during the night, and notify the superintendent at once.

3. Every foreman will be supplied with a time-book, in which he will keep a strict record of all work done by himself and those employed under his charge, and to return the time-book to the road superintendent every two weeks in the working season, to be copied in the time sheets.

Time book must be returned to road superintendent by mail, not later than Fridays.

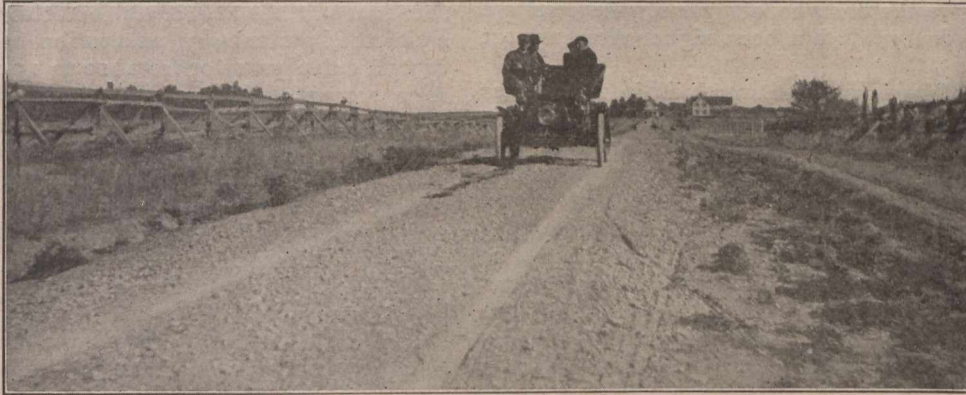
4. Foremen shall see that every person working for the County of Wentworth signs the foreman's time-book, in the receipt column before receiving his pay, in the division where the work has been done.

5. Any foreman who finds any person cutting,

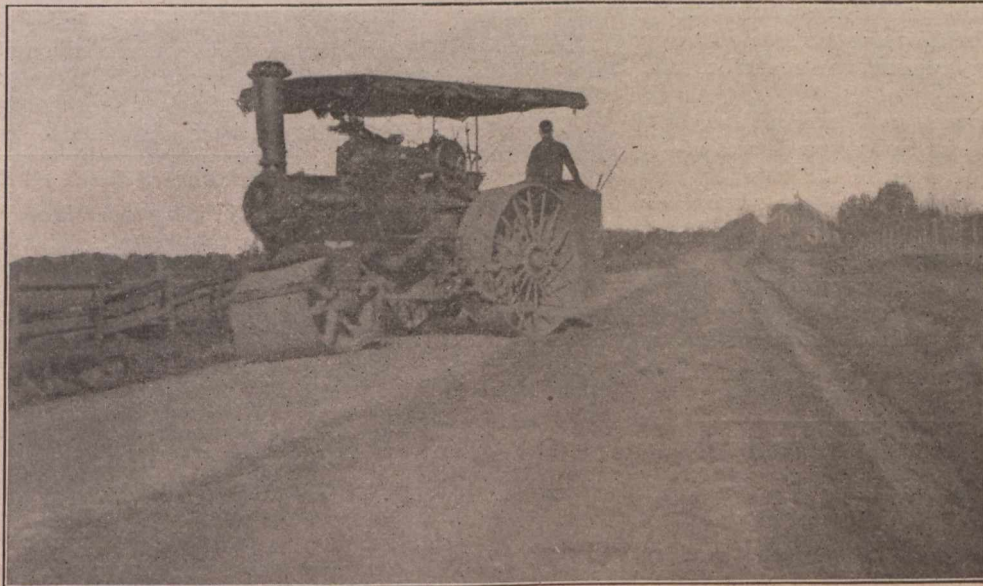
pruning or otherwise defacing any trees standing on the county road system, without a written order from the county road superintendent, shall cause the same to be arrested without further notice, and to notify the superintendent or county solicitor when such arrests are made.

6. Any foreman who wilfully refuses or neglects to comply with above rules will be subject to immediate dismissal.

(Sgd) JAS. L. TAYLOR, Co. Road Supt.



COUNTY ROAD IN WENTWORTH



STEAM ROAD ROLLER, WENTWORTH

The general construction consists of an earth grade 24 feet wide, stoned or gravelled in the centre to a width of from 8 to 14 feet—the latter being on heavily travelled roads on the outskirts of Hamilton. The ordinary depth of metal is nine or ten inches. About 300 cords of stone is usually provided for an eight-foot road. The metallated portion is given a crown of 1 : 12, and the earth or clay sides fall with a slope of 2 : 12 or 2 : 15.

In some cases the metal has been placed at the side of the grade so as to provide an earth track for summer use, but this form of construction is not a success, as the roads so built cannot be kept in shape to shed water to the side drains, and they are rapidly rutted and destroyed.

Very little gravel is obtainable in Wentworth county, but stone is fairly well distributed, and is used almost entirely. Owing to the absence of gravel, the average cost of roads in Wentworth has been higher than in most counties.

The length of haul in Wentworth is in some cases very considerable. Broken stone has been hauled as far as nine miles, making an average of 6½ miles for several roads. A common haul is from two to three miles. Wagon boxes three feet wide, two feet deep and eleven feet long, are used, holding half a cord. Teaming costs 35 cents per hour, but a day's work is regulated as far as possible by the number of trips. Teams can cover from 20 to 26 miles in a day, so that for a two-mile haul there are six trips a day; for a three-mile haul, 4 trips a day; and for a 6½-mile haul, two trips a day. In hauling gravel it is found that six or eight teams are more profitable than more, as they are not so apt to crowd in the pit. For stone, the number of teams employed is regulated by the length of haul and output of crusher.

A considerable mileage of the Wentworth county system consists of old toll roads constructed years ago, and since kept in a fair state of repair. As with the majority of roads of this class, the graded and metallated portion is excessively wide for the amount of traffic. In the general treatment of these roads, the practice is to cut off the old shoulders at the side of the road, open the drains and water-courses, and resurface the centre with gravel or stone.

The county owns two steam rollers. One weighs 10 tons 900 lbs. net, carries 1,500 of coal and 250 gallons of water, sufficient to operate for two or two and a half days. The cost was \$2,500 f.o.b., Hamilton. The other weighs ten tons and cost \$2,750. During the year, the county kept in continuous operation four crushers each, with a capacity of from 10 to 14 cords per day. Ordinary wages have been: For labor, \$1.60 to \$1.75 per day; teams, 35 cents per hour; ordinary foremen, \$2.00 per day; crusher foremen, 25 cents per hour; and roller engineers, 30 cents per hour.

COST OF PAVEMENTS

The cost of pavements for one municipality cannot be wholly determined from the cost in another. Conditions as to labor and material are not uniform in different localities, while prices change also from year to year. Slight differences throughout entire works in the various steps of construction—excavation and grading, drainage, class of foundation, method of laying, and many minor details affect the cost as regards not only different towns, but also as regards different streets in the same town.

The first pavement or work of any kind generally costs more than subsequent work of the same class. Experienced contractors can do work for less than contractors to whom the work is new. The amount of competition is a material factor. The distance material has to be transported makes itself apparent in the cost of

freight and wagon haulage. The machinery and implements available affect the outlay. The time of year the work is carried on influences the cost, and bad weather is a factor. The cost of paving every street should be estimated upon its own merits.

The cost of no pavement varies more than does ordinary macadam. There are instances where conditions have been so favorable as to make the outlay as low as twenty-five cents a square yard for very serviceable results. On the other hand, one dollar a square yard has been exceeded. The distance of hauling stone, the cost of crushing, experience, preliminary earthwork and drainage are all subject to the greatest range of cost.

For the higher classes of pavement with a concrete base, and surface of asphalt blocks, vitrified bricks, or sheet asphalt, the difference is not so great. For rough estimates, preliminary excavation costs from 30 to 40 cents a cubic yard, or from 10 to 15 cents a square yard of pavement. Rolling the earth sub-soil costs, say 2 cents a square yard. Concrete foundation costs from \$5.00 to \$5.50 per cubic yard, or 60 cents a square yard for a 4-inch base, and 90 cents for a 6-inch base. The cost of 4-inch tile drain is 5 or 6 cents per lineal foot, and concrete curb and gutter costs from 25 to 40 cents a lineal foot.

In addition to the excavation, concrete base and other preliminary work, a surface of asphalt blocks costs about \$1.50 per square yard with 20 cents a square yard additional for laying. A vitrified brick surface costs about 95c, with 20c additional for laying. A sheet asphalt surface costs from 80c to 90 cents a square yard in place.

Recent prices of pavements complete, exclusive of curb, have been as follows:

Vitrified brick on 4-inch base	\$2.12 per sq. yd.
“ “ 6 “	2.50 “ “
“ “ broken stone	1.80 “ “
Asphalt block	\$2.25 to 2.50 “ “
Sheet asphalt, heavy	1.99 to 2.10 “ “
“ “ light	1.36 to 1.66 “ “
Tar macadam	2.00 “ “
Bituminous macadam	2.25 “ “

While the foregoing prices of complete pavements are an index in a general way, yet for effective comparison a special estimate of any proposed work must be made, and the further cost of maintenance considered.

BROKEN STONE ROADS

Broken stone is being very largely used throughout the Province for road metal. This applies more especially to districts where suitable stone for crushing is plentiful, and where gravel is scarce or of a poor quality.

Broken stone costs more than gravel to the extent of the cost of crushing. But under heavy traffic it is much more durable than gravel, and in a term of years will very often be found a cheap road metal. The counties of Lanark and Wentworth use it largely on the county roads; and Simcoe, Wellington and Hastings use it to some extent. Among the townships using it are: Ameliasburg, Belmont, Bertie, Brighton, Burleigh, Camden East, Cornwall, Cumberland, Derby, Drummond, Hawkesbury East, Hawkesbury West, Luther East, Montague, Oxford West, Pickering, Richmond, Smith, Saltfleet, St. Vincent, Winchester, Yonge and Escott Rear.

Among the most practical points to observe in the construction of broken stone roads are:

- (1) That the roadbed is properly prepared to receive the broken stone by grading and draining.
- (2) If the road has an old and solid roadbed, it should be preserved by cutting off the shoulders of sod at the sides, throwing this material outward—never drawing it to the centre.

(3) That the grade is straight, hills brought to a permanent level, and all drains given a good fall to a free outlet.

(4) That the stone is placed in a straight line, and properly spread.

(5) That a good quality of stone is used. Special care should be taken to avoid stones that weather or "rot" quickly. If field stones are used, cull all that are weak or brittle.

(6) That the stone is graded according to size, and the coarsest spread in the bottom and the finer on top.

(7) That a roller is used, first to compact the earth sub-grade, then to consolidate the road metal.

Broken stone very often gives less satisfaction than gravel, because the latter binds quickly under traffic owing to the presence of sand and clay. To get the best service from broken stone a road-roller should be used to consolidate it, otherwise the stones will roll loosely for a considerable length of time. The feeling of councils with regard to its use often is that it makes a passable road for a short time in fall and spring, but that a good dirt road for summer use is spoiled. Townships which have only broken stone for road metal will receive decided benefit from the use of a steam or horse road roller, which will at once consolidate the stone, and make a thoroughly good and smooth road for all seasons of the year. There must be a sufficient body of broken stone to consolidate into a compact layer. A sprinkling of stones over the surface is useless. It merely impedes travel on what might otherwise be a good dirt road. Six inches of broken stone is the least which should be used in making a durable roadway for any purpose, and it should be the aim of councils to thicken this covering as circumstances will permit.

Stone varies greatly in quality, and a proper selection requires experience and care. Some rocks are difficult to quarry, but very quickly turn to clay when exposed to the air. Limestone, granite and gneiss are very commonly used in the Province. A good quality of any of these makes a good road metal. Limestone is frequently softer than the others, but its binding qualities are excellent, enabling it to make a more waterproof road covering. A heavy stone is usually better than one that is light. A stone that breaks into cubical shapes is desirable; while one that breaks into thin, flat shapes is objectionable.

A practical man can judge of the qualities of a stone by applying simple tests; by breaking the stone with a hammer, wearing it on a grindstone, crushing it in a blacksmith's vice, scratching with an iron nail, breaking small pieces with the fingers; by such simple means a general idea of the stone can readily be formed,

but no test is so conclusive as actual wear on the road. Broken stone should be separated into grades according to size, the coarser stone to be placed in the bottom of the road and the finer at the top. This grading of the stone is done by means of a rotary screen attached to the crusher. If the stone is placed in the road without being graded in this manner, the smaller stones wear more rapidly than the larger, and a rough surface results. Large stones at the surface, moreover, are more apt to become loose, to roll under the horses' feet or the wheels. For country roads there should be placed in the roadbed:

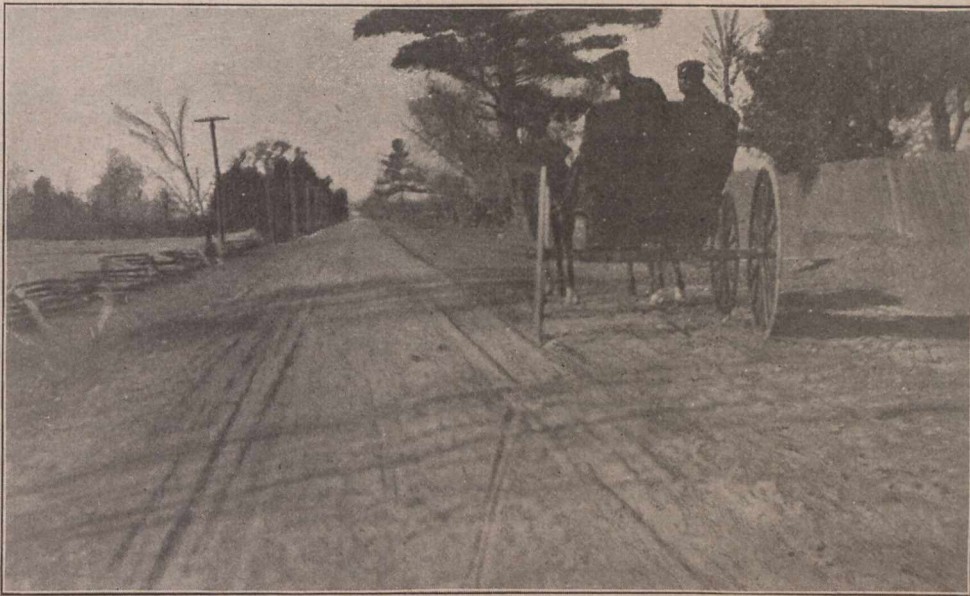
(1) A layer of stones such as will pass through a 2 1/2-inch ring.

(2) On this a layer of stones such as will pass through a one-inch ring.

(3) On this a sprinkling of screenings—that is, the dust and chips created in crushing.

The cost of broken stone roads can be kept at a minimum by careful management of labor, including teams. This includes a skilful arrangement of the quarry, and of the crushing outfit. The wagons for hauling should be of a specified size, and the number of loads to

constitute a day's work should be fixed. Teams can usually travel 24 miles in a day, and the number of loads can be fixed accordingly. The County of Wentworth in the county road work requires wagon boxes to hold two cubic yards.



A WENTWORTH COUNTY ROAD

CONCRETE SIDEWALKS

Concrete sidewalks are growing in favor owing to the greater durability and

better appearance as contrasted with the increasing price of lumber and the poor quality obtainable. Plank walks are at best short lived, require a great deal of repairing, and when they begin to wear out are frequently dangerous. A well-built concrete walk, on the other hand, is practically permanent and does not demand the care that plank walks require.

Without resorting to walks made merely of a bed of gravel or finely crushed stone (laid very much after the manner of the gravel or stone foundation commonly used for concrete walks), it is difficult to find a cheaper walk than concrete. Contracts were let in 1906 for concrete walks at 9 cents per square foot. This is a very low figure, and is very near the actual cost, but under favorable conditions serviceable walks can be built for that price.

For residential and outlying districts particularly, there has been in some towns and cities a tendency to lay concrete walks in a more expensive manner than is necessary. Under suitable conditions, and especially with a dry, sandy sub-soil, light but durable concrete walks can be laid without a gravel or broken stone foundation—merely a 3 1/2-inch concrete base, and a

1-inch surface coating of cement-sand mortar. Particular care should be given in laying such a walk to provide the best Portland cement, thoroughly mix the concrete, and to completely divide the walk into blocks so that there will be a clear space at each joint. Even on clay soils, if properly drained, such a construction should be safe; or, in any event, a four-inch gravel or stone foundation should be sufficient. A great deal of the failure of concrete walks, commonly attributed to a weak foundation, is really due to poor workmanship, carelessness in mixing the concrete, inferior cement, and other causes. Crushed granite in the wearing surface is needlessly expensive, except for certain walks in the larger cities, subjected to exceptionally heavy traffic.

These walks are variously called "artificial stone," "granolithic," "cement," "concrete," "cement-concrete." The term "granolithic" is properly applied to the walks of this class in which granite chips are mixed with sand and cement in forming the wearing surface. Although of similar appearance, concrete walks are not the same material as is used for asphalt roadways, with which they are very commonly confused, the asphalt pavement being a mixture of sand and mineral pitch. Asphalt is occasionally, as in the City of Kingston, used for sidewalks. Vitrified paving brick are also used to some extent for sidewalks, costing about the same as concrete, while they are commonly used for crossings, being laid on a concrete base, and taking the place of the concrete wearing surface.

The usual requirements of a concrete walk are :

(1) A foundation layer of stone, gravel, cinders, or other suitable material, consolidated to a depth of from four to twelve inches in thickness, according to the nature of the sub-soil.

(2) A concrete base from three to four inches in thickness.

(3) A surface coating of cement-mortar one inch in thickness, mixed in proportion of one of cement and two of sand.

The foundation layer is intended to provide a certain amount of drainage, as well as strength, and should be greater on a clay soil, retentive of moisture and subject to upheaval by frost, than it need be on a loose gravel or sand.

A concrete base three inches in thickness is ordinarily required on a favorable soil, and four inches where the sub-soil is of clay, or where, for other reasons, the drainage is not thought sufficient.

Where broken stone is used in the concrete base, safe proportions would be one part of Portland cement, two and one-half or three of sand, and five of broken stone. This quantity of sand and cement will make a strong mortar, and there will be sufficient to surround each stone and fill the voids.

Where gravel is used to form the concrete base, the usual proportions are one part of cement to six or seven of gravel. The gravel used in mixing concrete should be free from clay, loam, or earthy material, and should contain about thirty per cent. sand. As there is apt to be some uncertainty as to the quality of the gravel and the uniformity with which sand is intermixed with it, a greater proportion of cement is required than with a carefully adjusted mixture of cement, sand and broken stone.

The sand used in mixing broken stone concrete should be clean, sharp, and of varying sized grain. One of the objects to be aimed at in mixing concrete is to have fine and coarse materials in such proportion to one another that the percentage of voids in the consolidated mass will be reduced to a minimum.

For the surface coat the proportion of one of cement to two of sand is customary, except at street crossings, where one part of cement to one and one-half of sand is commonly employed.

As previously pointed out, special care should be taken to thoroughly mix the concrete, and to divide the blocks completely at each joint—this division providing for contraction and expansion. A four-inch slab of well-made cement-concrete is exceedingly strong, and should not crack or disintegrate when laid on the surface of any soil; but if the soil is wet, the walk would have a tendency to become uneven.

Quite apart from conditions to be expected in frosty weather, concrete sidewalks exhibit at times a tendency to become dangerously slippery; the entire surface in some cases, and in others, merely in spots. The condition is frequently serious, and is one to be avoided as far as possible. The tendency to be slippery may arise from several causes. Granite chips, or broken stone of almost any kind, used in the surface coating, will wear smoother than an ordinary sand finish. A surface rich in cement generally wears smoother than one in which the proportion of sand is greater. The dusting of the surface on completion with neat cement, instead of a mixture of sand and cement, tends to smoothness. A trowel finish is smoother than a surface finished with a wooden float. Towns in which hills are numerous, and slippery walks therefore more necessarily avoided, find most serviceable a plain, sand-cement surface, finished with a wooden float, indented with a toothed roller, or other means of roughening.

Then walking on concrete sidewalks, a hollow sound is frequently noticed. This hollow sound indicates a separation of the concrete base and surface coating. The remedy is that ordinarily prescribed in specifications for sidewalks, requiring the surface coating to be put on the base before the latter has set and while still adhesive. That is, the concrete base should be covered with the wearing surface as the work progresses, the former being spread in short sections and immediately surfaced. In this way the two layers of concrete unite to form a solid stone.

The "hollow sound" is the forerunner of the time when the surface will crack and shale away from the concrete base. When, for this reason, it becomes necessary to re-surface a concrete walk, the entire surface as far as it can be loosened, should be taken off. The concrete base should be thoroughly flushed to free it from all loose particles, and made as wet as possible. Dry cement should then be sifted over it and the new surface coating of cement mortar at once applied. This is the usual process for re-commencing interrupted concrete work, the surface being always well flushed, dusted with dry cement, then the new concrete put on.

Engineer K. L. AITKEN, of Toronto, the electrolysis expert, finished making his tests here yesterday, and his report will be in the hands of Mr. BARROW, the city engineer, within a week. He has found many places where there is a large flow of current in the pipes, but in the excavations so far made no material damage has been discovered. Advice will be given Mr. BARROW as to what precautions are to be taken in connection with the matter.—*Hamilton Spectator*, June 28, 1907.

JNO. MACDONALD, clerk of the Village of Bolton :
"I feel as though I can't do without THE WORLD. It is the right thing for all municipal officers."

QUESTION DRAWER

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

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

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

Collection of Arrears of Taxes.

461—J. B. B.—A farm was rented before the time for collecting taxes. The crop and everything on the farm was seized and sold for debt and nothing left for the collector to get next year. The farm was sold under the mortgage, the taxes still unpaid for the previous year. The same was allowed to stand for ten years. Is the land still liable to be sold for the taxes due ten years ago or are the taxes outlawed?

We do not understand why the arrears of taxes were not paid at the time the land was sold under the mortgage. Mere lapse of time does not release the land from liability to be sold to realize the amount, but there may be some other element in the case which would render the sale illegal. As to this, however, we cannot say, not having sufficient particulars.

Power of Village Council to Raise Money for Putting Furnace in School House

462—J. E. H.—The Board of Education in a village which is a part of a union school section including some outlying township territory have asked the council of the village for some \$2,000 to put in a new furnace instead of the old one in the public school, and to provide for ventilation as required by the Departmental regulations.

1. Can the council pass a by-law for this purpose without submitting it to the ratepayers?
2. Would the words in section 70, chapter 292 R. S. O., 1907, "for the erection of a school house, or any addition thereto," cover the kind of improvement referred to above?

Sub-section 1 of section 76 of the Public Schools Act, 1901, was repealed by section 5 of chapter 32 of The Ontario Statutes, 1903, and a new sub-section substituted therefor. The substituted sub-section, as amended by section 42 of chapter 53 of The Ontario Statutes, 1906, reads as follows: "The municipal council of any urban municipality may, on the application of the board of public school trustees, pass a by-law for borrowing money by the issue and sale of debentures for the purchase and enlargement of a school site, or for the erection of a school-house or any addition thereto, or *repairs or improvements of the school property*, or for the purchase or erection of a teacher's residence, which debentures, and the money to be raised annually therefor should be chargeable only upon the property of ratepayers who are supporters of public schools. Where the municipal council refuses to issue such debentures to raise or borrow the sum required for the said purposes, then the question shall be submitted by the municipal council, if requested by the board of trustees, to the vote of the electors qualified to vote under the Municipal Act for the creating of debts, and who are supporters of public schools, in the manner therein provided, and on the assent of such electors being obtained, the council shall issue such debentures to raise or borrow such sum, to be chargeable as aforesaid." Sub-section 3 of section 76 provides that "Application for the issue of debentures for school purposes by the trustees of urban municipalities to which part of an adjoining township is attached shall be subject to the provisions of this section." We are of opinion that the words "repairs or improvements of school property" include the placing of a furnace and ventilating

apparatus in the school house, and that the council should be guided by the provisions of sub-section 1 of section 76 of the Act above quoted.

2. The Public Schools Act is now chapter 39 of The Ontario Statutes, 1901, and the section referred to is now section 74, but it has no application to cases of this kind. It applies only to the issue of debentures in rural school sections.

Opening Original Road Allowance.

463—A. R.—An original allowance for road (a concession line) in this township, owing to a wet marshy place thereon, has been left unopened and is enclosed by the several owners adjoining.

A number of ratepayers who would be greatly benefited if this road was opened and made, have petitioned the council to open and make it fit for travel, and have offered to do considerable gratis labor on it.

(Municipal Officers of Ontario)

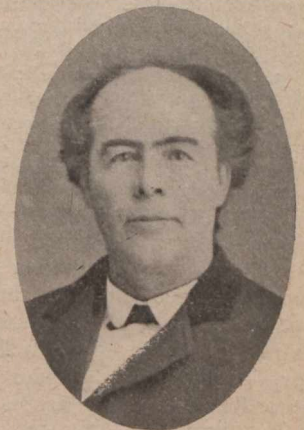
As the road is in a state of nature covered with timber, it will be costly to make a road for all purposes, but the petitioners suggest that the by-law to open it be passed so that they may expend their gratis labor and make it fit for winter travel, *only* for the present.

1. Can the council pass a by-law opening the said allowance for road for winter travel only?
2. If the council passes by-law opening road for winter travel, would the expenditure of gratis labor thereon render the township liable for damages in case of an accident thereon?
3. Could the residents interested work their gratis labor on said road allowance by consent of the council without a by-law being passed by the council for opening it?

1. The council has no authority to open this road for winter travel only. If it opens it at all, the road must be put in a reasonably safe condition for persons using it, and maintained in that condition all the year round. The council is not bound to open the road allowance, nor should it do so simply to accommodate one or two ratepayers.

2. If the council passes a by-law to open this road as suggested, it will be responsible for its being kept in repair, and for damages arising from accidents caused by its not being kept in a reasonable condition of safety.

3. The residents may do this, if they so desire, but if the road is in this way opened for travel, the council will be liable for damages occasioned anyone by reason of its lack of repair.



GEORGE P. HUGHES
CLERK VILLAGE OF TOTTENHAM.

Mr. HUGHES was born in the Township of Tecumseh 73 years ago, was for many years deputy-reeve of Adjala, and was appointed clerk of that township in 1874, which position he retained until he removed to Tottenham, where he was appointed clerk on its incorporation, thus holding office for 33 consecutive years. He was appointed magistrate in 1865, and has held many other positions, such as conveyancer, notary, commissioner in the Queen's Bench, postmaster, banker, etc. For some years he had one of the largest conveyancing businesses in the County of Simcoe.

Payment of Cost of Constructing Cement Walks in Village.

464—J. J. J.—We are an incorporated village and want to build cement sidewalks. Can the council build a cement sidewalk if a large majority of the ratepayers ask for it by petition? And can the council, when striking the rate for the year, include cost of sidewalk in taxes?

The council has power to build such cement sidewalks as it deems the needs of the public require, and pay the costs of so doing out of the general funds of the municipality. The cost of building these walks may be levied in one year, provided, in so doing, the council does not transgress the provisions of sub-section 1 of section 402 of The Consolidated Municipal Act, 1903. The walks may also be constructed under the local improvement clauses of the above Act (section 664 and following sections) and paid for by a frontage rate.

Copy of Drainage By-law May be Served—Status of Public and Separate School Supporters.

465—NEW CLERK—1. B township is constructing a drain under the Municipal Drainage Act, in which the township of A is interested to the extent of \$115.00. Of this \$50.00 is awarded against the municipality and the remaining \$65.00 against two farms. As the amount is so small, A township purposes not to raise debentures but to levy the amount as a special rate with this year's taxes. Will a by-law authorizing the levy of this special rate require to be published and advertised in the manner specified in section 21 of the Act (R. S. O.), or would it be sufficient to notify the two parties concerned?

2. A ratepayer who is a separate school supporter has purchased another farm which is more than three miles from the separate school. Can he withdraw this lot (No. 1) from the public school, he not living on it but on another which is within the limit of distance of separate school?

3. Can a Roman Catholic become a separate school supporter if his residence is more than three miles from any separate school?

4. A Roman Catholic has two parcels of land lying side by side, both being within three miles of a separate school. Can he be a separate school supporter in regard to one parcel and a public school supporter in regard to the other? i. e., can a man be both a public and a separate school supporter when all his property lies within the limit of distance of the separate school?

1. It is not necessary to publish the by-law as prescribed by section 21 of the Act, but if the council decides not to publish the by-law, it will have to serve copies thereof on each owner in the municipality assessed for a part of the cost of the construction of the drain, in accordance with the provisions of section 22 of the Act.

2. Yes, assuming that the separate school is located in the municipality in which the land is located, or a municipality contiguous thereto.

3. Yes, provided the separate school is located within the municipality in which his land is situated or in a municipality contiguous thereto.

4. We do not think so. If he gives the notice required by law he becomes a separate school supporter and then all his property becomes liable for separate school rates.

Payment of Cost of Watering Streets in Village.

466—M. R.—B is an incorporated village. The merchants and residents on Main street wish the streets sprinkled. Can the council proceed on petition to do the same and levy on general rate? If not, how must they proceed to have it done?

Sub-section 1 of section 686 of The Consolidated Municipal Act, 1903, confers this authority on councils in incorporated villages. The first part of the sub-section provides for payment of the cost of so doing, by a frontage rate, or a rate on the assessed value of properties benefited. The latter part of the sub-section is as follows: "but the council may charge the *general corporate funds* with the expenditure incurred in such sweeping, watering or lighting as aforesaid."

Minor Can Be Assessor—Time for Making School Assessment in Unorganized Townships—Assessment of Windmill.

467—E. J. P.—1. Can a minor do assessing for school sections? Is it lawful for him to do it, as I have heard a minor cannot do business in his own name?

2. Our own assessment was not done until May; is it lawful?

3. Can an assessment be made in July? If not, can the Court of Revision order a new assessment if they find the one that is made is not lawful.

4. Can a windmill be assessed which is used for grinding and cutting small logs under clause 16 of section 5.

1. We are aware of no legal objection to the performing of the duties of an assessor by an appointee to that office, who is under the age of twenty-one years.

2. Yes. Section 27 of The Public Schools Act, 1901, fixes no definite time for the return of an assessment roll, or the making of an assessment in a school section in an unorganized township.

3. We know of no legal objection to an assessment in a locality of this nature being made in July. This being our opinion, it becomes unnecessary to reply to the last part of this question.

4. By clause (d) of paragraph 7 of section 2 of The Assessment Act, 1904, the word "land" is made to include "all buildings or any part of a building, and all structures, machinery and fixtures, erected or placed upon, in, over, under, or affixed to land." A windmill is a fixture erected on land, but if it is used for farming and manufacturing purposes, as appears to be the case in this instance, we are of opinion that it is exempt from assessment and taxation under paragraph 16 of section 5 of the Act.

Cost of Making Concrete Pipe.

468.—D. M. V.—Our municipality has bought concrete pipe moulds, and intends to have pipes made in the township at so much a piece, the municipality to furnish the cement and the maker sand, gravel, etc. Sand and gravel are plentiful, and easy to get. Could you tell us about how much a piece of 12-in. and 18-in pipe we should pay for making?

A definite estimate is dependent upon data not given. With all material on the ground, an average day's work for two men would be twelve or fifteen pipe, in 2½ foot lengths and 12 to 18 inches diameter. A fair price to pay would depend also upon the local price of labor, cost of gravel, number of pipe to be made and the details of agreement with the maker.

Herding of Cattle on Highway.

469—S. A. T.—The township of W has a by-law forbidding all live stock from running at large on the highways, but there are some farmers who have small boys from the "Home," and they send these boys to herd the cattle upon the streets and highways of the township. Now a herd of these cattle coming into the villages—where the citizens take a pride in keeping a portion of the streets opposite their dwellings nice and clean—tramp and otherwise injure the streets, and are a nuisance and an annoyance, and the owners of these cattle when notified to keep their cattle off the streets, refuse to do so, saying they have a perfect right to herd their cattle on the streets and highways.

Would the overseer of the highways be justifiable in causing these cattle to be impounded?

If animals are allowed to be herded or tethered upon the highways, has a municipal council power to pass a by-law forbidding cattle to be herded or tethered upon the highways, under a penalty of being impounded?

Section 546 of The Consolidated Municipal Act, 1903, empowers councils of townships to pass by-laws for restraining and regulating the *running at large* of cattle, and this township has apparently passed a by-law of this kind. If cattle are on a highway, in charge of any person competent to look after them they are not running at large contrary to the provisions of the by-law, nor can they be impounded for so being on the highway. We

are of opinion that the council cannot pass a by-law prohibiting the presence of cattle on the highway, while in charge of a competent herdsman. If, however, cattle on a highway do any damage to adjoining premises, the owner of the cattle can be held responsible for the amount of the damage sustained.

Names of Guarantee Companies.

470—G. H. L.—Would you be kind enough to give me the name of some company of guarantee, such as for treasurer of corporation?

The following companies are thoroughly reliable for the purpose mentioned: The United States Fidelity & Guarantee Co., A. E. KIRKPATRICK, manager, 6 Colborne street, Toronto, Ont.; The Dominion of Canada Guarantee & Accident Co., J. E. ROBERTS, manager, King and Yonge streets, Toronto, Ont.; The London Guarantee & Accident Co., Limited, D. W. ALEXANDER, manager, 46 King street west, Toronto, Ont.

Assessment in Incorporated Villages.

471—J. F.—A farmer owns 140 acres of land within the limits of an incorporated village. On the front of this farm are eleven surveyed village lots. On one of these lots he built another house, which is occupied by his own son, who works the farm. The farmer is assessed for the property at farm rates. The son is assessed for the other lot and house as tenant at the same rate as village property, which is a higher rate. Is this in accordance with the Assessment Act?

If the lot occupied by the son as tenant is less than five acres in extent, we are of opinion that it is properly assessed as village property, and that the balance of the land, owned by the father and assessed to him, is properly assessed as farm lands, in accordance with the provisions of sections 39 and 40 of The Assessment Act, 1904.

Removal of Obstructions From Highways.

472—W. K. H.—A owns property on each side of the Government Road in the township of D. Said property was fenced in on both sides with log fences. A has built a wire fence on said property and thrown his log fences in both ditches. The council has notified him to remove the same and he refuses to do so.

1. What proceedings will the council have to take to have said material removed?
2. What length of time should A have to remove said material from ditches?

1 and 2. The council should pass a by-law pursuant to the provisions of sub-sections 3 and 4 of section 557 of The Consolidated Municipal Act, 1903, which should provide that if A does not remove the obstructions he has placed in the ditches on the highway within five days after having been notified to do so, he will be liable for the expense of their removal.

Collection of General Township School Levy.

473—A. W. J.—In May, 1906, a portion of school section No. 4, in the township of N was annexed by proclamation to the village of T. Although nothing has been done by either of the municipal councils concerned, it is claimed that it is now a union section with an urban municipality and exempt from paying the township or "poor school" rate.

1. Under the circumstances is this correct?
2. Does the present school Act exempt such unions from paying this rate?
3. Should not the council of the township have received some formal notice of the proclamation having been made?

1. The statement of the facts is somewhat indefinite, but we gather that a portion of a school section in the township was attached to the village by proclamation of the Lieut.-Governor under the authority of section 16 of The Consolidated Municipal Act, 1903. If this is so, the portion of the school section added to the village by the proclamation becomes part of the village for all purposes.

We do not think that the addition of part of the school section to the village had the effect of forming a union section between the village and remaining part of the school section.

2. Sub-sections 2 and 3 of section 70 of The Public Schools Act, 1901 (as enacted by section 19 of chapter 51 of The Ontario Statutes, 1907), specially exempt from the levy and collection of the general township rate, lands located in parts of the township annexed to urban municipalities for school purposes, but these provisions do not apply to the case under review.

3. We do not think so. The publication of the proclamation was sufficient notice.

By-Law Exempting From Taxes Must Receive Assent of Electors.

474—C. C.—The town owns lots bordering on the banks of a navigable river, in front of which is a dock suitable for unloading of any kinds of merchandise.

A manufacturing industry wants to lease said dock and river front, but does not want to pay taxes or be assessed therefor, so as to make them liable for business tax.

1. Can the municipality exempt them from the ordinary taxes and the accompanying business tax, in whole or in part, without submitting a by-law to the people and obtaining their consent in the manner provided by statute in their behalf.

(Municipal Officers of Ontario)

No.

Collection of Amount of Engineer's Certificate Under D. and W. Award.

475—P. J.—The township engineer let a contract for the repair of an award drain, part of which the owner was adjudged to keep in repair, and failed to do so. The contractor completed his contract repairing said ditch, presented the engineer's certificate to the council and received payment therefor. This took place late in the month of November, 1905, when the roll was already in the collector's hands and could not be charged for said expenses, but the owner of the land who was adjudged to keep said ditch repaired was notified of the amount, and payment asked therefor, but said owner failed to pay, and sold his property. The new owner who bought said property rented the same to a tenant, who was assessed therefor in 1906 and 1907. In 1906 the charge was omitted by oversight on the collector's roll, but the new owner being notified and payment demanded without result, said property is still assessed to a tenant.

Now to whom is said costs of repair to be charged on the roll, the owner of the land or the tenant? The tenant is separately assessed along with other property.

Can it be charged for two years' interest for said outlay?

We assume that the present owner of the land is the purchaser from that owner who made default in performing the work awarded him, and whose portion of the drain was sold. If this is so, the present owner has not been prejudiced by the omission to place the amount mentioned in the engineer's certificate with seven per cent. added, as required by The Ditches and Watercourses Act (R. S. O., 1897, chapter 285) upon the collector's roll for 1906. This amount is a charge on the land, and not a personal claim only against the owner or the tenant. The amount should be placed on the collector's roll for this year and collected in the same manner and at



WILLIAM WADDELL
CLERK TOWNSHIP OF MORNINGTON

WM. WADDELL was born on the 7th April, 1853, in the Township of North Easthope, County of Perth, Ont. He received his education in the public schools of his native county, the Berlin High School and the Toronto Normal School, and taught school for over twenty years, retiring from the profession about ten years ago. Since that time he has been engaged in farming and live stock business. Mr. WADDELL was appointed clerk of the Township of Mornington in January of the present year.

the same time as other taxes. Interest for two (2) years cannot be added.

Payment of School Moneys—School Requisitions—Municipal Associations.

476—G. H. S.—1. Should the treasurers of school sections have orders from the township council on their treasurer when they require money as provided by s.s. 10, section 70, Public School Act, or is the treasurer right in paying on the order of the trustees of the section only?

2. Should not the board of trustees of any section, in making their requisition for moneys, call for a sum sufficient to meet their needs for salary purposes for the year following the one in which the levy is made? Many sections in our municipality have now drawn considerably more than was levied for them, while others have still sufficient to their credit for this purpose.

3. Is there such an association in Ontario as "The Municipal Clerk's Association?" If so, give names and addresses of officers.

1. The township treasurer should not pay school moneys to treasurers of school sections in the municipality unless the latter produce to him a cheque or order from the council directing him to pay the respective amounts.

2. We do not think the trustees of a school section have any power to request the council to levy any greater sum than will meet and pay the expenses of the school under their charge for the year in which the requisition is made on the municipal council pursuant to sub-section 9 of section 65 of The Public Schools Act, 1901.

3. There is an association for the Province called "The Ontario Municipal Association." Of this Mr. J. A. ELLIS, treasurer of the City of Ottawa, is president, and Mr. K. W. MCKAY, county clerk of Elgin, secretary. There are a number of local municipal officials' associations—for example: The Oxford Municipal Clerks Association, WM. FAIRLEY, village clerk, Norwich, Ont., secretary; The Ontario Rural Municipal Association, JAMES LAIDLAW, township clerk, Guelph, secretary; The Lambton Municipal Association, JOHN FARRELL, Forest, president, and JOHN DALZIEL, county clerk, secretary, Sarnia.

Sale of Property Does Not Disqualify Councillor.

477—E. H.—A township councillor has sold all his property in the municipality and removed to another place just under two miles outside the boundary.

1. Will this disqualify him from serving as councillor the remainder of the year?

2. If so, should he resign or the council declare the seat vacant?

3. If he is disqualified will the Court of Revision at which he sat and voted be illegal, all the decisions being unanimous? The court was held a few days after the sale of the councillor's property.

1. We are of opinion that the facts stated do not disqualify the councillor from holding the office to which he was elected, or prevent his participating in the transactions of the business of the municipality as a member of the council or Court of Revision.

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

Councillor Should Not Contract With His Council.

478—M. J. N.—We have some money to spend in this municipality on the roads. Now one of our councillors has taken the job of spending about \$200 of this money. He thinks he is a sort of commissioner, but still is really the boss of the job and spending the money.

1. Can the job be taken away from him because he is a councillor, and how could we proceed to do so?

2. Could he be put out of office on account of spending that money, and how would we proceed?

3. Would it disqualify him from holding office another year?

4. If any councillor works for and receives money from the municipality, will it disqualify him from holding office this year?

1. Under clause (a) of sub-section 1 of section 537 of The Consolidated Municipal Act, 1903, a councillor may act as commissioner, overseer, or superintendent over any road or work undertaken and carried on, in part or in whole, at the expense of the municipality, and he may receive pay from the council for acting in that capacity. He cannot legally receive or be paid for his own use any part of the moneys the expending of which he is superintending over and above his pay, as commissioner, or take a contract for doing any part of the work, either in his own name or in the name of another. From the statement of the facts the exact position of this councillor is not clear. If he is transgressing the law as above laid down, the contract cannot be taken away from him simply for this reason, but he may be deprived of his seat in the council if proceedings be taken against him with that end in view.

2. If he is transgressing the provisions of the statute, he may be unseated. The steps to be taken to accomplish this object will be found in sections 219 to 244 (both inclusive) of the above Act.

3. Not if all his dealings with the council are fully completed previous to nomination day.

4. Yes. (See sub-section 1 of section 80 of the above Act) and he may be unseated, if the proper proceedings in that behalf be instituted against him.

Proceedings for Raising Loan for Union School Section.

479—X. Y. Z.—1. We are granting a loan to a union school section to aid in building a new school-house as per section 70, Public Schools Act. The school is to be situated in our township.

(a) Should we serve a copy of the by-law on the other township concerned, or is a notice sufficient?

(b) Should the levy, say for three years, be made on the same plan as that in drainage by-laws, and assessment placed in by-laws, or should a rate be struck each year to meet the amount of debenture and interest due?

(c) Should the township served or notified pass a special by-law in preparing to raise their amount due each year, or will it be sufficient to place the amount in the by-law to raise the estimates for the year?

(d) Is it the duty of the treasurer or the clerk to prepare the debentures?

(e) Whose duty is it to attend to the selling of the debentures?

(a) The section referred to is now section 74 of The Public Schools Act, 1901, and the amendments to sub-section 2 of this section made by section 41 of chapter 53 of The Ontario Statutes, 1906, should not be overlooked in this connection. It is not required that a copy of the by-law should be served on the other municipality in which a part of the union section is located, but the latter is required to "pay, on the requisition of the clerk of the municipality by which the debentures were issued, as they become due, its share of or their share of the loan, including interest, according to its or their liability for school purposes as determined by section 54 of the Act."

(b) The by-law should provide for the levy in each year during which the debentures have to run, of a rate, on all the taxable property of the public school supporters in the part of the union section in which the school house is situated, sufficient to meet and pay its share of the principal and interest.

(c) The council of the township in which the other part of the union section is located should annually in its by-law, providing for the levy of school rates, impose a rate on all the taxable property of the public school supporters of that part of the union section within its limits to meet and pay its share of the principal and interest of the debentures.

(d) The clerk should prepare the debentures, and the expense of his so doing is provided for by sub-section 4 of section 74 of the Act.

(e) The council, or such committee as it sees fit to appoint for the purpose should attend to the selling of the debentures.

Clerk's Fee for Services Under the D. and W. Act.

480—W. S. S.—R. S. O. 1903, chapter 19, section 320, sub-sections A and B, states it shall be the duty of the council to give the clerk of the municipality for carrying out the provisions of the Ditches and Watercourses Act a fair and reasonable remuneration to be fixed by by-law of the council. (B.) The council shall fix by by-law, the sum to be paid to the clerk by any person for copies of awards or other documents, or for any other services rendered by the clerk other than services which it is his duty to perform under the provisions of the Ditches and Watercourses Act.

1. What are the duties of the clerk to perform in relation to the municipality under the D. and W. Act.
2. What expenses in preparing papers of any kind under the D. and W. Act is it the duty of those interested in an award ditch or drain to pay for?
3. Is it the duty of the municipality to pay clerk for all services of every kind in preparing papers (blanks, etc.) of every description for all parties connected with and interested in an award drain. Our opinions are divided on the question.

1. The preparation of all notices, etc., required by the Act, when the municipality initiates proceedings for the construction of a drain thereunder. The making of certified copies of certificates relating to lands and roads in adjoining municipalities under section 20 of the Act. Such duties as he is required to perform in the event of an appeal to the Judge against an award pursuant to the provisions of section 22 of the Act. The entry of the costs of an appeal and the expenses of making the award, etc., on the collector's roll, as provided in section 27 of the Act, the entry on the collector's roll of the amounts named in certificates of the engineer, under the authority of section 30 of the Act, etc.

2. The preparation of all notices, requisitions, etc., prescribed by sections 7, 8, 13 and 14 of the Act, of the agreement mentioned in section 9, and, generally speaking, such services as he may be asked to perform of a personal nature, and which the Act does not require him to perform in his capacity of clerk of the municipality. Clause (b) of sub-section 1 of section 320 of The Consolidated Municipal Act, 1903, empowers the council to fix by by-law the fees to be paid to the clerk for these services, if he is requested by the parties to perform them, and actually does the work.

3. No, as will appear from our replies to the previous questions.

Proceedings for Construction of Sewer.

481—D. D.—Property owners on a portion of our streets over which our sewerage system does not extend, although installed at each end, have petitioned our council to construct this incomplected portion. Have our road commissioners power to do this, as they contend they have, as one of their duties in connection with streets and sidewalks? What procedure should be taken to construct this incomplected portion between the two ends of the streets?

It is not stated whether the new sewer is to be constructed under the provisions of the local improvement sections of The Consolidated Municipal Act, 1903 (section 664 and following sections) and to be paid for by assessment of the cost on the frontage of properties benefited, or at the general expense of the municipality. If the former, the council will have to pass by-laws for the carrying out of the work and the assessment of the cost against properties benefited, and the road commissioners have nothing to do with the matter unless appointed by the council to oversee the doing of the work. If the latter, the work should be undertaken only under the authority and direction of the council. The road commissioners of their own motion have no authority to go on with the work.

Qualification of Councillor.

482—A. J. Mc.—Would a councillor in the employ of a party that holds a contract from the municipal council be liable, by that fact, to be disqualified?

If the councillor has no interest in the contract, we do not think he is disqualified merely by reason of his employment by the contractor.

Payment of Expenses of Attending Persons in Quarantine.

483—E. G.—There was a case of diphtheria in our municipality last fall, and the doctor ordered the secretary of the board of health to quarantine the family, which he did, and appointed a man to attend to them and get them their wants.

1. Who has to pay this man for attending to the family while under quarantine, the municipality or the man quarantined, he being well able to pay?
2. If the municipality pays the attendant, can it collect the amount from the man that was quarantined?

1. We are of opinion that the secretary of the local board of health should have called a meeting of the local board, and left it to that body to arrange for the quarantining of the afflicted family. Unless the local board has formally adopted what was done by the secretary, we do not see that the attendant on the sick family has any claim against either the local board or the council of the municipality. If the local board has assumed liability by adopting or confirming the action of the secretary of the board, if the head of the family refuses to pay the attendant's charges, the municipality will have to pay them, and collect them from the person liable for the support of the family, under the authority of section 93 of chapter 248, R. S. O., 1897.

(Municipal Officers of Ontario)



M. N. MOUSSEAU
CLERK TOWNSHIP OF ROCHESTER

Mr. MOUSSEAU was born in the county of Joliette, Province of Quebec, and came with his parents to Rochester in 1872. He was educated at the local school, Windsor High School and Assumption College. He was in the retail lumber and grain business for a number of years, but afterwards took up tailoring. He was appointed Township Clerk in 1900.

Impounding Animals in Police Village.

484—PARK HEAD—I live in a township near an unincorporated police village. My cattle strayed into the village. Have the trustees the power to appoint a man to impound them and charge me twenty-five cents per head, when it is not a by-law of the township?

Sub-section 1 of section 746b of The Consolidated Municipal Act, 1903, authorizes the trustees of police villages to pass by-laws for any of the purposes mentioned in section 546 of the Act. The latter section relates to by-laws for the restraining and regulating of cattle running at large on the highways of the municipality, and providing for impounding them. If the trustees have passed a by-law under the above authority they may cause stray cattle to be impounded thereunder, and if they have not passed such a by-law, and a by-law of this nature is in force in the township, the trustees may cause the cattle to be impounded under the provisions of the latter by-law.

Levy of School Rates—Payment of Expenses of Attendance on Persons in Quarantine.

485—J. G. Mc.—1. As I understand the statutes, 7 Edw. VII., 1907, the ratepayers (of a township) attached to an urban municipality for school purposes should not be taxed for general school rate, neither would they receive a proportion of the \$300 to be raised in each section by general levy. Is this correct?

2. Should they be taxed for the share of the county rates applied to "municipal equivalent to the special legislative grants." When the board of health of a township quarantines a family for scarlet fever or other contagious disease and appoints a person to see that they are supplied with necessaries.

3. Who is responsible for this person's fees, the family quarantined in the township, provided they are able to pay?

4. Provided the township has to pay the person, who should pay him for the use of his horses, the party quarantined having horses which could have been used?

1. Yes. Sub-section 2 of section 70 of the Public Schools Act, 1901, as enacted by section 19 of chapter 51 of The Ontario Statutes for 1907 provides that this rate shall not be levied on the taxable property of the public school supporters of the township "included in urban municipalities or annexed to urban municipalities for school purposes."

2. No. Sub-section 1 of section 70 of the above Act as enacted by section 19 of chapter 51 of The Ontario Statutes, 1907, provides that this rate shall not be levied against the taxable property of the county "included in urban municipalities, or annexed to any urban municipality for school purposes."

3. The parents or parent of the person afflicted, or such other person or persons as is or are liable for his support, if they are financially able to pay the amount. If, owing to poverty or any other cause, they are unable to pay the amount, the municipality will have to bear and pay it. (See section 93 of chapter 248, R. S. O., 1897.)

4. If the person appointed to look after the afflicted family found it necessary, in order to effectually perform his duties, to use his horses, and the municipality has to pay the account, we are of opinion that it should also pay a reasonable sum for the use of the horses. The person taking care of the family was not bound to use their horses instead of his own, unless this was part of the arrangement entered into between him and the local board of health.

Council Cannot be Compelled to Remove Nuisance.

486—I am living in an unincorporated village in the township of A, P county. My house is about two feet from the line between my lot and that of my neighbor. Within the last two years he has built a barn within three feet of the same limit. It stands so close to my house that the sunlight which I formerly enjoyed cannot reach my windows. He also keeps a horse, cow, calf, and some poultry in this barn. At times the odor is so bad that I am compelled to close all my windows and doors. In warm weather it is always most unpleasant. Not satisfied with this, he has lately, during my absence, filled in the space between his barn and the line with earth, raising it so as to throw all the water falling from his roof over on my lot next to my house.

Can I compel the municipal authorities to take action in this matter, or must I put up with it?

The municipal council has no authority to interfere in a matter of this kind. If what the neighbor has done amounts to a nuisance, or is likely to impair the health of owners residing in the vicinity, complaint should be made to the local health authorities, who will probably see that the nuisance is abated. If one owner, by conducting water from his premises to those of the other, has occasioned damage to the latter, he has a right of action against the owner offending for the amount of the damages he has sustained, and to restrain him from causing similar damage in the future.

Collection of Fees From Non-Resident Property.

487—H. S.—A non-resident has four children he wants to send to school; he won't come into the section and pay so much per head per month either. He has just rented a place in section (although he did not move and live on this lot he rented), containing three acres of a clearance, rest bush and stony land not fit for farming purposes. He thinks by renting this farm he is entitled to the education of his children by paying taxes only on his rented farm. Rest of farms in this section has from 20 to 100 acres of clear-

ance. As secretary-treasurer of school here, I have refused having his children educated here by saying it is not right and fair or equal to other ratepayers. I said if the farm he rented was equal to the other farms in this section as far as the amount of taxes was concerned, his children would be educated. But under the circumstances and conditions I am bound to collect so much per head per month for his children, and ratepayers say I am doing right.

Please give me your idea if I am doing right or wrong in refusing the education of his children unless he pay so much per head per month, and when we get the taxes from owner or tenant of rented farm in the fall we will see what it costs per head per year to educate the children here, and if he pay so much per head per month and taxes, if anything due him will refund it. Will this be fair and right?

These pupils are children of a non-resident, and if the fees required to be paid monthly to the trustees of the school section, the school in which his children attend, together with the taxes he pays to such school, do not exceed the average cost of the instruction of the pupils of such school, we are of opinion that the trustees are acting in accordance with the provisions of sub-section 2 of section 95 of The Public Schools Act, 1901. (See sub-section 4 of this section, when the property of a non-resident is assessed for an amount equal to the average assessment of residents.)

Vote Necessary to Carry Bonus By-law.

488—J. C.—What vote is necessary to carry a by-law in a township for raising money by debentures to loan to a manufacturing establishment? Will say 200 qualified to vote.

Section 366a of The Consolidated Municipal Act, 1903, provides that the assent of two-thirds of all the ratepayers entitled to vote on the by-law is necessary, unless the number of ratepayers voting against such by-law does not exceed one-fifth of the total number entitled to vote, when the assent of three-fifths only of all the ratepayers is necessary.

Assessment of Superannuation Allowance.

489—J. D.—On pages 9 and 10 of *Assessors' Guide*, the following appears: "The income of a superannuated civil servant of the Dominion Government is not exempt from assessment and taxation, and the Provincial legislature has authority under the British North America Act to impose such an assessment. (*Bucke v. City of London*. Not yet reported.)

Would you kindly advise me if the above would apply to retired judges of division courts, and if such may be termed retired public officers, and assessable for income received as superannuation less exemption of \$1,000.

We are of opinion that the reason for the decision in *Bucke v. City of London* (10 O. L. R., 628) applies to the case of a superannuated County Court Judge, and that his superannuation allowance is assessable as income.

Duties of Pathmaster.

490—D. W. R.—1. Has a pathmaster power to furnish material for roads from his own quarry without consent of council?

2. Can he collect pay for same from treasurer of the municipality without an order from the reeve or council?

1. No, for the reason that his personal interest would clash with his duty to the municipality.

2. Only to the extent of such commutation moneys as he is entitled to expend in his road division, and notice of which he has received from the clerk of the municipality, as provided in sub-section 2 of section 15 of chapter 25 of The Ontario Statutes, 1904.

Liability for Building Line Fence.

491—J. C. B.—Two men own adjoining farms, which have not been occupied only for taking wood off. One man wants to have his farm fenced off for pasture and the other does not and offers to allow the other man to let his cattle run on his land.

Can the first man compel the other man to erect half of his fence if he does not wish to occupy it at present, and if the first man, after giving notice to the second to build his share, builds the whole of the fence, can he compel the other man to pay for one-half?

Sub-section 1 of section 2 of The Line Fences Act (R. S. O., 1897, chapter 284) provides that "in this Act the expression 'occupied lands' shall not include so much of a lot, parcel or farm as is unenclosed, although a part of such lot, parcel, or farm is enclosed and in actual use and occupation." In the instance under review both parcels of land are, at present unenclosed, and unoccupied. Therefore the provisions of the above Act do not apply. If one of the owners desires to enclose his land, he will have to build the necessary fence at his own expense. He cannot compel the other owner to build his share, or pay one-half the cost of building it. When, however, the lands of the latter become occupied, and fences are built to connect with that built by the first mentioned owner, the owner for the time being will be liable to the duty of keeping up and repairing the proportion of the line fence mentioned in section 3 of the Act, "and in that respect shall be in the same position as if the land had been occupied at the time of the original fencing, and shall be liable to the compulsory proceedings in the Act mentioned."

Effect of Defective Proceedings Under the D. and W. Act.

492—A. B. R.—In the latter part of 1903, or beginning of 1904, a township engineer laid out a tile ditch, or drain, on the boundary line between two townships, awarding to each lot and each township the portion they had to dig and tile respectively. At least two of the parties did not receive from the clerk of the municipality the proper notice to afford them an opportunity to appeal to the judge against the assessment.

Would these parties, if the drain is forced through, have good ground for an action against the clerk, or would they have to take action against the township, he (the clerk) being the township's official. This ditch is made under the Ditches and Watercourses Act.

We are of the opinion that the award is binding, no appeal having been taken against it within 15 days after it was made. We do not think the township is liable in any way for the neglect of the clerk to mail a proper notice to two of the parties, nor do we think that the clerk is liable for his neglect of duty, unless it can be shown that the parties who did not receive proper notice suffered damages by reason of their not receiving such notice.

Duties of Collector as to Collection of Dog Tax.

493—W. L.—The collector of taxes finds, when going his rounds, there are a large number of dogs not on the roll. Can he collect dog tax on these, and if so how must he proceed? The owners refuse to pay because they are not on the roll.

We do not think the collector has any authority to collect the dog tax from the owners or harborers of dogs not mentioned on the assessment or collector's rolls. (See sections 4, 5 and 6 of chapter 271, R. S. O., 1897.)

Township's Liability for Accident on Highway.

494—A. J. Mc.—A party was driving along one of our public highways recently, and on approaching a bridge over a watercourse his horse became frightened by either a horse that was grazing on the roadside or a coat which was left on the end of the bridge by some party at present unknown. The horse became unmanageable, and instead of proceeding across the roadway he backed the carriage over the side of the bridge into the watercourse. The carriage was damaged and the party lost a roast of beef and some laundry. There was formerly a guard rail on the bridge, but it was demolished by a party that was removing a building last winter. The council were not advised that this guard rail was demolished. The party that sustained the damage is a frequent traveller on this road. This party now sends in a bill for damages sustained by him on the ground that the bridge was in an unsafe condition through there being no guard rail. Do you consider that the municipality is liable? If liable, would the municipality have any recourse against the party that demolished the guard rail, the owner of the horse, or the owner of the object that caused the horse to become unmanageable?

The fact that there was formerly a guard-rail on the bridge at the place where the accident occurred is evi-

dence that it was necessary, to render the road reasonably safe for travel at that point. The allowing by the council of this place to remain unprotected by a guard-rail since last winter, is evidence of negligence on the part of the municipal authorities. We are therefore of opinion that the council should settle with the claimant as reasonably as possible. If the horse grazing on the road, or the coat hanging on the end of the bridge was the proximate cause of the happening of the accident, the municipality will have a remedy over against the respective owners for the amount it has paid the claimant, under the authority of sub-section 3 of section 609 of The Consolidated Municipal Act, 1903. The municipality has a right of action against the owner of the building for the amount of the damage he did to the bridge.

Salary of Medical Health Officer—Assessment of Railway Telegraph Wires.

495—E. B.—Our municipal council having appointed by by-law at the meeting in February a medical officer, and the said officer having been notified to take declaration of office, he did so, and by so doing he claims that he signed an engagement with the council, and the council has to pay him a fixed salary, that is to say, at least \$200 for the year. If the council refuse to do that, he says he could by law compel the council to pay him \$10 for each case of contagious diseases that will occur in the municipality during the current year; that amount of \$10 being the amount of his account for the attendance on the person who would be attended by said officer in an ordinary case and pay his bill.

1. Can the council be compelled to pay the above to said officer; if so, please give me the clause of the Act to that effect.

2. Are the commercial telegraph wires of the C. P. R. assessed in an unorganized township for the purposes of public school maintenance.

1. The Public Health Act (R. S. O., 1897, chapter 248) does not require a medical health officer to make a declaration of office, and the mere fact of his having done so in this instance does not fix the amount of the salary he is to receive from the council. The council can be compelled to pay its medical health officer only such salary as it has agreed to give him. Under sub-section 2 of section 35 of the above Act a medical health officer holds his office at the pleasure of the council. If the medical health officer will not agree with the council as to the terms of his engagement, it had better dismiss him, and appoint another doctor in his stead.

2. Yes.

Petition for Drainage Works—Council Not Bound to Entertain.

496—A. J.—1. Upon the receipt of a petition to the municipal council praying for the deepening of a natural creek when asking for a small portion of the creek to be opened and a larger portion of the creek at the head of the stream, the people are against it and refuse to be taxed for outlet. Is two-thirds of the owners of the area to be opened sufficient for a petition to make it legal?

2. Is it compulsory for the council to act on a petition of this kind, if so, can it enter into any agreement with the petitioners or the engineer to indemnify the council against any costs caused by their carelessness or illegal work?

3. Does a petition for this kind of work come under the head of local improvement works or the same as section 668 of the Consolidated Municipal Act, 1903?

1. A petition to the municipal council for this purpose should be filed under the authority of sub-section 1 of section 3 of chapter 226, R. S. O., 1897. If the petition is signed by a majority in number of the resident and non-resident persons (exclusive of farmers' sons not actual owners) as shown by the last revised assessment roll to be owners of land to be benefited in any described area within the municipality, the council may grant the prayer of the petition and pass the by-law necessary for the carrying out of the works desired.

2. It is discretionary with the council as to whether

it grants the prayer of the petition or not, but it has no authority to enter into the agreement mentioned.

3. No.

A Separate School Teachers' Agreement—Entries on School Register.

497—B. C.—A, B and C are Roman Catholics and school trustees of a Roman Catholic separate school, and all the ratepayers of said section are Roman Catholics without exception, and the same board of trustees employ E, who is also a Roman Catholic, as teacher for said separate school, under an agreement by which clause 2 of said agreement reads as follows: That holy days and vacations prescribed by the Law and Regulations are excepted from the same term, and the official list, form 94, gives a list of holy days, but does not include the Roman Catholic Church holy days. Nevertheless the said school is not kept open on such holy days, consequently we do not get the number of legal teaching days during the year there is on the official list. It being the fact that all concerned in said separate school, the ratepayers, the school board and the teacher, abide by the rules of their church respectively. The trustees now refuse to pay the teacher for such holy days on which the school was not kept open.

1. Can the teacher collect his pay by law for such holy days which he has observed himself as holy?

2. Can he enter legally on the school register for such holy days on which no one was at school, such daily attendance as were the average attendance of the previous or succeeding days?

1. Sufficient details are not given to enable us to answer the question. It is not stated whether the teacher is hired by the year, term, or otherwise, or how or when he is to receive his salary. Since this agreement is in writing, we should see a true copy of it before we can give any definite reply.

2. No.

Statute Labor in Unincorporated Villages—Proceedings for Making Minor Repairs to Drains.

498—J. B. C.—1. Has a township council power to pass a by-law giving the ratepayers of an unincorporated village the right to perform their statute labor on sidewalks, or spend their commuted money in constructing sidewalks? Or could the township council apply commuted money (by the village people) to the paying of debentures that were issued for constructing cement sidewalks, under authority of sections 561, 664, and others?

2. How should a council act in making minor repairs on a municipal drain when one of the number wants it put in repair.

1. A township council may pass a by-law making an unincorporated village one of the statute labor divisions of the municipality, so that the ratepayers may apply their statute labor in repairing sidewalks in that division. The council cannot apply money paid in by residents of the unincorporated village as commutation for statute labor in paying debentures issued to raise money to construct cement walks in the village.

2. We cannot answer this question unless we are informed as to whether the drain was constructed under the provisions of The Ditches and Watercourses Act (R. S. O. 1897, chapter 285), The Municipal Drainage Act, R. S. O., 1897, chapter 226, or the local improvement clauses of The Con. Mun. Act, 1903 (sections 664 and following sections of the Act). The proceedings in each case are different.

Law as to Cattle Running at Large—Careless Handling of Collector's Roll—Payment of Surveyor's Fees.

499—A. D. H.—1. When a municipality has no by-law prohibiting stock from running at large, if stock from an adjoining municipality does damage to a neighbor's crop before he has a fence built, can damages be collected?

2. Where in the statutes can be found the penalty for bulls and horses and other entire animals running at large upon the highways?

3. Our collector last year received the roll from the clerk in book form, but the leaves were loose. The collector, in copying off the notice slips, by the leaves shifting, made a serious mistake. Who was responsible, the collector or the clerk?

4. Our council had occasion to procure the services of a pro-

vincial land surveyor to lay out a deviation for road allowance. The road was to have been made between an adjoining farm and a school property, but the surveyor put the stakes two rods on the school property. When the council received notice from the trustee, they asked the surveyor to move his stakes and place them in proper place, but he has not done so, and now demands his pay. Can he legally collect pay before he rectifies the mistake?

5. Dare the pathmaster move those stakes?

1. Yes.

2. No statute inflicts any penalty on the owners of these animals for allowing them to run at large, but they may be impounded if they trespass upon or do damage to premises adjoining the highway. (See sections 2 and 3 of chapter 272, R. S. O., 1897).

3. The mistake does not appear to have been that of the clerk in making entries on or adding up the roll, and since the leaves of the roll were loose, the collector should have been careful to see that they were in their proper order. We do not see that any responsibility can attach either to the collector or the clerk, unless some ratepayer can show that owing to the making of the mistake he suffered substantial injury. There is no excuse, however, for a collector's roll being delivered to a collector in this condition. It is false economy, and the council should see that its officials are supplied with such substantial and up-to-date books and forms as will enable them to efficiently discharge the duties of their respective offices.

(Municipal Officers of Ontario)



GEO. W. RISEBOROUGH

CLERK OF THE TOWNSHIP OF HARWICH

Mr. RISEBOROUGH was born in the County of Norfolk, England. Came with his parents to this country when two years of age. He received his public school education in the public schools of the township of which he is now clerk. At the age of 12 he began to depend on his own resources working, as a farm laborer until the age of 17, when he decided to improve his education and prepared for and passed the entrance examination. By working on the farm in the summers to procure means, and by attending Chatham Collegiate in the winters, he succeeded in obtaining a third-class certificate and began teaching. After teaching for three years he again attended the Collegiate and succeeded in obtaining a second-class, and in the following year a first-class certificate. He afterwards took a course in Hamilton Normal College; resumed teaching in two of the best schools in the township. He was appointed Clerk of Harwich, one of the largest townships of the Province for volume of business, in May, 1906, to succeed Mr. G. M. BAIRD, who resigned to accept a most important position with the Bell Telephone Co.

4. The surveyor is not entitled to his pay until he has performed his duties in accordance with his instructions, and the provisions of the law applicable to the case. Whether he has done this or not we cannot say, not having sufficient particulars.

No.

Time for Entering Commuted Statute Labor on Collector's Roll.

500—J. B. B.—We want to know if statute labor that was not performed last year but returned too late to be entered on the collector's roll in 1906, can be legally entered on the roll this year. The parties interested say "No." Our council would like to know.

Commutation for statute labor returned as unperformed in 1906 can be entered on the collector's roll for the present year. The latter part of sub-section 1 of section 15 of chapter 25 of the Ontario Statutes, 1904, provides that the clerk shall enter the commutation for statute labor against the land in the collector's roll of the current (that is, the year in which the statute labor is returned as unperformed) or the FOLLOWING year, and the same shall be collected by the collector.

Liability of Council to Fence Grave Yard.

501.—In the village of N (unincorporated), in the township of

B, there is an old graveyard which was given by a resident for a public burying ground about ninety years ago. It was used by all, free of charge, until filled. About twenty years ago a property owner at the rear end opened a new one, surveyed it and sold it in lots. This man has a provision in his will for the maintenance of that portion, both being in the same enclosure. This ground is not in connection with any church or society. The township council made a grant towards building the present fence about twenty-five years ago, which needs renewing. My question is—Who should fence it, the township, or must it be done by private funds?

We do not see anything in the facts stated that would render the council of the township in any way liable for erecting or maintaining fences around this cemetery.

Law as to Cattle Running on Highways.

502—U. P.—1. I have been informed that there was an Act passed in parliament some time ago prohibiting stock from running on the Queen's highway. Is this so?

2. Is a man compelled to fence against such stock running at large on a public road?

3. Sheep and cattle are allowed to run at large in our township from May 1st until November 1st. Can a man impound stock (such as sheep, that are allowed to run at large) if he leaves his gate open?

1. No such statute has been enacted, but sub-section 2 of section 546 of the Consolidated Municipal Act, 1903, empowers councils of townships, etc., to pass by-laws "for restraining and regulating the running at large or trespassing of any animals, and for providing for impounding them."

2. No.

3. Yes. The owner of animals running at large on a highway, even if allowed by by-law of a municipality to so run at large, should see that they do no damage to nor trespass upon premises adjoining the highway.

Effect of Failure to Send Notice of Filing Award Under D. and W. Act in Time.

503—N. L.—Last Fall the township engineer made an award and filed the same with the clerk of the municipality on the 12th December, 1906, and the clerk notified the interested parties on the 5th day of January, 1907.

1. According to law was it too late for the interested parties to appeal against the award?

2. Will you tell me if the interested parties had appealed and being too late, if they can claim damages against the clerk?

3. Who is responsible for not having notified the parties interested in time?

1. Yes. At the time the award was filed sub-section 1 of section 22 of The Ditches and Watercourses Act (R. S. O., 1897, chapter 285) required that the notice of intention to appeal against the award should have been filed with the clerk within 15 clear days from the 12th December, 1906. Under the provisions of section 24 of the Act, the award is now binding on all parties concerned.

2. We do not think that any party interested has any cause of action against the clerk, unless he can show that he sustained substantial injury by the failure of the clerk to send the notice of filing the award within the time required by the Act.

3. From the statement of the facts, the clerk is apparently to blame for not having sent out the notices in time.

Power to Lease Public Weigh Scales.

504—T. R. L.—Last year our council built a public scale. We have two grain merchants in our village. One of them rented the scales, and since then he has gone into the coal business. The other grain merchant had been selling coal for a number of years, and he objected to have to weigh his coal on the scales operated by his opposition. Is he compelled to do so under the by-law, and is it legal for the council to rent the scales to any person dealing in any article that has to be weighed on the public scales? We have no established market.

We do not think the village council has any authority

to lease the weigh scales. Sub-section 1 of section 582 of The Consolidated Municipal Act, 1903, simply authorizes councils of villages, etc., to pass by-laws "for erecting and maintaining weighing machines in villages or other convenient places, and charging fees for the use thereof, not being contrary to the limitations provided by sub-section 8 of section 579 of the Act."

Finality of Assessment Roll.

505—J. T.—The assessor left his slip with me for an assessment of \$10250, on his book he charged me with \$10750. What shall I do, will his book or the slip he left be law?

If an appeal was not taken to the Court of Revision within the proper time against this assessment, the amount entered in the assessment roll filed with the clerk will be taken to be the proper assessed value. Section 66 of The Assessment Act, 1904, provides that "the roll, as finally passed by the court, and certified by the clerk as passed, shall, except in so far as the same may be further amended, on appeal to the Judge of the County Court, be valid, and bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll, or any defect, error or misstatement in the notice required by section 46 of the Act; or the omission to deliver or transmit such notice."

Statute Labor on Deviating Town Line.

506—J. F. T.—1. In the township of H, road beats are laid out by by-law. Now No. 7 beat is on boundary line between H and M. This road does not follow the line all the way on account of mountain being too high to cross, road running round end of mountain to boundary of H. This road runs parallel with line between M and H, about twenty rods apart. Is the township of H responsible for any part of this road when it is all in H, or is it town line just the same?

2. Has the pathmaster a right to leave this road and work on side roads?

1. From the statement of the facts this is evidently a road used in lieu of the town line between M. and H., and should be maintained and kept in repair by these two townships jointly.

2. A pathmaster can order statute labor to be done upon any road in his division, but he has no right to order any person to do his statute labor outside of the limits of his division without the order of the council.

Powers of Council as to Drainage of Roads.—Collection of Taxes on Lands Omitted from Roll.

507—A. J. M. S.—The owner of lot 3 objects to having two watercourses through his farm, and asks the council to cut a ditch beside the road from the north watercourse to the south one, a distance of 60 rods. The ditch would average less than two feet deep and would not cost more than fifty dollars.

1. Is the council obliged to take care of water drained to the road, whether by natural watercourse or otherwise?

2. Can the owner of lot 3 compel the council to take the water from the north watercourse to the south one, at the expense of the municipality?

3. If not, would it be legal for the council to do so?

4. Would the owners of lots 1 and 2 be liable for a part of the expense of ditching across lot 3, all being improved farms?

5. Are barbers and blacksmiths subject to a business assessment? If so, under what section?

6. How many years arrears of taxes may we collect against lands that has not been on the assessment roll for many years, the land being owned continuously by the same persons from the time it was assessed previously until now?

1. The council should construct such drains as are necessary to carry away water that comes to the highway from natural sources, so as to keep the roadway in a proper state of repair, but is not obliged to and should not construct ditches to carry away water that is brought to the road allowance by artificial means.

2. No.

3. No.

4. If lots one and two would derive benefit from the construction of the drain, their owners would be liable to pay part of the cost of the construction of a drain under The Municipal Drainage Act (R. S. O., chapter 221) or for the making of a part of the drain under an award made under the provisions of The Ditches and Water-courses Act (R. S. O., 1897, chapter 285), as the case might be.

5. Yes, under clause (h) of sub-section 1 of section 10 of The Assessment Act, 1904.

6. Only for the year in which the omission has been discovered, and the two preceding years. See section 21 of The Assessment Act, 1904.

Finality of Assessment Roll.

508—A. B.—At the time our assessment was made it became necessary for our assessor to divide a certain assessment that formerly included several hundred acres of farm land, into smaller farms. In making the divisions one of the subdivisions was either by error or otherwise, it is claimed, assessed at a higher valuation than should have been. The assessment notice was left with the father of the man now assessed as owner of subdivision, and remained there until June last, when the actual occupant received his notice, and saw that his assessment was excessive. No appeal to Court of Revision was made. The court had been held and roll confirmed on May 27th last. Is there any process by which such a case can be remedied; if so, how?

We are of opinion that the owner of this land has now no remedy. Section 66 of The Assessment Act, 1904, provides that "the roll, as finally passed by the Court, and certified by the clerk as passed, shall, except in so far as the same may be further amended on appeal to the Judge of the County Court, be valid, and bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll, or any defect, error or misstatement, in the notice required by section 46 of this Act, or the omission to deliver or transmit such notice."

Income of Dominion Officials Exempt From Assessment.

509—F. O. N.—I beg to call your attention to a question and answer clipped from the *Toronto Mail and Empire* of the 20th ult. We would very much like to have your opinion on the matter, as civil servants throughout the N Peninsula (and there are many of them) have, in the past, not, I think, been assessed for income. Following is the question and answer:

J. C., Balmly Beach.—I am a Dominion civil servant in the Postoffice Department, and live here, paying \$25 per month rent by the year. The East Toronto Council has assessed me on my income. Is the assessment legal?

Ans.—The exemptions under section 5 of the Assessment Act of 1904, as amended in 1906, only exempts the "income" of a farmer derived from his farm, and, to a limited extent, the income derived from personal earnings, pensions, etc. You are liable to an income assessment, notwithstanding that your income is derived from the Dominion Government, but you are entitled to the exception of \$700, allowed by the amending Act of 1906, because you are a resident householder in the municipality.

We do not agree with the answer to the question given in *The Mail and Empire*. As it is directly contrary to the decision of the Court of Appeal in the case of *Leprohon v. Ottawa* (2 A. R. 522). This case decided that the salary or income of Dominion officers was not assessable, for the reason that local or provincial taxation of Dominion officers would impair the means and instrumentalities necessary for carrying on the functions of the Federal Government. We are therefore of opinion that the reply to the question should have been "no."

Power to Extend Water Main.

510—L. G.—Can a council grant an extension of water main at the cost of fifteen hundred dollars where there is no revenue derived, only as a protection to a factory against fire?

We do not think so.

Regulation of Storage of Dynamite—Liability of Municipality.

511—NORTHERN.—1. In an organized township.

Storehouses containing dynamite are situated in small clearings in the bush and are endangered by bush fires. Has the township power to force the owners to erect fire-proof buildings in a clearing of adequate size to ensure safety from bush fires.

2. If so will the township be in any way responsible if their regulations are complied with and an accident or fire should occur notwithstanding.

1. Sub-section 17a of section 542 of The Consolidated Municipal Act, 1903, provides that the councils of townships, etc., may pass by-laws "for limiting the quantity of gunpowder or of any other explosive substance to be kept in any place other than a powder magazine, and to regulate the manner in which such gunpowder or other explosive substance must be stored." Section 3 of chapter 11 of The Ontario Statutes, 1906, prohibits the erection of a magazine for storing powder, dynamite, or any other explosive at a nearer distance than 400 feet from mines and their works, or any public highway.

2. No.



HARWICH TOWNSHIP HALL

Situated in the township of Harwich on the borders of the town of Blenheim Kent Co. Is an up to date building 60 x 30 with an office 30 x 15; the Council chamber is 45 x 30 and has seating capacity for 250. The hall and office are well furnished.

Annexed to the building and opening from the office is a fire proof vault 18 x 10 furnished with shelving and cases for the storing of all papers and documents. The hall and offices are supplied with electric light and telephone.

Payment of Physician's Bill for Examination of Lunatic.

512—T. F. M.—A young person in this municipality became insane. She was taken up by the Provincial Constable and examined by two doctors. These doctors have presented their bills to the council for payment.

The girl was living with her mother and brother who own a good farm. Is the municipality responsible to the doctors for their accounts, or should the mother or brother pay them, they being well able to do so.

If the head of the municipality notified the two doctors to make an examination of the lunatic under the authority of section 11 of chapter 317 R. S. O., 1897, and they made the examination, the municipality must pay the bill. If the examination was not made at the request of the head of the municipality the doctors cannot recover the amount from the municipality.

Duties of Water Commissioners—Collection of Rates.

513—COUNCILLOR.—What are the duties of water commissioners? Is there any clause in the law whereby we can collect a small rate for water on all business places a certain distance from water main as all business places are reduced so much by insurance that water costs them nothing?

1. Sub-section 2 of section 40 of chapter 235, R. S. O., 1897, provides that upon the election of water com-

missioners, they shall and may exercise all the powers, rights, authorities or immunities, which, under the Act, might have been exercised or enjoyed by the council and officers of the corporation acting for the corporation. These powers, etc., are so varied and numerous that their enumeration is beyond the scope of these columns. They will be found fully set out in the above Act and subsequent amendments thereto.

2. We will require a more definite statement of this matter before we can answer the question.

A Street Watering By-Law.

514—N. W. B.—In 1903 our village council passed a by-law under section 686 of the Municipal Act for watering certain streets (in a defined area) according to the assessed value of the properties benefited. We believe the requisite formalities of the law were complied with: Section 8 of said by-law shall be in force during the current municipal year, and (except in so far as the same may from time to time hereafter be amended to conform to the changes in assessment in said lands) shall continue in force until repealed. Each succeeding year the council has passed a by-law amending the assessments of the properties affected by the original by-law so as to make the assessments conform to the assessments of the said properties, according to the last revised assessment roll. Was section 8 a proper and legal enactment, and has the subsequent procedure been proper?

We are of opinion that the enactment referred to was within the authority of the council. We do not think it is necessary that the council should pass a by-law every year for the levy of the cost of the street watering on the properties benefited. This could be provided for in the original by-law, and a rate struck each year to raise an amount sufficient to pay such cost, on the assessed value of all the properties benefited, no matter to what extent that assessed value varied from year to year.

Liability for Accident Due to Non-repair of Highway.

515—P. L.—Townships M. and R. gave contract for grading and ditching on townline between them, to be completed by 1st July. Contractor starts work in June. The heaviest rain in 20 years came on the night of the 12th June, which put the contractor off the job for five or six days, leaving the road in a bad shape until he was able to go on again. B., hauling cream over road, drives into rut on side of grade near bottom of ditch breaking rig and spilling cream on third day after the storm. B. having an alternative route reverses his trip as soon as the break down occurs, going over the bad piece of road light and returning the other way. B. claims contractor left top of grade in an uneven state.

1. In view of the fact that B. knew the condition of the road and had alternative route, without loss of time to him. Can he justly and legally claim damages from the municipalities?

2. If B. can secure damages, would the contractor be in any way liable for same as no mention was made in contract to keep road in good condition, with even surface while work was being done?

1. From the statement of the facts, we are of opinion that B was guilty of contributory negligence, since he knew the road travelled and on which the accident occurred was in an unsafe condition. We do not therefore think he can collect any damages from the corporation.

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

Qualification of School Voters—Correction of Errors in Assessment.

516.—R. J. P.—1. Can C rent five acres of land with house to A, when A is working by the month for C, and lives in C's house with him. The house C rents to A is still empty, but C wants A to have a vote next annual school meeting. Can this be done? C is a trustee.

2. Can Court of Revision go back three years to correct anything that is exempt from taxes. G has a windmill and has paid taxes for it. The Act says that it is exempt from taxes, as he grinds oats or grain, and saws wood.

3. Can land that is homesteaded be rented to another, who is M, and is not M entitled to be on the assessment roll and have a vote on school matters? A trustee here says that land that is homesteaded can not be rented and the renter have a vote on school matters.

1. We see no objection to the renting of the house and land under the circumstances stated. If A thus actually becomes the tenant of E, he will be a ratepayer of the school section, and entitled to vote at the annual school meeting.

2. The Court of Revision has no such authority.

3. We are of opinion that this land can be leased, that the lessee should be assessed as tenant thereof, that he would then be a ratepayer of the section and have a vote on school questions.

Application of Term "Alderman."—Powers of Chairman of Council

517—W. L.—The term "alderman" is only applied to representatives of wards in cities where they are elected by wards. The term "Councillor" applies to all members of council in all towns where the council is elected by general vote of the electors, mayor and reeve of council not included. To what extent is the term "alderman" under the existing Municipal Law of Ontario applied to members of any municipal corporation. In the absence of the mayor from the town, and the reeve or one of the council is elected to preside during a meeting, has such presiding officer the power to sign orders for the payment of accounts passed at the meeting: at which he presided or will these have to await the return of the mayor?

In all cities the representatives of the people in the council are termed "alderman" and also in towns having a population of more than 5,000. (See sub-sections 3 and 4 of section 71a of The Consolidated Municipal Act, 1903). The reeve or any member of the town council selected to fill the mayor's chair during his absence has authority to sign all orders for payments of accounts passed at the meeting over which he presided.

Repair of Approach to Farm—Maintenance of Indigent by Local Municipalities.

518—G. S.—1. Several years ago council cut a road ditch, thus requiring that a culvert had to be built for ingress and egress to a farm. This was built by the owner of the farm. Last year an award tile drain was laid under this culvert, and to do so the culvert had to be taken up. Who will have to rebuild the culvert, the owner of the farm or the parties to the award or the council?

2. An old lady resided in our municipality for a number of years. She removed to another municipality, where she lived with her son for about nine months. The council of this municipality sent her to jail but the council of the town of S sent her to the House of Refuge and the county council notified our council to pay for her keep or they would enter an action to compel them. Our council agreed to pay one half for her maintenance if the other municipality (the village of W) would pay the other half. This they consented to do, although not in writing. We are given to understand that W has not paid, claiming that we should pay at least three quarters the cost of maintenance.

See sub-section 9, section 102 of the Municipal Amendment Act, 1903.

Could the town of S commit her to the House of Refuge and be recouped its expenses by the county council? Has the county council the power to pay them for her keep? Can our council be compelled to pay three quarters of her maintenance.

1. The council is not responsible for the re-building of the approach. Provision should have been made in the award for the removal and replacing of the approach and the cost of so doing apportioned amongst the owners interested in or benefited by the construction of the drain.

2. If the county council has passed a by-law under the authority of sub-section 6 of section 524 of The Consolidated Municipal Act, 1903, fixing the rate to be paid by local municipalities for the maintenance of inmates of the House of Refuge, the village should, under the authority of the sub-section quoted, pay one-quarter of the maintenance of the indigent, and township three-quarter

quarters, as she apparently resided in the village for nine months, and the remaining 27 months of the three years mentioned in the sub-section in the township. We gather from the statement of the facts that the woman is simply a harmless, homeless indigent, and we do not see why she was sent to gaol at all. She should have been committed to the House of Refuge in the first instance. We do not see that the town is in any way liable for her maintenance.

Maintenance of Indigent by Township.

519—M. G. H.—About twenty years ago a man and woman came to our township worthless, and in some way managed to buy and hold a lot, and was of course assessed, and paid rates for it; but they had no way to live but by charity, both by private and municipal aid, often many times more than their taxes came to. About fourteen months ago the man died, and his friends came and took all the household goods and some cattle, also the old woman, into another municipality within the same county. This woman was not supposed to be this man's wife, but had lived with him as such. Now the cattle and lot are all gone, the friends and she disagree, and she leaves and is a fugitive and is now in the county jail. The county council claims that we must now again keep her, in part with the municipality that has had her last. The son of the man claims that his father willed the lot to him first. We claim we have no right to keep her and that the county ought to.

We do not think the township is under any legal obligation to maintain this indigent.

Proceedings to Construct Sewer.

520—W. L. S.—Our village council has under consideration a sewerage and drainage scheme. It has been suggested that the work be undertaken as local improvement, and that the local board of health make recommendation as provided in sub-section 4 of section 668 of The Consolidated Municipal Act, 1903. In that event would the property owners be deprived of the right of petition described in section 669? Would they have no voice in the matter other than the right of appeal to the court of revision?

If the construction of the sewer is proceeded with on sanitary grounds, upon the recommendation of the local board of health, and the affirmation by a two-thirds vote of all the members of the council at any regular meeting thereof, mentioned in sub-section 4 of section 668, the petition against the doing of the work mentioned in sub-section 1 of section 669 will not prevent the carrying out of the scheme by the council. The only remedy parties interested have is to appeal to the Court of Revision.

Letting of Drain by Township Engineer.

521—A. W.—An award being made under the Ditches and Watercourses Act to clean the brush and logs out of the creek, the parties whose lots the creek runs through have not complied with the engineer's request to have it cleaned out by a certain date. The engineer went to let the contract, but could get no one to take it. What is the engineer to do? Would he be acting legally if he hired a gang of men and cleaned the creek out?

We do not think the engineer has any authority to hire men to do this work as suggested. We do not see that he can do any more than comply with the provisions of sub-section 4 of section 28 of The Ditches and Watercourses Act (R. S. O., 1897, chapter 285), which provides that "the engineer may let the work and supply of material or any part thereof, by the award directed, a second time or oftener, if it becomes necessary in order to secure its performance and completion."

Resignation of High School Trustee.

522—D. M. V.—We have a high school in our township. The whole township is the high school district and three of the trustees are appointed by the township and three by the council of the county. One of the high school trustees appointed by the county council wishes to resign and sent his resignation to the secretary of the high school board, and the latter wrote the resigning trustee

that it could not be accepted by the board as it had to be sent to the county clerk. The trustee maintains that it is the duty of the secretary to receive such resignation and then deal with it as it should be dealt with. Which is right? What is the proper course to follow?

The statutes make no provision for the resignation of a high school trustee.

Duties of Pound Keeper.

523—H. W. E.—A farmer came into the village and purchased a horse from a merchant. He took the horse on trial. If it suited him he would keep it and pay for it, if not he would return it in two days. He kept it for a week and then returned it, putting it in the merchant's stable. The merchant refused to take her back and turned her out, as he considered he had sold her. The village constable put the horse in pound for running at large, contrary to by-law. The pound-keeper notified both of the parties that the horse was in pound, and they both disclaimed the horse.

1. Has the pound-keeper to advertise the horse, seeing that both parties disclaim her?

2. How long has the pound-keeper to keep the horse in pound before advertising the same for sale?

3. Has he to hire an auctioneer? The pound-keeper is bailiff also.

1. Yes.

2. Section 12 of chapter 272, R. S. O., 1897, provides that "in case an animal is impounded, notices for the sale thereof shall be given by the poundkeeper or person who impounded the animal within *forty-eight hours* afterwards, but no pig or poultry shall be sold till after four clear days, nor any horse or other cattle till after *eight* clear days from the time of impounding the same."

3. We do not think it is necessary that the pound-keeper should engage an auctioneer to sell the horse.

Closing Road Allowance.

524—C. W.—About four years ago Mr. A. bought a lot lying along the townline between this and the township east, also bordered on the south by the Y. road. Across the corner of this lot from townline to Y. road, the public have travelled fifty years or more. This cross-road was never established by by-law, and never had any money, public or private, spent on it; neither was there any statute labor spent on it, it being mostly smooth rock. The road is not travelled very much but is a short cut for people of adjoining township when coming west. Mr. A. wants the road closed, and has been advised to get the township council to close it by by-law. Does its long use establish it as a public road, and has the council the authority to pass such a by-law?

2. The council dug a ditch along the road in front of a man's farm and built a culvert for him to get to his premises. A few yards from the culvert he used to enter one of his fields from the road and demands a culvert at that place also. We think he could get to his field from his own premises without any great inconvenience. Should we build the second culvert?

1. We do not think the council is bound to or should interfere in this matter. Fifty years user of the road by the general public might give rise to a presumption of its having been dedicated for public highway purposes, so as to give the council power to deal with it as a public highway, but we do not see that under the circumstances, the council should invite litigation by passing a by-law to close it.

2. We are of opinion that the council cannot be compelled to erect the culvert asked for.

Trustee May Purchase School Debentures.

525—C. H. S.—Is it legal for the school trustees of a rural school section to purchase debentures sold for the purpose of erecting a new schoolhouse for the said section?

We do not see that any legal objection can be taken to this course. The money is raised and the debentures issued by the council of the municipality, and the levy to meet their payment is made by the council. We do not think that section 105 of The Public Schools Act, 1901, applies to a case of this kind.