

The Municipal World

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

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ST. THOMAS, ONTARIO, SEPTEMBER, 1907.

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Calendar for September and October 1907

Legal, Educational, Municipal and Other Appointments

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.
5. Make return of deaths by contagious disease registered during August.. R. S. O., 1897, Chap. 44, section 11 (4).
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.

October

1. Last day for returning assessment roll to clerks in cities, towns and incorporated villages where assessment is taken between 1st July and 30th September.—Assessment Act, section 53.
Last day for delivery by clerks of municipalities to collectors, of collectors' rolls, unless some other day be prescribed by by-law of the municipality.—Assessment Act, section 95.
Notice by trustees of cities, towns, incorporated villages and township boards to Municipal clerk to hold trustee elections on same day as municipal elections, due.—Public Schools Act, sec. 61 (1).
Last day for passing resolution by boards of separate school trustees in urban municipalities that the election of separate school trustees shall be held on the same day as municipal councillors or aldermen are elected, as the case may be.—Separate Schools Act, section 32, sub-section 1.
Night schools open (session 1907-1908).

546 Building and Keeping in Repair of Farm Approaches.....	558 Issue of Drainage Debentures.....
547 Line Fence Between Occupied and Unoccupied Lands.....	559 Collection of Statute Labor of Defaulters
548 Statute Labor Chargeable on Income Assessment.....	560 Retention of Insurance Money by Town to Secure Payment of Loan to Industrial Company.....
549 Councillor Cannot Legally Loan Money to His Council.....	561 Statute Regulating Speed of Motor Vehicles.....
550 Proceedings to Commit Insane Person to Asylum.....	562 Recovery of Money Paid by Mistake for Land for Road.....
551 Railway and Telephone Companies Liable to Statute Labor—Liability for Non-Resident's School Fee.....	563 Grant for Maintenance of Road in Adjoining Municipality.....
552 Pool Table License May be Granted to Non-Residents.....	564 A Line Fence Dispute.....
553 Effect of Negligence of Drainage Commissioner.....	565 No Power to Close and Sell Town Line..
554 Maintenance of Road Not a Deviating Town Line.....	566 Withdrawal from Support of Separate School—Liability of Owner Withdrawing
555 Rental for and Maintenance of Railway Switch.....	567 Collection of Arrears of Taxes Due Section in Unorganized Township.....
556 Taxation of Dogs—Adding Percentage to Unpaid Taxes—Injury to Farm Approaches—Equalization of Union School Assessments.....	568 Drain Should be Constructed Under D. and W. Act—Composition of Local Board of Health—Appointment of Sanitary Inspector.....
557 Trimming Trees in Townships.....	569 Power of Township Council to License or Prohibit Sale of Cigarettes.....
	570 Building Barbed Wire Fences.....
	571 Extension of Drain—Varying Assessments—Notice to Repair—Reconsideration of D. and W. Award.....

The Municipal World

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

A. W. CAMPBELL, C. E. K. W. MCKAY, EDITOR
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ST. THOMAS, ONTARIO, SEPTEMBER 2, 1907.

Berlin town council has passed a by-law to compel restaurants to close at two in the morning.

* * *

The electors of the Village of Bradford recently voted in favor of an expenditure of \$7,000 in cement sidewalks. It was practically a unanimous vote, 58 for and 5 against.

* * *

A by-law to instal a new pump was recently carried by the electors of the Town of Amherstburg by practically a unanimous vote. There were only 13 against the measure. The by-law authorizes the council to spend \$2,500 on purchasing a new pump and otherwise improving the water system.

* * *

The Town of Berlin, having experienced considerable difficulty in disposing of several large blocks of debentures, issued under by-laws fixing the rate of interest at 4½%, to facilitate their sale purposes making application to the Lieutenant-Governor-in-Council for leave to increase the rate of interest to 5%.

* * *

The council of the Town of Newmarket has obtained from the Ontario Railway and Municipal Board an order approving of by-law No. 319, to raise by way of loan the sum of \$2,500 for the purchase of meters and certain necessary extensions and improvements to be made to the electric lighting system of that town.

* * *

At a recent meeting, the council of the township of Augusta, passed a resolution endorsing a recommendation made to the government by a farmers' convention held in Ottawa on the 12th June last, asking that farm buildings be exempt from taxation, and that the assessment of farm property be done in the month of June instead of the winter as at present.

* * *

The county council of Huntingdonshire, England, has been considering the question of automobile licenses and road improvement, and is asking for legislation so that the sums chargeable for licenses will be on a graduated scale proportional to the nominal horse-power of the vehicles, the total amount received to be paid to a central account, and subsequently to be distributed in an equitable manner among the authorities throughout the United Kingdom charged with the maintenance of highways.

Apropos of the prevailing stringency in the money market an exchange says:—Owen Sound is not the only town that has been caught short of cash. A number of municipalities have been unable to go ahead with local improvements because they could not procure the money. Mr. A. B. INGRAM, of the Ontario Railway and Municipal Board, states that one city had come under their notice that had arranged to do a certain amount of paving, for which they expected to borrow the money. But though they offered as high as five per cent. the money was not to be had.

* * *

At a recent meeting of the council of the Township of Whitchurch the clerk was instructed by resolution to notify the secretary of the Ontario Municipal Association that the council is of the opinion that The Act Respecting Noxious Weeds on Highways as at present in force should be amended by the Legislature by granting to township councils in township municipalities where statute labor is performed, power to instruct their pathmasters to destroy by statute labor all noxious weeds on said highways in their respective road divisions. And also that it is the opinion of the council that the Ontario Municipal Association should use its influence in favor of legislation requiring wide tires to be used on wagons employed in heavy teaming on the highways.

* * *

Fifty years ago there was some excuse for bad roads, for our country was poor. Now it is rich there is no excuse. A good road is always to be desired, and is a source of comfort and convenience to every traveler. Good roads attract population, as well as good schools and churches. Good roads improve the value of property, so that it is said a farm lying five miles from market connected by a bad road is of less value than an equally good farm connected by a good road. A larger load can be easier drawn by one horse over a good road than by two over a bad one. Good roads encourage the greater exchange of products and commodities between one section and another. Good roads are of great value to railroads as feeders.

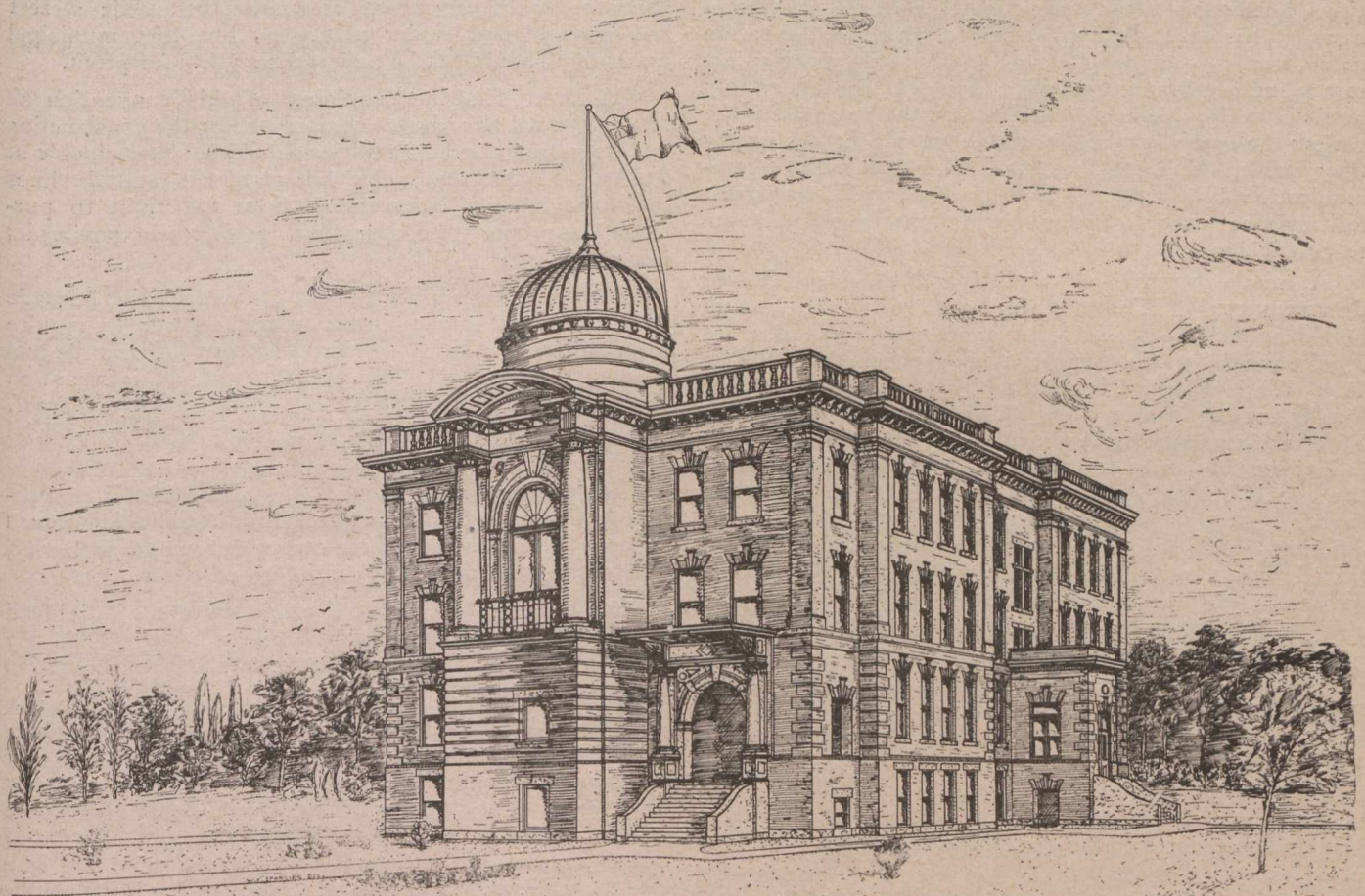
* * *

In his annual report for 1906 The Provincial Municipal Auditor has the following to say: "There have been some important drainage audits which I have no doubt will do the municipalities much good. In four townships the examination and proper arrangement of the drainage accounts have formed the principal feature in the audits, and were very much appreciated by the ratepayers. If it were possible to have similar examinations in other townships, it would be a good thing, as I am satisfied from what I know there are very few townships having drainage accounts which are kept as they should be. This is a very weak spot in the municipal accounting, this same question of drainage accounts, and is sure to lead to trouble if not better attended to. I am alluding to the state of the drainage accounts throughout the whole Province. In this connection it must also be noted that treasurers and municipal officers generally should be treated with more consideration as regards the remuneration they receive. There is little encouragement for an official to do his duty, when he receives the pittance often doled out to him, say \$30 to \$50, and often less. I have made the remark before that no treasurer should receive less than \$100 per annum where the annual income of the municipality exceeds \$2,000. Of course there are a few townships in the new districts where the income will not pass \$1,500, but they are getting fewer every year, and will soon cease to be, in the gradual improvement of the country."

New Normal Schools

Plans and specifications have been prepared by the Ontario Department of Public Works for four normal schools to be erected in Hamilton, Stratford, Peterborough and North Bay respectively, as shown by the accompanying illustration. The buildings will be four stories in height, including the basement. The design is in the style of Italian Renaissance, with a central tower in the front facade, surmounted by a dome, the main entrance being at the side of the tower, with an imposing portico of stone. The building from top of stone to the main cornice will be in brickwork, with stone string

apparatus, three rooms for manual training, a gymnasium, janitor's room and men's toilet room. The ground floor is approached by the main entrance in front for the public and teachers, and an entrance at each side for the students, leading to a wide hall, extending through the centre of the building, with two spacious staircases leading to the upper floors. There will be upon this floor three class rooms, a library and a reading room, a room for the principal, an office for the secretary and two cloak rooms. On the first floor are located two class rooms, a lecture room, chemical laboratory, appar-



NORMAL SCHOOLS, HAMILTON, STRATFORD, PETERBOROUGH AND NORTH BAY

courses, capitals, columns, etc., with sufficient enrichments to give relief to the architectural lines, and when completed the composition will give an ornate and substantial appearance. The outside dimensions on the ground line are 78 feet frontage by 108 feet in depth. In the basement are located the heating and ventilating

atus room, teachers' rooms, and two cloak rooms. The third floor consists of an assembly hall with a seating capacity for five hundred persons with ample exits at each end, an art room and two rooms for the instruction of domestic science. Contracts have been let and the work will be carried to completion at as early a date as possible.

*The M. O. Publishing Bureau,
119 Nassau Street,
New York City.*

The above is the address of an organization engaged in the distribution of books and other literature in opposition to municipal ownership. These are distributed under the direction of the managers of Public Service Corporations to their employees, the press and public generally. The organization also furnishes speakers to discuss the question in all its phases, and is prepared to

furnish experts to handle local campaigns and with special editorial matter to fit local conditions. The Public Service Corporations do not appear to be directly connected with this Bureau, which is a legitimate business, selling its publication and ideas to those who are opposed to municipal ownership.

* * *
The official tests on the new eight hundred kilowatt plant at Morrisburg, Ont., were made recently by Mr. WILLIS CHIPMAN, C.E., and Mr. K. L. AITKEN, C.E., both of Toronto.

Union of Canadian Municipalities

The annual convention of the Union was held at Fort William on the 13th, 14th and 15th of August. The delegates were welcomed by ex-Mayor DYKE, of Fort William, representing the mayors of both Fort William and Port Arthur, who referred to the foundation of the Union, its aims and objects, and said: "We welcome you because the spirit and genius of your splendid organization is identified with the greatest progress of modern life. While as Canadians we venerate our great centres and institutions of government such as the honorable senate, the distinguished Federal parliament, and the worthy Provincial assemblies; yet, however honorable their positions, however important their legislation, we are free to say that none of these august bodies come so close to the actual needs of our people as do the councils of our cities, towns and rural municipalities. The pressing every day needs of the people in their homes, on the streets, in the parks; the every day needs of the people in the water they drink, the light they use, their methods of communication by telephone, and transportation by street railway, are matters of your immediate care and personal responsibility."

A number of visitors replied and President Mayor COATSWORTH, of Toronto, followed with the annual presidential address, in which he referred to the pleasure it gave the delegates to meet in such prosperous cities as Fort William and Port Arthur, as follows: "Our thanks are due in a very large measure to our friends in Fort William and Port Arthur, not only for their kindness in inviting this union to meet here in 1907, but also for the splendid reception they have accorded to our delegates from all parts of the Dominion. When we return to our different municipalities to report the result of this convention, I am not sure whether the uppermost thought in our minds will be admiration for the pluck and business ability of our hosts on this occasion, or gratitude for their very generous hospitality."

He also referred to the proposed federation of the Provincial Municipal Associations and to the events of the year, the most important of which was the inquiry started by the Dominion Government as to tolls and rates charged by telephone and express companies. The address concluded with a reference to municipal ownership and the necessity for governmental control of corporations.

The second day's session included an address by ex-Mayor DYKE on "Municipal ownership, its difficulties and advantages;" reports from the different Provincial Unions and papers by Mayor SCOTT, of Ottawa, and Mayor ROBB, of Valleyfield, on "Municipal Electric Supply."

On Thursday it was decided to hold the next convention at Medicine Hat.

The following officers were appointed:

President—R. T. MACILREITH, mayor of Halifax.

1st Vice-President—Ald. LAPOINTE, Montreal.

2nd Vice-President—Controller WARD, Toronto.

3rd Vice-President—Reeve COCHRAN, of Blanchard.

Secretary-Treasurer—Ex-Mayor LIGHTHALL, Westmount.

Provincial Vice-Presidents for Ontario—Mayor J. C. JUDD, of London; Mayor D'ARCY SCOTT, of Ottawa; Ald. MCGHIE, of Toronto; ex-Mayor DYKE, Fort William; Mayor McWILLIAMS, Peterborough.

Among the resolutions passed was one asking that the union seek legislation from the Dominion House giving

the Provincial Houses power to regulate these rates, and the following in reference to municipal ownership:

No. 1—That in the opinion of this convention, as public utilities are so constituted, it is impossible for them to be operated by competition they should be controlled and regulated by the government, or

No. 2—They should be operated by the public, and that they should not in any event be left to do as they please.

Further resolved, That municipal ownership should not be entrusted to revenue producing industries which do not involve the public health, public safety, public transportation or the permanent occupation of public streets and grounds, and similar principles, but that municipal ownership should not be undertaken solely for profit.

Resolved, That in the opinion of this convention all future grants to private companies for the construction and operation of public utilities should be determinable at fixed periods and that meanwhile at certain stated times during such period cities should have the right to purchase the property for operation, lease or sale, paying its fair value.

Further resolved, That in the future provision be made for a competent public authority with power to require from all public utilities a uniform system of records and accounts, giving all financial data and all information concerning the quality of service and the cost thereof, such data to be published and distributed as official reports.

No. 3—Resolved, That in the opinion of this convention no stocks or bonds for public utilities should be issued without the approval of some competent public authority, thus setting the capital by official investigation.

Further resolved, That a standard rate of dividend should be fixed, which may be increased only when the price of the commodity sold or the rate of transportation has been reduced.

No. 4—That in the opinion of this convention where the management of public utilities is left with private companies the city should retain in all cases an interest in the growth and profits of the future, either by a share of the profits or a reduction of the charges, the latter being preferable, as it ensures to the benefit of those who use the utilities, while a share of the profits benefits the taxpayers.

No. 5—That in the opinion of this convention where the operation of the public utilities is by the municipality there should be a complete separation of the finances of the undertaking from those of the rest of the city, and that the bonds issued for such utilities should be a first charge upon the property and revenue of such undertaking.

A motion was carried, which was introduced by Ald. MANNING, of Winnipeg, seeking legislation to compel telegraph and telephone companies to place wires underground.

Among the papers presented on the last day was one by J. F. KINNAIRD, of Edmonton, on "Municipal Financing," in which he advocated joint action in disposing of bonds and debentures, with the establishment of central offices at Montreal and agents in London and Paris who would keep watch on the money market and keep the municipalities advised of conditions. The investors would also be interested in the scheme and it was thought that foreign capital could be secured in large quantities at low rate of interest.

Legal Department

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

Of Osgoode Hall, Barrister-at-Law

ASSESSMENT OF MACHINERY USED FOR MANUFACTURING PURPOSES.

We are indebted to His Honor Judge DONOHUE, Senior Judge of the County of Renfrew, for the following interesting judgment :

IN THE MATTER of Appeal from the Court of Revision of the Town of Pembroke.

THE COLONIAL LUMBER COMPANY, LIMITED,
Appellant,
and

THE CORPORATION OF THE TOWN OF PEMBROKE,
Respondent.

JUDGE'S CONCLUSIONS HEREIN AND DIRECTIONS TO CLERK.

The appellants are a company carrying on in the Town of Pembroke the business of manufacturers of sawn lumber—that is, as I understand it, converting their own logs into lumber and then selling and shipping such lumber to various points. Upon the company's lands, and within a few feet from their saw-mill and on the mill premises, the company built or constructed an incinerator or receptacle which is used for the purpose of burning saw-dust and other refuse produced in the mill, and also constructed at considerable cost and expense carriers upon which this dust and refuse are conveyed from the mill to this receptacle, and at a distance of some 20 feet or so from the base of the receptacle the dust and refuse are dumped from the carriers into a scoop or mouth protruding from the receptacle, and consumed by fire.

The assessor assessed this receptacle or incinerator for \$5,000.00 and also imposed on it a business assessment of 60% of its value, or \$3,000.00, but the carriers were not assessed, though costing a considerable sum to construct.

From this assessment the company appeals, claiming that the incinerator is "machinery used for manufacturing" and as such is exempt from assessment under sub-section 16 of section 5 of The Assessment Act.

This, then, is the only question submitted for my decision, the assessment of the company's property in other respects being unobjectionable.

Before answering the question raised it is well first to determine whether the company is carrying on more than one business on its premises, as it was contended on the argument before me, that the burning of the saw-dust and refuse from the mill was no part of the business of manufacturers, but was a separate and distinct business in itself. It seems to me that the company in order to carry on the business of manufacturers of sawn lumber would require men to cut the logs on their limits, men, horses, etc., to haul them to and float or tow them down the Ottawa River to their mill, mechanical appliances to get the logs in the mill, other appliances and machinery for the sawing of the logs into lumber, and further appliances and machinery for the carrying of the lumber to their yards, and they would of course require men to pile

the lumber in their yards that it might be properly dried and seasoned, and manifestly they would require the saw-dust and refuse to be removed from the mill in order that the business might be carried on.

To my mind it is idle to argue that any one of these necessary operations in the prosecution of the business of the company is in itself a *business* apart from and outside of the business of manufacturing sawn lumber.

I am clearly of the opinion, then, that this company is carrying on only the business of manufacturers of sawn lumber, and that the various works performed and appliances used by the company are for the efficient carrying on of this business only. I cannot think that the burning of the saw-dust and refuse from the company's mill in the incinerator is a separate and distinct business in itself, but that it is simply a means of enabling the company by the use of modern up-to-date apparatus to carry on the business of manufacturers, and the keeping of the mill free from refuse and saw-dust is surely one of the requirements of such business.

Is the appliance used, then, for the destruction of this refuse and dust, machinery ?

Clearly the object the company had in view in building and erecting this receptacle or incinerator and the carriers leading from the mill to it was to get rid of the refuse and saw-dust by mechanical means instead of by hauling it away as had formerly been done by the aid of men, horses and carts. For this purpose a device or contrivance had to be and was planned, and consisted of not alone the receptacle, called an incinerator, but also of carriers constructed at considerable expense and which carriers were operated by means of power from within the mill. This device or contrivance, then, consisted of the receptacle, the carriers and the power or force which set them in motion. The absence of any one of these agencies would be fatal to the successful accomplishment of the work intended to be accomplished, namely, the removal and destruction of the dust and refuse.

This apparatus or contrivance, then, consisting of these three distinct parts, and operated in conjunction with one another, performs mechanically the work intended to be done, and may, I think, very properly be said to be a structural contrivance used by the company for the saving of human labor in the carrying on of their business. I am therefore of opinion that this incinerator used as it is in this case in conjunction with the other agencies mentioned is machinery within the meaning of sub-section 16 of section 5 of The Assessment Act and is exempt from assessment.

I therefore direct the clerk of the corporation of the Town of Pembroke to alter and amend the assessment roll by striking out the assessment made on the incinerator for \$5,000.00; and also to lessen the amount of the business assessment for which the appellants are assessed by the sum of \$3,000.00, leaving such business assessment at the sum of \$7,920.00 instead of \$10,920.00. In all other respects the assessment is confirmed.

Dated this 30th July, 1907.

D. J. DONAHUE, Judge.

MAINTENANCE OF BRIDGES.

We thank Mr. M. N. MOUSSEAU, clerk of the Township of Rochester, for the following judgment :

IN THE MATTER of the River Ruscomb Bridge.

This application is made on behalf of the Township of Rochester in pursuance of a resolution of the council adopted on the 10th of April last, under section 617a of The Consolidated Municipal Act, 1903, for an order declaring the bridge over the River Ruscomb on the Base Line road a county bridge.

This section is as follows :

617a. (1) The council of any township in which a bridge is over 300 feet in length is situate may by resolution declare that owing to such bridge being over 300 feet in length, and being used by the inhabitants of municipalities other than the township, and being situate on a highway which is an important road, affording means of communication to several municipalities, it is unjust that the township should be liable for the maintenance and repair of the bridge, and that it should be maintained and repaired by the corporation of the county, and that application should be made to the Judge of the County Court of the County for an order declaring such bridge a county bridge, to be maintained and kept in repair by the county corporation.

I make the following findings, based on the evidence and on an inspection of the bridge and locality in question :

1st. That the bridge in question is over 300 feet in length.

2nd. That it is used by the inhabitants of municipalities other than the Township of Rochester.

3rd. That it is situated in an important highway, affording means of communication to several municipalities.

The River Ruscomb, which has its outlet in River St. Clair, drains a large area of land. Its total width at the point where the bridge in question spans it is 690 feet, and its banks are well defined. The wooden structure over the bed of the river is 100 feet in length, and the approaches to it consist of an embankment at each end of the respective lengths of 40 feet and 550 feet, the shorter embankment at the east, and is partially protected from the action of the water by sheet piling.

The other embankment is about three feet above the level of "the flats." In dry weather the waters of the river are confined to the main channel, as shown on Mr. Laird's plan, but in the spring and autumn and during periods of excessive rain they expand from bank to bank, and frequently overflow the longer embankment, occasioning small wash-outs. It appears from the evidence that it is necessary to raise and widen the span, and that the embankment at the west end should be enlarged. I find that the embankments are necessary parts of the structure, and were constructed by the municipality to afford a passage across the river. This question has been considered in re Mud Lake Bridge, 12 Ont., L. R. 159, where the approaches to a similar structure to the one in question were held to be essential parts of the bridge.

There is evidence to warrant the finding that the Base Line road is used by the inhabitants of municipalities other than the Township of Rochester. The Tecumseh road, which extends from Windsor to Chatham, was substituted for the old Lake Shore road, which was destroyed many years ago by the encroachments of Lake St. Clair. As the county became settled the highway in question, known as the Base Line, was constructed in rear of the lots south of the Tecumseh road. This road is practically a continuous highway from Windsor to Chatham, and passes through thickly settled and pros-

perous districts. It is extensively used by the travelling public. It also affords means of communication to several municipalities. The inhabitants of Belle River, Maidstone, and even the municipalities of Sandwich East and Windsor use this highway in travelling to Tilbury and Chatham, and the inhabitants of other municipalities lying east of Rochester use it extensively in travelling westward to Windsor and intervening points. During the summer and fall months, when travel is extensive, this highway is used in preference to the Tecumseh road.

Sub-section 5 of said section 617a provides as follows : In case the Judge finds that the allegations contained in such resolution are proved or partly proved, he shall make an order in writing declaring the bridge to be a county bridge to be maintained and kept in repair by the corporation of the county in which it is situate, and shall in and by such order either declare that the whole of the cost of such maintenance and repair shall be paid by the county, or that the township pay to the county such proportion of such cost as he may deem just.

On the evidence I am of opinion that a case has been made out entitling the Township of Rochester to a declaration that the bridge in question is a county bridge. It is difficult to determine the relative proportions of travel on this highway by the inhabitants of the township as distinguished from the outside public. The evidence, in my opinion, warrants the finding that such travel is about equally divided. An order will be made declaring the bridge in question a county bridge, to be maintained and repaired by the County of Essex, and requiring the Township of Rochester to contribute to the county one-half of the cost of such maintenance and repair.

M. A. McHUGH,
Senior Judge, County Court, Essex.

D. M. McINTYRE, Esq., K.C., of Kingston, has favored us with the following judgment :

IN THE MATTER of The Consolidated Municipal Act, 1903,
Section 618,

AND IN THE MATTER of Dispute Respecting Bridges
Crossing Napanee River in the Village
of Newburgh.

BETWEEN :

The Municipal Council of the Village of Newburgh
and

*The Municipal Council of the County of Lennox and
Addington.*

This is an application under the provisions of section 618 of The Consolidated Municipal Act.

The municipal council of the Village of Newburgh having, on the 9th day of May, 1907, filed with me a copy of the resolution of said council under date May 6th, 1907, certified under the hand of the clerk of said village of Newburgh and under its corporate seal with an affidavit of service of a true copy of said resolution, so certified as aforesaid, upon W. G. WILSON, Esquire, clerk of the municipal council of the said County of Lennox and Addington, I, JAMES HENRY MADDEN, Judge of the County Court of the County of Lennox and Addington, did, on the 9th day of May, 1907, appoint Thursday, the 20th day of June, 1907, at the hour of 10 o'clock in the forenoon, at Finkel's Hall in the said Village of Newburgh, as the time and place for the purpose of hearing the parties interested, and to determine the matter in dispute as set forth in said application and appointment,

and to receive the evidence and to consider said application.

The said appointment was, on the 9th day of May, 1907, duly served upon the said W. G. WILSON, who was clerk of the corporation of the County of Lennox and Addington, as shown by the admission of its counsel, and having at the said time and place been attended by the reeve of the corporation of the Village of Newburgh, and by the warden of the corporation of the County of Lennox and Addington, and upon hearing the evidence adduced and the admission made, and upon hearing what was alleged by counsel for the said respective corporations, I find as follows :

1. That the Village of Newburgh is an incorporated village, in the County of Lennox and Addington (and carved out of the Township of Camden in said county), and comprising in area 3,200 acres—two miles wide east and west, and $2\frac{3}{4}$ miles in length north and south—and with an equalized assessment of \$106,000, for the year 1907, the whole assessment of the County of Lennox and Addington being \$8,457,000.

2. That Napanee River runs in a south-westerly direction through and within the limits of the said Village of Newburgh, has its rise some 30 miles to the east and north of said village, and flows into the Bay of Quinte somewhere between Napanee and Deseronto, and as it flows through the main part of the said village it is divided into two channels by a small island, which has no name, and comprising six or seven acres, mostly shelly, limestone rock with little or no soil thereon, except such as may have for years been washed down thereon, or such as may have been drawn or deposited thereon by the owners or occupiers thereof.

3. That both channels are known as Napanee River.

4. That said island in all probability formed a part of the bed of the whole river when a much larger volume of water passed within its main shores.

5. That the said Island is about one-quarter of a mile in length from its extreme easterly and westerly points in the river and is 100 yards in width where Main street running north crosses it, and which street forms a part of the main public highway running through the County of Lennox and Addington, and is a continuation of the main highway from the Village of Bath and the front of the county to the north or rear of said county, and from the Town of Napanee to the townships north and east thereof.

6. That the part of the river flowing south of the small island is 80 feet wide between the face of the piers on each side. On the south side there are two piers built, the second in point of time being built up to or against the face of the first and is 15 feet farther in the water than the first, which extends some distance farther south, but the length of this latter pier has not been established in evidence. The evidence of Mr. AYLESWORTH and Mr. SUTTON was to the effect that when the last pier was built the men stood in water in the first or old pier to the south, and from the height of the bridge above the water and the location of the gorge generally it would induce one to believe and find that the flow of water must have been several feet to the south of the last pier built.

In addition to the above there is some made land upon the rocks to the east some 12 feet wide and extending along the shore, and the inference is that the first pier in point of time built would be in length very little less, and in a state of nature this part of Napanee River must have been over 100 feet, measuring the same at the level attained after heavy rains and freshets.

7. That the part of the said Napanee River flowing north of said island is 38 feet wide, confined within artificial walls, and without these and the piers the average width is 60 feet, measuring the same at the level attained after heavy rains and freshets.

8. That the distance between these two parts of the channel of Napanee River is about 300 feet.

9. That the said two channels so surrounding these few acres form or comprise the whole river, notwithstanding that the former bed thereof is now known as the island between the same.

I. Ont. Rep., page 284, ARMOUR, Chief Justice, says :

“The Rideau River—that is, the whole river—without regard to the accident that Cummings' Island is in it, and notwithstanding that fact, forms in our opinion, a boundary line, etc., etc.”

CAMERON, J., in same case, at page 285, says :

“If, instead of a small island fit for cultivation, it had been a mere rock which was utilized in place of building an arch or pier for the bridge, I presume it could not sensibly be contended that the bridge would not be a continuous bridge across or over a river dividing two municipalities ; and if not, I do not see any principle upon which the burden of its construction or repair would be shifted from the larger to the less municipality. It may be a question of fact for what purpose the bridge was built—that is, the connection of the island with the main shore, or the two main shores, the island being used as part of or in aid of the work.”

II. Ont. Law Rep., Oct. 8, 1906, at page 241, ANGLIN, J., says :

“The proper finding upon all the evidence is, in my opinion, that the Winnipeg River commences at the points of outlet from the Lake of the Woods, and that the expanse below the falls on the east and west branches, and those branches themselves as well form part of that river.”

11. That in determining the width of the Napanee River where the bridges now are situated I am of opinion that the width of these two volumes of water or channels aforesaid, viz., 80 feet on the south side and 38 feet on the north side of said island, should be added, and now comprise and make the whole river in width to be 118 feet, and within the meaning of sub-section 3 of section 613 and sub-section 2 of section 616 of said Consolidated Municipal Act. All bridges on any river or stream over 100 feet in width may well mean two bridges over channels of the same river, and these words are expressly applicable to the condition of affairs here.

12. That the volume of water running on the north side of the island is part of the whole river both before and after it passes the main shore on that north side, and the evidence satisfies me, and I find, as a fact, that the main north shore of Napanee River is on the north side of the north channel flowing past said island, and the main south shore of Napanee River is on the south side of the south channel flowing past said island.

13. That the bridge over the north channel may well be considered a continuous part of the bridge over that part of the river south of the island.

14. That the said Napanee River is over 100 feet in width at the points where the said Main street crosses it.

15. That the said Main street so running north from said Village of Newburgh is a main highway leading through the County of Lennox and Addington, and the bridge or bridges over the said Napanee River is or are necessary to connect the said main highway so leading through said county within the meaning of said sections 613 and 616.

16. That the bridges over the said river were at the time the demand was made by the said corporation of the Village of Newburgh upon the said corporation of the County of Lennox and Addington, to build and repair the same, and are now out of repair and require to be re-built, repaired or altered in order to make it safe for public travel and use thereover.

17. That the municipal council of the Village of Newburgh has made all necessary demands and all proceedings have been regularly taken to entitle the said corporation of the Village of Newburgh to have the said bridge or bridges re-built, repaired or altered and be maintained by the said corporation of the County of Lennox and Addington.

18. That the said corporation of the County of Lennox and Addington is required to wholly build and maintain the said bridge or bridges, and that the duty or liability of so building and maintaining the same belongs to and rests upon the said County of Lennox and Addington, and of which findings I order and adjudge accordingly.

Napanee, Chambers, June 24th, A.D., 1907,

(Signed) J. H. MADDEN,

Judge of the County Court of the County of Lennox and Addington.

We are informed that an appeal is being taken from this decision, and we will publish the conclusions of the higher court when handed out.

THE INDIGENT CONSUMPTIVES

At the last session of the Waterloo County Council a request from the county of Oxford to unite for the purpose of establishing a hospital for indigent consumptives was considered. Dr. LOCKHART, reeve of Hespeler, referred to previous efforts upon the part of the county to secure co-operation of other municipalities, especially in 1904, when ex-Mayor Radford, Galt, as a member of the county council, interested himself in the movement, and meetings were held in Stratford and Galt to promote the movement. Nothing had been done by last year's council. The step, he contended, was one in the right direction. These indigent consumptives should and could not be housed with the inmates of our houses of refuge. It is a crying evil and this and surrounding counties should unite for the establishment of an institution, convenient, accessible to railways, that will meet the requirements of a group of municipalities. As far as possible we should remove this menace. He suggested the appointment of a committee to get into touch with other counties to the end of obtaining isolation for victims of the plague. Oxford, which held back in the other movement, is now ready to come into a joint mission. A committee was appointed. The county of Elgin has also appointed a committee to meet with Oxford and other counties in dealing with this most important question.

GRAFTERS AND OTHERS

It is true to roundly assert that men make money out of public work, or that officials take bribes? In general it is not true. The great majority of members of public bodies give their time and energies freely, because like their work—it is a hobby with them.

Some members seek election because public work panders to their vanity. Others wish to serve because they get a certain social status as public men, denied to them in their private capacity. There are others who like the patronage it gives and the varied little powers and importance it brings with it. In the mass there is an honest, earnest desire to be of service to their fellows and a sup-

erabundance of that mysterious energy which prompts men to think of others, and which is called public spirit.

There is, however, a minority who, while loudly professing a desire to serve others, mean to serve themselves first and last. They are generally known by their talk in public compared with that in private. Their council and committee sentiments do not agree. They are suspicious of others; they attribute all sorts of unworthy motives to men who, in their unsophisticated way, endeavour to do right in the wrong way and so lay themselves open to suspicion.

Experience of public men leads us always to suspect the man who is constantly airing his noble unselfishness and the—to him—improper actions of his colleagues.

We have met him and have never yet been wrong in our estimation of his real object. Some there have been who engineer things so that they do well in public life without taking a bribe or in any way compromising their public position. But there are others—

It is not generally known that Pittsburg, Pa., is one of the largest manufacturers of electric illuminants, a distinction which is due to the enormously increasing business of the Nernst Lamp Company. This concern, which is one of the subsidiary Westinghouse interests, began some years ago to introduce the Nernst Lamp, an illuminant invented by Professor WALTER NERNST, of the University of Goettingen, Germany, and somewhat different from the incandescent as well as the arc lamp. The illuminating part of this lamp consists of two cylindrically shaped bars of rare earths, which, when the electric current is passed through them, diffuses a brilliant white light, more nearly approaching daylight than any other form of illumination.

Since these lamps were brought upon the market, some of the largest offices, public and store buildings in the United States and this country have been installed with them. Within the last week the company has received contracts which represent a larger number of candle power than any individual lighting contract that has ever been made since electric lamps became the popular form of artificial lighting. One of these contracts, from the Baltimore Electric Company, calls for lamps aggregating 1,300,000 candle power, and another from the Marshall Field Company, of Chicago, for lighting their dry goods store, calls for 700,000 candle power, making a total of 2,000,000 candle power. The Marshall Field people only decided upon the Nernst Lamp after they had made an exhaustive test lasting over two years of every other form of modern artificial illumination. Another contract which the company is now turning out in its shops is 1,000,000 candle power for the new terminal station of the Pennsylvania Railroad in New York City.

* * *

M. H. RITTENHOUSE, the Chicago millionaire, who has been enriching his birthplace, Jordan, in Lincoln county, with many public improvements, having established an experimental fruit station and built a model school and library in the village, has again given evidence of his love for his native heath by proposing to build a model road two miles in length from the fruit station to the lake. It is expected that the roadway will be one of the finest in Canada. It will be built under the supervision of A. W. CAMPBELL, Deputy Minister of Public Works, who will have practically *carte blanche* in the matter of expenditure. On each side of the road a wide boulevard will be laid out, and beautified according to elaborate plans of landscape architects, and permanent sidewalks will be constructed. The road is the townline between the townships of Clinton and Louth.—*Ex.*

Engineering Department

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

STREET CAR FENDERS

The question of street car fenders has been a subject of legislation and of considerable controversy in Ontario. Steps have been taken by the Provincial Government to secure the most efficient fenders available, but the frequency of accidents, and the fatalities resulting, are of a nature which, from time to time, startle and arouse the public. That Ontario is not alone in this matter is evidenced by the recent report of the Massachusetts Railroad Commission, which carried on an exhaustive investigation extending over several years. The report states

wheel guards. Although applications for the most part call for a further endorsement of the Pfingst fender, the use of which had previously been permitted by the Commission, we do not share the confidence expressed in it, and cannot approve it to the exclusion of other devices.

"The newer devices are, as a rule, automatic. In passing upon them it is necessary to bear in mind the distinguishing characteristics of the service upon the various lines of railway. For example, we believe it would be hazardous to attach to the front end of high-speed inter-urban cars, operated under conditions commonly met,



MADAWASKA BRIDGE

The Madawaska Bridge, near the town of Arnprior, in the township of McNabb, was erected in 1906 at a cost of \$22,022. There are four main steel spans each 105 feet and two approach spans of 28 feet each. The roadway is 16 feet 6 inches clear, with reinforced concrete floor. The sub-structure consists of three main concrete piers carried to rock, with two auxiliary piers, and two cross walls in the bank.

that, "notwithstanding the multiplication of patents and the ingenuity of experts, we know of no device in use or exhibited through sketch or model that, attached to a street car moving at varying speeds, can be relied upon to always trip a standing person or pick up a prostrate body without injury. It must remain unsafe for young children to play in the streets that are occupied by railway tracks, or to cross them unattended, and unsafe for older persons to step carelessly in front of cars. Meanwhile there is need of more effective car fenders and

automatic *fenders* which might upon occasion so fall or be thrown in the way of the car as to cause a derailment. On the other hand, there would be no such hazard in the use of an automatic wheel guard upon cars as ordinarily operated in city streets. The board will, therefore, require an experiment with these wheel guards, though at times in winter, snow and ice will undoubtedly interfere with their success.

"A fender or wheel guard that must be dropped by the motorman in case of threatened accident is open to

the criticism that it complicates his duties at a time when he ought to give paramount attention to the stopping of the car. On the other hand, this device possesses an advantage over the automatic, in that it is dropped only when needed, and by intelligent action, and so can be carried at a height such as to eliminate risks from contact with obstructions. A very important change in this type of fender, or wheel guard, is that by which the application of the emergency brake itself drops it into position. A trial of these devices will also be required.

"Climate and roadbed make it possible in Liverpool to use a guard which is carried so close to the surface of the track as to be very successful in its one purpose of preventing bodies from passing under the wheels. While weather and roadbed construction prohibit upon many of our railways the use of a guard carried so close to the ground, wheel guards have been brought to our notice which possess some of the features of the Liverpool device, and which are apparently capable of good work.

The board will require the use of these wheel guards upon selected cars."

USE OF AUTOMOBILES

A recent list of automobile permits, issued in pamphlet form by the Provincial Secretary for the use of municipal clerks under the "Act Respecting Motor Vehicles on Highways," shows that, to May 1st of this year, there have been registered in Ontario about 2,600 motor cars. Of this number 1,450 were owned by citizens of Ontario; over 1,100 were owned by residents of the United States, principally Buffalo and Detroit; 15 belonged to Canadians outside of Ontario, while only 21 motor cycles had been registered. A considerable additional number belonging to Canadians will no doubt be added during the current year, as the use of motor cars is rapidly increasing. The cars of Americans represent largely those which have been used by parties touring the Province.

The increase of motor cars in England has been remarkable, fostered to a great extent by the excellent condition of English roads. The recent report of the Royal Commission on Motor Cars in England says:

"The Motor Car Act, 1903, came into operation on the 1st of January, 1904. The following table shows the number of motor vehicles registered under the Act since that date:

DATE.	Motor Cycles	Other Motor Cars	Total
On the 31st December, 1904.	27,348	24,201	51,549
On the 30th September, 1905.	37,665	36,373	74,038
On the 1st May, 1906.	42,438	44,098	86,538

"These figures show that in sixteen months the number of motor cycles has increased by over 50, the number of motor cars by over 80 per cent. And the change during these two years has not only been in the number of vehicles. Motor omnibuses have been introduced in many towns for urban and suburban traffic, and in many rural districts as feeders for railways. In London, on the 31st December, 1904, there were thirty-one motor omnibuses registered as stage carriages. On the 1st May, 1906, there were 464 of such vehicles plying, and the increase, though perhaps less in proportion, has been great in other parts of the Kingdom. The Chairman of the London General Omnibus Company informed us on 1st December, 1905, that the company owned 1,417 omnibuses; that of these seventy were motor omnibuses, and that they had orders out for 700 or 800 more.

"Each motor omnibus carries thirty-two or thirty-four passengers, as against twenty-six carried by a horse-drawn vehicle. Many new factories have, during the same space of time, sprung up and many others have been greatly enlarged, giving employment to a very large number of skilled workmen. In October, 1905, the capital invested in the motor car industry was stated to be nearly £5,000,000, which has since largely increased, while the hands then employed numbered 17,000. There has, at the same time, been a great advance in the use of motor cars for trade purposes, such as the carrying of goods in light vans or heavy lorries, and for professional purposes, e.g. by medical men, and by surveyors and public officials whose duties involve the inspection of large districts. Moreover, horses have rapidly become familiarized with motor cars in places where these are much used, and it may fairly be said that in London and its neighborhood motor cars, and even the noisy omnibuses, have ceased to be a special cause of alarm to the horse-drawn traffic."

COUNTY ROAD SYSTEMS

Systems of county roads continue to be created from time to time by county councils throughout the Province. The county of Wentworth was the first to create such a system in 1902, under the Provincial Highway Act, and this has been followed by Simcoe, Lanark, Hastings, Wellington, Oxford, Lincoln, Lennox and Addington, and Peel. The more recent additions to the list are Halton, Perth and Frontenac. To the end of 1906 the total expenditure under the Act was \$887,282.64, of which the Provincial Government contributed one-third, or \$295,751.91. The largest expenditure has been made by Simcoe, the total outlay in that county being \$293,816.74, of which the Government paid \$97,938.91.

The Halton County Roads By-Law is as follows:

WHEREAS, by an Act of the Legislative Assembly of the Province of Ontario entitled, "An Act for the Improvement of Public Highways" (7 Edw. VII., chapter 16), power is given to the county council of any county to pass a by-law for the improvement of highways therein, as in said Act set forth.

AND WHEREAS, it is necessary and expedient to adopt such a plan for the improvement of highways throughout the county of Halton by assuming highways in any municipality in said county in order to form or extend a system of county highways therein, and to designate the highways to be assumed and improved and intended to form or be added to such system, and to provide if necessary for compensation to any township or townships in said county which by reason of the location of such highways or of the unequal distribution of the expenditure thereon may not benefit proportionately by a grant of a specific amount or annual sum, or both, to be expended on the improvement of the highways of such township or townships as when so expended will make such plan equitable for the whole county, and to include, if necessary, in such plan the purchase of toll roads or freeing the same from toll pursuant to the provisions of said Act. And to issue debentures of the county, if necessary, to defray the cost of such system.

AND WHEREAS, on such plan being approved by the Lieutenant-Governor in council, it is provided that on receipt by the Provincial Treasurer of a verified statement of the expenditure in respect thereof, submitted from time to time under said Act to the Department of Public Works and certified and approved by the proper officer thereof, the Lieutenant-Governor in council may direct payment to the municipality adopting such plan of a sum equal to one-third of the amount of such expenditure.

AND WHEREAS, by S. S. 3 of section 2 of said Act, it

is provided that the county council may by by-law make grants to incorporated villages or towns not separated from the county for improving highways therein which may be extensions of, or form connections between highways in the said system of improvement.

Therefore the Corporation of the County of Halton, subject to the approval of the Lieutenant-Governor in Council, enacts as follows:

1. That the several roads and highways mentioned and set forth in schedule "A" to this by-law be and the same are hereby designated as the roads or highways to be assumed or improved in the County of Halton under and in accordance with the provisions of the above mentioned Act for the Improvement of Public Highways.

2. That in the event of any township or townships in the county not benefiting equitably in carrying out such

or portions of highways in incorporated villages or towns in said county not separate therefrom as may be extensions of or form connections between different portions of county roads according to such plan, a by-law shall be passed by this council as may be necessary from time to time, designating such highways or portions of highways in such villages or towns as aforesaid, and making a suitable grant to defray the expenses thereof, but no such highways shall, by reason of any such by-law or the expenditure of any such grant be deemed to have been assumed by the county, or form part of the county system of highways.

Passed this _____ day _____ of _____, A.D. 19 _____.

Schedule "A" Referred to in the Foregoing By-Law No. —.

Road No 1. Starting at old Toll Gate below Station, Oakville, then follow the seventh line to Ballinafad.



MADAWASKA BRIDGE: NEAR ARNPRIOR.

plan for improvement of the several roads and highways mentioned in the said schedule by reason of the location of such highways, or of the unequal distribution of the expenditure thereon, then by way of compensation so as to make the benefit proportionate, a grant of a specific amount or annual sum, or both, shall be made to such township or townships, to be expended in the improvement of the highways therein as when so expended will make such plan equitable for the whole county.

3. That the council of the county of Halton appropriate and spend for the improvement of the said public highways or roads assumed by the said county and designated in the schedule "A" aforesaid the sum of Two Hundred Thousand Dollars.

4. That should it be necessary in carrying out such plan of highway improvement to improve such highways

Road No. 2. Starting on Ontario street, Bronte, follow the second line to the base line and along same to second line, Esquesing, thence north to Erin town line.

Road No. 3. Starting at line between Burlington and Nelson, on Brant street, thence to the Middle road, thence to base line.

Road No. 4. Road commencing at Lake shore in Nelson, known as Guelph road, and going north to Eramosa town line. Also road starting at Tansley, on Dundas street proceed north to Zimmerman, east to Ash.

Road No. 5. Starting at the town line between Halton and Peel, follow the lower middle road to the township of East Flamboro.

Road No. 6. Starting at Toronto township, follow Dundas street west to East Flamboro.

No. 7. Starting from Toronto township, between lots 5 and 6, follow west to the Boyne, thence to Lowville.

Road No. 8. Starting from third line of Trafalgar to Milton, thence from Bronte street going one mile and a quarter south, thence west to Harris's Corners, thence south to Raspberry's Corners, thence west through Kilbride to townline between lots Nos. 9 and 10.

Road No. 9. Starting at base line between Trafalgar and Esquesing, from Toronto township going west to Martin street, Milton; follow Martin street to Main street, Milton.

Road No. 10. Starting at second line between lots 5 and 6, west to Campbellville, thence to town line between Nassagaweya and Flamboro.

Road No. 11. Starting from seventh line at Stewarttown, west to Speyside, thence to Moffatt, thence west to the Puslinch boundary between lots 15 and 16.

Road No. 12. Starting at Peel to Norval, thence to Georgetown by way of Spring Creek Hill; thence to seventh line.

Road No. 13. Starting at corporation of Georgetown, proceed to seventh line at McCulloch's Corner.

Road No. 14. Starting at Main street, Georgetown, proceed past Greenhouse to the ninth line and through Glenwilliams, thence to Union.

Road No. 15. Starting at seventh line proceed to Acton, thence to Mill Pond road. Follow same to Nassagaweya, thence to Guelph road. Including one concession one lot below Acton, from the second to the first line.

Road No. 16. Starting at second line, thence through Scotch Block and Ashgrove, to Norval.

Road No. 17. Starting at Darbyville, across between lots 20 and 21 to townline, Puslinch.

Road No. 18. Starting at Main street, Milton, follow Bronte street north to base line; thence west along base line to Peru line, follow same north five lots.

Road No. 19. Starting at Bronte and Main streets, Milton, west to foot of the mountain.

Road No. 20. Starting at Toronto township, thence west by Lake Shore road to Colbourne street, Oakville, thence west to Burlington.

Road No. 21. Starting at Town Cemetery hill, Oakville, to old toll-gate on Dundas street.

Road No. 22. Starting at line between Burlington and Nelson, going west to town line between Flamboro and Nelson west on Ontario street. Starting at Ontario street, proceeding north west on Maple avenue to Middle road.

Mileage of Roads included in Foregoing Schedule.

Trafalgar.....	60 miles
Nelson.....	45 "
Esquesing.....	53 "
Nassagaweya.....	31 "
	<hr/>
	189 miles

STEAM ROAD ROLLERS

Ontario municipalities are making steady advance in the use of roadmaking machinery. Grading machines are everywhere employed. Rock crushers are owned in numerous townships where suitable material is available. Steam rollers are now proving their merit, and even townships are buying them. The Royal Commission on Motor Cars in England took much evidence in the matter of road construction, and the statement of an Irish road superintendent in respect to the economy of rollers is of interest. He said: "I have had some considerable experience in the matter, and I have gone very carefully with respect to Irish roads into the question of economy. In my own county the way the thing is worked out is this, that we are rolling at present at the rate of about forty miles per annum. We do not do any patching work, but do the

whole thing by rolling the whole width of the surface, and we have been at it now since 1899. We purchased machinery immediately we got power; we got one roller first, and after a year two more, so that now we have three 15-ton rollers.

"My experience is that up to the present the cost of the roads has not increased beyond the price paid for them by the Grand Jury—that is, speaking of the county as a whole. I have gone into the question of what class of roads it will repay to roll, from the merely financial point of view; and I think, first, that there will be an actual profit upon the expense of roads, on heavy traffic roads, and if that profit be allocated to rolling generally, you could roll all the main roads, or nearly all the main roads, in a county, without any loss of money.

"I have roads now which have been rolled for five years, and this is the sixth winter they are going through, and they are practically as good as when they were done. Of course they have been cleansed and the drainage attended to meanwhile, but practically there has been no making—in the way of renewing the surface—done. I am satisfied that steam rolling is a good business."

STREET GRADING

Numerous towns and villages are laying permanent concrete sidewalks on grades and with elevations given merely by a contractor, councillor or local street commissioner. In staking out these grades, no consideration is given to the elevation of the sidewalk on the opposite side of the street, to street intersections, and, most important, to the future elevation and grade of the roadway when this is permanently macadamized or paved. Frequently the concrete walks are not level, but follow the natural undulations of the ground.

A serious mistake is in this way being made, and one which can not be readily rectified until the concrete walks are worn out—a matter of half a century or more. Only those who have had experience in the matter of street design know the "misfits" that will result.

Every town undertaking permanent work in the way of sidewalks, or road construction, should first have a system of street grades fixed by an engineer from survey. The elevation of sidewalks, present and future, should be carefully adjusted to one another, and to the roadway. Houses afterwards built along the street can be made to conform to these grades whether the street work is done or not.

When a plan of street grades is fixed in this way there is no longer necessity for walks on a level street being high on one side and low on the other; high at one door step, low at the next; street crossings running at all angles; the roadway higher than the walks at one point and lower at another.

The proper adjustment of grades to all conditions requires careful consideration. Even the best of manipulation cannot always get desirable results. What is to be expected when the work is laid out in a haphazard way, without reference to future improvement? An engineer, by taking levels, can map a system of street grades, leave permanent marks on the grounds, and from these plans and bench-marks future work can be laid out in a way that will give the best results.

OWE THEMSELVES ANOTHER THINK

"They think they are."

This was the answer made recently by a municipal clerk when asked if his council was carrying out a systematic plan of road improvement. But don't make your clerk walk the carpet. Perhaps he was not the one.

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.

Borrowing Powers of Village.

526—J. C. M.—1. Will you kindly write me and let our municipal corporation know what amount we can borrow or issue debentures for, for the purpose of laying cement sidewalks in our village without taking votes of electors?

2. Can a by-law be passed in our incorporated village for the purpose of raising this money without taking a vote of the electors?

3. Do you think it would be better to raise our rate, as we think of only raising about \$2,000 more than we usually raise?

1. If the amount to be raised for the construction of cement walks is not to be repaid within the year in which it is borrowed, the by-law for the issue of the necessary debentures will have to be submitted to the electors and receive their assent before it is finally passed, no matter what the amount to be raised may be. (See section 389 of The Consolidated Municipal Act, 1903, sub-section 1). If the council, however, proceeds under the local improvement clauses of the above Act, namely, section 664, and following sections, the assent of the electors to the requisite by-laws is not necessary.

2. Our answer to question No. 1 is a sufficient reply to this.

2. If the council thinks the raising of the additional \$2,000 would not prove burdensome to the ratepayers, and by so doing the council would not be transgressing the provisions of sub-section 1 of section 402 of the Act; we do not see that there would be any objection to its pursuing this course.

Proceedings at Council Meeting—Remission of Taxes.

527—J. N. H.—1. In your issue of July, question 421, do I understand if a councillor refuses to vote he can still sit at the council, or must he move from the table?

2. In cases of parties asking for remission of taxes, generally this request is made at the first meeting of the council in January. Do I understand that the Court of Revision of 1907 could still legally sit until July, 1908?

1. It is not necessary that a member of the council who refuses to vote on any motion should move away from the table.

2. No, but section 112 of the Act contemplates the existence of a Court of Revision for the municipality for the purposes of the section, from the time of the organization of the court in one year, until its successors in office have taken the prescribed oath in the following year.

Bank Cannot Act as Tax Collector.

528—J. W. S.—Kindly inform me by return mail, if possible, the names of the different cities and towns that you know of that have their taxes collected through a chartered bank?

We are not aware of any cities or towns in the Province which are collecting their taxes through a chartered bank, that is, in which such bank is acting as and performing the functions of a collector. We are of opinion, and have so expressed ourselves several times in these columns that this method of collecting taxes is unauthorized. Sub-section 1 of section 295 of The Consolidated Municipal Act, 1903, requires the council of every municipality to annually appoint a collector, that is some per-

son whom they consider competent to discharge the duties of the office, and who can distrain the goods of a defaulter to enforce payment. Section 102 of The Assessment Act, 1904, empowers councils of towns, etc., to pass by-laws requiring the payment of taxes into the office of the treasurer or collector. Sub-section 1 of section 19 of chapter 228, R. S. O., 1897, provides that any municipality may by by-law direct that moneys payable to the municipality for taxes or rates, and upon such other accounts as may be mentioned in the by-law shall be by the person charged with the payment thereof paid into a chartered bank having an office in the municipality, etc." This does not mean that each ratepayer can be required to pay his taxes into the bank, but that the collector or other person charged with the payment of moneys mentioned in the by-law must make his payments into the bank.

(Municipal Officers of Ontario)

Meaning of Word "Child."

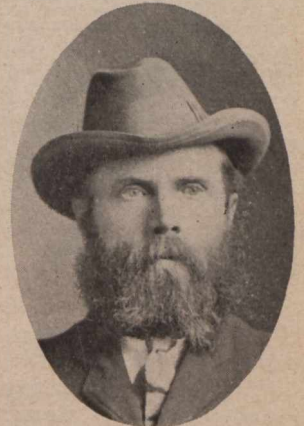
529—N. W. B.—Re Consolidated Municipal Act, chapter 19, section 549, sub-section 9. What is the meaning of the word "child," or in other words what is the age limited?

We are of the opinion that the word "child" in the section referred to means a person of tender years which ordinarily means a boy under 14 years or a girl under 12 years of age.

Compulsory Destruction of Noxious Weeds.

530—J. A. F.—Has the town council of incorporated town the authority to demand of the people whose property is abutting on any street in said town that they shall cut and destroy noxious weeds in front of their property on the streets?

Sub-section 1 of section 8 of chapter 279, R. S. O., 1897, as enacted by section 2 of The Ontario Statutes, 1904, provides that "it shall be the duty of every owner or occupant of land in a municipality to cut down and destroy or cause to be cut down and destroyed at the proper time to prevent the ripening of their seed, all the noxious weeds growing on any highway adjoining such land, not being a toll road, from the boundary of such land to the centre line of such road, and in case of default after notice, from the inspector or overseer of highways, or where no inspector or overseer is appointed, from the clerk of the municipality, the council of such municipality may do the work, and may add the cost thereof to the taxes against the land in the collector's roll, and collect such cost in the same manner as other taxes."



JNO. B. POWLES,
CLERK TOWNSHIP OF FENELON

Mr. POWLES was born in Fenelon in 1862, and after completing his education in the Lindsay High School, he taught school for some years, after which he engaged in farming. Was appointed clerk in 1898.

Reeve of Town a Justice of the Peace—Vote Necessary to Carry Bonus By-Law.

531—W. L.—1. Under the new Municipal Act is the reeve of the town, where the head is a mayor, a Justice of the Peace, and under what section of the Act does he become so, and if so, has such reeve the full power of a J. P. in the municipality or county?

2. A by-law is proposed by which certain concessions are granted to an industry such as free site, free water, a sum of money, cash, to cover cost of moving plant to the town. Does such by-law require to be carried by same majority as that creating a debt by issue of debentures?

1. Section 473 of The Consolidated Municipal Act, 1903, provides that "the head of every council, and the reeve of every town, township and village shall, *ex-officio*, be Justices of the Peace for the whole county, or union of counties, in which the respective municipalities lie, etc.," and this provision of the Act has not since been in any way amended.

2. What the council proposes to do amounts to a bonus to the industry under the authority of clauses (a), (c) and (e) of section 591a of the above Act, and if it is a "manufacturing" industry, the by-law must receive the assent of the proportion of the electors mentioned in section 366a of the Act.

Equalization of Assessment of Union R. C. Separate Schools.

532—M. N. M.—1. Does section 54, Public Schools Act, 1901, apply to Roman Catholic separate schools same as to public schools? If so, how is the relation shown? I do not find it inserted either in The Separate Schools Act nor in The Assessment Act. In case the assessor, upon whom devolves the duty of calling the meeting of assessors to equalize union sections, refuses to act, what is to be done to cause the equalization to be made? We have a case at issue, where the assessor refuses to call a meeting of assessors to equalize a union R. C. section composed of parts of three townships, and the refusal is founded on the ground that section 54, Public Schools Act, does not apply to R. C. separate schools.

2. It has been observed that hardship arises to the ratepayers of both public and R. C. schools by the enactment of section 3, chapter 32, 1903, making the duration of awards five years instead of three as formerly, because the boundaries are actually changed in every year, more or less by additions and withdrawals to and from the respective schools, but the award once made remains in force for the time stated. Is there any legal way of overcoming that difficulty?

1. We are of opinion that section 54 of The Public Schools Act, 1901, does not apply to unions of separate schools, nor does The Separate Schools Act (R.S.O., 1897, chapter 294) contain any similar provision, nor is it to be found elsewhere. Section 29 of the latter Act makes provision for the union of separate schools whether in the same or adjoining municipalities. Section 55 of The Separate Schools Act empowers the trustees of all separate schools to levy and collect school rates, or they may request the council of the township to do this for them. We, therefore, do not think that anything can be done to compel the assessor to proceed with the equalization.

2. The statute provides no remedy in a case of this kind.

Amount of Legislative Grant—School Section Levy.

533—D. W.—In our township there are eight schools, the average assessment being under \$30,000 for each school. The salaries of the teachers range from \$250 to \$400.

1. What amount will each section receive from the Legislative grants?

2. Does not the Legislature pay a certain percentage of any salary over \$300? If so, how much?

3. Take the case of a teacher getting say \$325, the township would raise \$150, and I want to know what amount it would be necessary to raise on the section, the other expenses of the school being say \$25.00?

1. We cannot answer this question until we are given information as to what part of the Legislative grant has been apportioned to each school in any given

year. Sub-section 3 of section 23 of chapter 52 of The Ontario Statutes, 1906, as enacted by section 4 of chapter 50 of The Ontario Statutes, 1907, provides that "it shall be the duty of the Minister of Education and he shall have power, subject to the regulations of the Department of Education, to apportion all sums of money voted by the Legislative Assembly as a general grant for the rural public and separate schools in the organized counties and districts amongst said rural schools in the organized counties and in the districts respectively on the basis of the salaries paid to the teachers, the value of the equipment, the character of the accommodations, the grade of the teachers' professional certificates, and the amount of the assessments."

2. We can find no provision to this effect.

3. We cannot answer this until we know what amount the section will receive as its portion of the Legislative grant under the sub-section mentioned in our reply to question number one, and also its share of the county grant to be levied under the authority of sub-section 1 of section 70 of The Public Schools Act, 1901, as enacted by section 19 of chapter 51 of The Ontario Statutes, 1907.

Line May be Established Without Notice.

534—W. E. H.—If a line between two lots in the city is in dispute, can either party bring a surveyor and survey the same without giving notice to the other party, and if he had to give notice, how long?

Either of the owners may have the line between them established by a surveyor at any time, and it is not necessary that the owner who employs the surveyor should give notice to the other owner that he has done so.

Levy of General School Rate on Township Part of Union with Urban Municipality.

535—A. O.—Kindly inform me does the amended Public Schools Act, section 70, relieve the township part of a union school section (with an urban) from paying the general school rate, if such township is in the district, as it does not seem clear re districts on that point?

We are of opinion that it does. Sub-section 3 of section 70 of The Public Schools Act, 1901, as enacted by section 19 of chapter 51 of The Ontario Statutes, 1907, provides that in every organized township in the territorial or judicial districts whatever its assessments may be, the municipal council shall levy and collect the sums in the sub-section mentioned, "as aforesaid," that is, in the manner mentioned in sub-section 2. The latter sub-section provides that the levy shall be made upon the taxable property of the public school supporters of the whole township (not included in urban municipalities or annexed to any urban municipality for school purposes).

Procedure at Council Meeting.

536—J. F. J.—Four members are present at our regular council meeting. The fifth is absent in New Ontario. A large deputation is present at council re opening of new road. While all these are present a claim is presented for a sheep killed by dogs, and a resolution passed to pay the party two-thirds of the amount at which the sheep is valued. The resolution is drawn up by one member of the council, who writes on it a seconder, one of the other members who is present (this is customary at the council.) The resolution was read and no objection made. At the next council meeting, when the minutes were read, two of the members claim that they never heard the resolution read. It is admitted that one was absent from the room (called out by one of the parties interested in the new road.) The one who was down as seconder claims he never knew he was down as seconder, and never heard it read.

1. Has the reeve the power to confirm the minutes without the consent of the majority of the council?

A resolution is then moved and seconded calling on the party to refund the money received, and again open up the question, it being this year's lamb that was killed rather than an older sheep.

2. Would such a resolution be in order?

3. Would the reeve be justified in declaring it out of order and refuse to put the motion?

1. No. The proper course to be pursued is to introduce a motion in the regular way, that the minutes of the last meeting (or as the case may be) of the council be confirmed as read. If such a resolution is defeated the reeve has no authority to declare the confirmation of the minutes, but before he does so, another resolution should be introduced and carried embodying the amendments to the minutes considered necessary.

2. Not unless the council has passed a by-law prescribing rules of order for the government of its proceedings, and it provides that a resolution of this kind is out of order. If, however, the resolution is submitted to the council and carried, we do not think the owner of the sheep or lamb killed can be compelled to refund the money he has received.

3. Not unless a by-law of the kind mentioned in our reply to the previous question is in existence, and gives him this authority.

Charging Fees to Children Visiting in School Section.

537—H. S.—Suppose a resident of another school section has relatives in this section, can he send his children to our school free—the children visiting relatives. The parents of children pay taxes and live in another section, but relatives live in our section and pay taxes equal to the ratepayers?

If these children are only VISITING relatives residing in the section, they are not resident pupils within the meaning of section 95 of The Public Schools Act, 1901, and their parents or guardians can be required to pay the fees mentioned in that section. If, however, the children are permanently residing with their relatives, the case would be different.

Time for Making Assessment in Districts—Business Assessment of Nursery.

538—D. T.—1. In the first place, the territory around here is unorganized. Is it lawful to assess one on July 23 also on June 2.?

2. I have a nursery here on my mother's farm. Can they assess us for the land it is growing on and then assess the nursery? If they can, how much can they value it at per acre?

3. I sold one plough in this section this summer. Can they make me pay a business tax for doing so?

1. We assume that the assessment referred to is for school purposes. If this is so, the assessment can be made only once in each year as is provided in section 27 of The Public Schools Act, 1901.

2. The land used for nursery purposes should be assessed at its actual value as provided in section 36 of The Assessment Act, 1904, and the owner of the nursery business is liable to a business assessment calculated on the assessed value of the land used and occupied in carrying on the business, at the rate mentioned in clause (h) of sub-section 1 of section 10 of The Assessment Act, 1904.

3. No.

Township Cannot Raise Money for Surplus—Councillor Should Not Accept Wire Fence Bonus—Inspection and Letting of Drainage Works.

539—COUNCILLOR—1. Some years ago our township carried a large surplus at the end of the year, sufficient to carry them on until taxes came in the following year, but the last two or three years the surplus became reduced to about \$1,000. The township assessment is about \$3,000,000, and we raise about \$7,000 for township purposes. Is not \$1,000 of a surplus at the end of the year plenty large enough according to the meaning of section 402?

2. Our township has by-law allowing bonuses to be paid to parties putting up wire fences by the road where it is bad for drifting. If a councillor puts up a wire fence where it was bad for drifting, would it disqualify him to take the bonus money, and if so, would it be proper and legal for the order to be made payable to his wife or the man that puts up the fence?

3. When the township engineer's report has been adopted on a municipal drain, is it legal to appoint a local man drain inspector, to call for tenders for the work, and to let, inspect and pass the work, as our engineer lives some distance away?

1. A municipal council has no authority to provide, in striking its annual levy, for the raising of a surplus. Sub-section 1 of the section referred to provides that "the council of every municipal corporation shall in each year assess and levy on the whole rateable property within its jurisdiction a sufficient sum to pay all valid debts of the corporation, whether of principal or interest, falling due within the year."

2. We are of opinion that the councillor cannot accept this payment without rendering himself liable to disqualification, and the issuing of the order to his wife or the man who erected the fence will not remove the danger.

3. There is no legal objection to the course suggested, but we are of opinion that the work would be much more satisfactorily done if it is left entirely to the engineer. Cheap work performed by unskilled workmen generally proves to be the most expensive in the end.

Liability for Injury to Pavement.

540—H. W. K.—Is the owner of the house, or the contractor who moved the building, responsible to the municipality for the breaking of a pavement while

moving a building across it? Neither of the parties formally asked leave to take the building across the pavement, but the owner of the building asked some members of the council for permission to cut some branches from a shade tree to allow the building to be taken over the sidewalk. The council have ordered the owner to make good the broken pavement, and he refuses to do so, claiming that because he gave the contract to another party to move the building for a certain price, that he thereby transferred all responsibility to the contractor.

(Municipal Officers of Ontario.)



JOHN F. RICHARDSON
CLERK TOWNSHIP OF NELSON.

We are of opinion that the owner of the building should compensate the municipality for the damage done the pavement in moving his building. If the contractor was blamable, the owner will have to look to him for reimbursement.

Procedure at Court of Revision and Appeal to the Judge.

541—T. B.—S appealed to our Court of Revision against his assessment as being too high. Was assessed for \$1,100—twenty acres. At court he testified that the cash value of his lot was \$2,000. The court raised his assessment to \$1,500. In his evidence he stated that other lots were assessed too low, but he did not appeal against them, and the court objected to touching places against which no appeal was lodged. A large portion of the township is assessed for all it is worth, although some may be less. He appeals to Judge against decision of Court of Revision.

1. Did court do right to raise his assessment to \$1,500?

2. Did court do right in refusing to change or touch the assessments against which no appeals were made?

3. What will the Judge likely do in the case? Can he touch places against which no appeals are made? Will he likely sustain Court of Revision?

1. Yes, as far as it went, but it should have gone farther, and raised the assessment to \$2,000, which appears to be the owner's idea of its actual value.

2. Yes. Sub-section 5 of section 65 of The Assessment Act, 1904, provides that "no alteration shall be made in the roll unless under a complaint formally made according to the above provisions."

3. If the matter is properly laid before him, and the proceedings have all been regular, the Judge will likely confirm the decision of the Court of Revision, or he may go farther, and raise the assessment above \$1,500. He cannot entertain an appeal in regard to any property, in respect of which no appeal was made to the Court of Revision.

Exemption of Church Lands from Assessment.

542—W. H. C.—1. Section 5 S. S. 2, chapter 23, Consolidated Statutes of 1903, exempts "every place of worship and land used in connection therewith." If the pastor of a church lives in a house not erected on the church property but in another part of the town, and this property belongs to the church, should it be exempt also?

2. If the residence of the pastor is erected on the church land, should the building be exempt?

3. If these residences are assessable, should not the occupants be assessed as tenants?

1. No.

2. No, it is not erected on land in connection with a place of worship within the meaning of the sub-section referred to.

3. Yes.

School Sections in Districts—School Levies.

543—SUBSCRIBER, Algoma—In our municipality there is a portion which still belongs to the Crown, and is distant from any school, and is not included in any school section. Now there are some parts of this territory taken up by a few isolated settlers who are levied on for municipal purposes.

1. Should they be included in any school section, they now being three miles distant from the nearest school?

2. As there is not sufficient of them to form a school section, how should they be dealt with?

3. Could they be levied on for municipal grant to public schools?

1. We do not think so. The latter part of sub-section 1 of section 12 of The Public Schools Act, 1901, provides that "no section formed hereafter shall include any territory distant more than three miles in a direct line from the school house."

2. Since this is an organized municipality, the statute makes no provision for a case of this kind.

3. Assuming that the levy referred to is that provided for by section 70 of the above Act, as amended by section 39 of chapter 53 of The Ontario Statutes, 1906, and section 19 of chapter 51 of The Ontario Statutes, 1907, the owners of these lands cannot be required to pay any part of it, as they are not supporters of any public school.

Mode of Raising Deficit in Amount Raised for Construction of Drain.

544—G. H.—The township of C. S. has a drain for which a contract was let some two years ago to improve said drain. It seems that the contractor did not give any security for the completion of the work, and has been paid in full for all he has done. Now the present council want to complete the work, and have ordered the engineer to restake and make an estimate of what it will cost to complete the job, but we are quite certain there is not enough money left from sale of debentures to complete the work. What we want to know is, how we can raise any more money for such a work?

Sub-section 1 of section 66 of The Municipal Drainage Act (R. S. O., 1897, chapter 226) provides that "any by-law heretofore passed or which may be hereafter passed by the council of any municipality for the assessment upon the lands and roads liable to contribute for any drainage work and which has been acted upon by the doing of the work in whole or in part, but does not provide sufficient funds to complete the drainage work or the municipality's share of the cost thereof, or does not provide sufficient funds for the redemption of the debentures authorized to be issued thereunder as they become payable, may from time to time be amended by the

council, and further debentures may be issued under the amending by-law in order to fully carry out the intention of the original by-law." Section 67 of the Act provides that "it shall be in the discretion of the council whether an amending by-law passed under any of the provisions of the preceding section shall be published or not."

Liability of Public and Separate School Supporters for Debenture Rates.

545—J. R.—1. In 1905 the Town of S. issued debentures to build a public school, and the property of all public school supporters at that time was liable to pay the rate necessary to raise the required sum to pay the debentures as they mature, and, as I understand it, continued to be liable for same during the whole term for which the debentures were issued, no matter what changes take place in ownership during the term, or if they should become the property of separate school supporters. Am I right in this?

2. I would further like to know if property which at the time the debentures were issued belong to separate school supporters, and was therefore not liable for the debentures rate, would become liable to it should it become the property of a public school supporter?

1. Yes.

2. Yes.

Building and Keeping in Repair of Farm Approaches.

546—J. D.—1. Is the council liable for the cost of the constructing of all bridges or culverts at farm or resident approaches to and from the highway where the council has made a bridge necessary by digging a ditch or raising the road, even where no bridge existed nor was needed before the digging of said ditch along the road?

2. Is it the duty of the council to keep the said bridges in repair?

1. If, in excavating a ditch along a highway, the council destroys or injures existing approaches to the lands of owners adjoining the highway, or renders the construction of such approaches necessary, the owners are entitled to compensation for the injury thus done to their lands, as provided in section 437 of The Consolidated Municipal Act, 1903. The easiest and least expensive course for the council to pursue is to arrange with the owners to repair the damage done to existing culverts, or construct new ones, where required, in lieu of the compensation to which they are entitled.

2. We do not think so, as the repairing of the damaged culverts, or erection of new ones, as the case requires, should satisfy the claims of the respective owners for compensation, and this should be expressly stipulated in the arrangement entered into between the council and each owner.

Line Fence Between Occupied and Unoccupied Lands.

547—D. Mc.—A owned a 200-acre farm entirely surrounded by fences, but with a side road on one side of the farm. About one-half of this farm was cleared land and the remainder practically bush and bush pasture, or partly cleared land. A sold 100 acres of this farm to B, the part sold being the bush part of the farm and that partly cleared. A wants to have a fence built between his land and B's, but B refuses to build his half on the ground that his land is not occupied, but he says if A's cattle go on to his land that he will impound them. He also claims the right to leave his fence next the side road down, permitting A's cattle to get on the road, where they are not allowed by by-law of the township council to go.

1. Can B be compelled to build his share of the fence between their respective farms, and can A bring on the fenceviewers and get an award from them to compel him to do so?

2. If not, should A build all the fence between them?

3. Can he compel B to pay for one-half when he (B) occupies his farm or uses it for pasture land, or can A remove one-half of the fence he built?

1. No. Sub-section 1 of section 2 of The Line Fences Act (R. S. O., 1897, chapter 284) provides that the expression "occupied lands" shall not include so much of a lot, parcel or farm as is uninclosed, although a part of such lot, parcel, or farm is enclosed and in actual use and occupation, and section 3 requires only owners of

"occupied" adjoining lands to make, keep up, and repair a just proportion of the fence between them.

2. If A requires this fence, he will have to build it at his own expense.

3. When B's land adjoining A's farm becomes occupied, the latter part of section 3 of the above Act renders B liable to the duty of keeping up and repairing a just proportion of the fence between them, and in that respect he will be in the same position as if his land had been occupied at the time of the original fencing, and shall be liable to the compulsory proceedings in the Act mentioned. Section 15 of The Line Fences Act regulates the right of the parties when one of them has built the line fence at his own expense and the other requires the use of it by reason of his lands having become occupied.

Statute Labor Chargeable on Income Assessment.

548—J. B. W.—A person is liable for an assessment on his income. Will this assessment make him liable to perform or commute for statute labor? If so, kindly refer to the statute.

Yes. Sub-section 1 of section 9 of chapter 25 of The Ontario Statutes, 1904, provides that "every person assessed upon the assessment roll" is liable to perform statute labor or commute therefor. It makes no difference whether the assessment is for real property or income, or a business assessment.

Councillor Cannot Legally Loan Money to His Council.

549—G. E. G.—1. Our township council had occasion to borrow some money for current expenses and passed a resolution to that effect. The reeve borrowed \$250 from councillor A. for five months at 5% interest. Note was made payable to A.'s wife as a blind, she owning no property in her own right. Does this qualify A. as councillor?

2. Does not this make the action of the council illegal while A. sits at the board of councillors?

1. This was an illegal Act, and A. can be unseated if the proper proceedings are instituted with that end in view. If the money was actually A.'s, the giving of the note by the municipality to his wife will not cure the illegality of the transaction.

2. No. Until he has been declared disqualified as the result of proceedings taken against him to disqualify him, A.'s participation in the transaction of the business of the council does not taint that business with illegality.

Proceedings to Commit Insane Person to Asylum.

550—G. W.—There was a petition presented to the reeve of our municipality to have a certain woman sent to an asylum under the provisions of chapter 317, section 11, of The Revised Statutes of Ontario. The reeve has had her examined by two physicians and they pronounce her insane. She has shown no signs of being dangerous, but is a public nuisance to the people in that vicinity. Her husband is a poor man, working by the day for his wife and family's support, and away from home every day, and therefore cannot take care of her, and says that she cannot be taken to an asylum.

1. Has not the reeve done all that he has power to do?

2. What proceedings would be necessary to have her sent to the asylum?

3. If the reeve has not done all that he has power to do, what steps should be taken to have her taken care of?

1. We think that the reeve has done all that the section quoted requires him to do.

2 and 3. If the woman is insane and dangerous to be at large, the proceedings mentioned in section 12 and following sections of the Act should be taken with a view to having her committed to an asylum. We do not think that the mere fact that her conduct causes annoyance in the neighborhood would warrant the institution of such proceedings.

Railway and Telephone Companies Liable to Statute Labor—Liability for Non-Resident's School Fee.

551—D. E.—1. Under the new Assessment Act are railway and telephone companies liable for statute labor?

2. Does a man living in an adjoining county, but owning land and paying taxes in section B of this township become liable for the usual non-resident fee for sending his children to the school in said section?

1. Yes.

2. Yes, unless the property of the non-resident located in school section B is assessed for an amount equal to the average assessment of residents, in which event, under the authority of sub-section 4 of section 95 of The Public Schools Act, 1901, his children shall be admitted to the school in the section "on the same terms and conditions as the children of residents."

Pool Table License May be Granted to Non-Residents.

552—J. C. M.—Is it legal to grant a license to a non-resident to keep and operate a pool table in our incorporated village?

(Municipal Officers of Ontario)

Yes.

Effect of Negligence of Drainage Commissioner.

553—F. Y.—In case a commissioner in charge of work on a township drain passes the work and pays the contractor in full before such work is completed according to the engineer's specifications, what redress have the ratepayers on said drain?

If the commissioner was appointed by the council to superintend the construction of the drain, he was an officer of the municipality, and, if the ratepayers assessed for the cost of the construction of the drain have sustained any loss, owing to his negligent or imperfect performance of his duties, the council will have to remedy their grievance.

Maintenance of Road Not a Deviating Town Line.

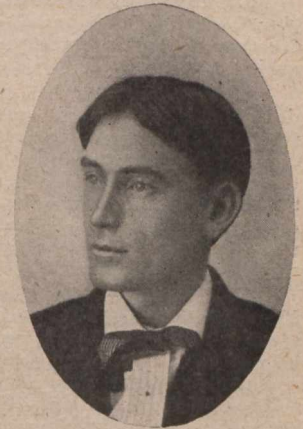
554—M. W.—On the town line at the last lot there is a rock, or a range of rocks, starting about half way back on the last lot in a township, and as the township had no further use for the road, the townships of B and C being under one council, the township of B being alongside of A, and the township of C being to the south of B, therefore the commissioner of B and C laid out a road to C around the rocks. Said road does not come back to A. Has A any right to the road, or do they have to help keep this road in repair?

As we understand the statement of the facts the new road is not a deviation of the town line between townships B and A, but is simply a road through township B to C, connecting with the townline between B and A, if at all, at only one end. If this is so, we do not think that township A has joint jurisdiction over the road with township B, nor is the former township jointly liable with the latter, for keeping it in repair.

Rental for, and Maintenance of Railway Switch.

555—R. McK.—Some years ago A put in a switch on the G. T. R., he paying all the cost. It was then turned over to B, who used it for six years, he paying for light repairing and also paying the G. T. R. a rent for the steel. B then turned it over to C, and after B had gone away the G. T. R. notified C that there was a year's rent not paid.

1. Who should pay this money?



JOHN MACDONALD.
CLERK VILLAGE OF BOLTON.

Mr. MACDONALD is a young man, a native of Bolton, and is a printer by trade. Was appointed village clerk in 1898 and secretary of the school board in 1901. In 1903 he was appointed clerk of the Fourth Division Court of Peel, and in 1907 was appointed a Notary Public for the Province of Ontario. Besides attending to the duties in connection with the above offices, he is conducting an extensive fire insurance business, and has recently branched out in the conveyancing line.

2. Should a private individual be compelled to maintain a switch for a railroad company?

The siding north of this one has two lights, and the company pays for them and keeps the siding in repair.

1 and 2. The answers to these questions depend altogether on the terms of the agreement entered into between the R. W. Co. and A. at the time the switch was put in, and there is nothing in the statement of the facts to enlighten us as to what these terms were. Before answering these questions, we must have full information as to the arrangement entered into between A and the R. W. Co., and if the agreement was in writing, we must have a copy of it.

Taxation of Dogs—Adding Percentage to Unpaid Taxes—Injury to Farm Approaches—Equalization of Union School Assessments.

556—R. B. C.—1. A tax of \$1.00 is levied on dogs within the township of K. Has the council the power to levy a tax of \$2.00 on each additional dog kept or harbored by the same person?

2. The council of K township passed a by-law in 1906 adding 3 per cent to all taxes unpaid on the 14th day of December, 1906. Is the said by-law in force year after year unless amended or repealed?

3. A pathmaster has the road graded and makes a shallow ditch opposite a person's gate, which is required to carry the surface water down a hill to the outlet. The person fills up the watercourse opposite his gate and makes no culvert of any kind to allow the water to flow through it, thus causing the water to flow along the road, washing away the clay and gravel and destroying the road. Can the council compel him to remove the earth again and clear the watercourse? If he refuses to do so, can they have the work done at his expense?

4. A union school section is composed of the townships of B and K and the village of T. According to the assessor's equalization made in 1905, B pays 7½ per cent, K 14½ per cent, and T 78 per cent of the amount required for school purposes. Does any late amendment to the Public School Act alter the assessor's award made pursuant to section 54 S. S., 1 Edw. VII. with reference to the percentage required to be paid by each municipality?

1. We are of the opinion that there is no legal objection to the imposition of a tax of the kind suggested.

2. If the by-law, in terms, refers specifically to the taxes unpaid on the 14th Dec., 1906, only, and does not further provide for the addition of the percentage to taxes remaining unpaid on that date in subsequent years, the provision applies only to taxes for 1906, and if it is intended to add the percentage of taxes unpaid on the 14th Dec. of the present and subsequent years, a new by-law or by-laws will have to be passed.

3. If the making of the ditch destroyed or injured the approach to the owner's gate, he is entitled to be compensated by the council for the damage he has thus sustained, under the authority of section 437 of The Con. Mun. Act, 1903. In these cases, the easiest and least expensive course for the council to pursue is to construct such an approach as will answer the purpose. Under the circumstances of the present instance, we would advise the council to construct the culvert that is required under the approach the owner has made, and this should satisfy all parties concerned.

4. No.

Trimming Trees in Townships.

557—TREES—The following is a communication received by the municipality:

"6th Aug., 1907.

"J. C., Esq., Reeve.

"SIR,—I would call your attention to the fact that there are a number of trees along the 3rd Concession of your township the branches of which interfere with the electric light wires running along that concession, and detrimentally affect the operation of the electric light service, and I am taking the liberty of writing you and your council to request that you be good enough to take this matter

up and so deal with it under the Act, that the interference may be removed at the earliest opportunity to the advantage of all concerned.

"I am, Sir, yours, etc.,

"(Sgd.)

J. P."

Please advise us in the matter. Some of the trees are on the roadside, while some are inside of farmers' line fence. Is it within the power of the municipality to order these trees to be trimmed, or can the electric light owner compel them to be trimmed, and who should take action and what will be the initial step?

This is a township municipality, and we are of the opinion that the council cannot be compelled, nor has it any power, to enforce the trimming of trees on the highway. Sub-section 4 of section 574 of The Con. Mun. Act, 1903, as amended by section 23 of Chap. 22 of the Ontario Statutes, 1904, applies only to councils of cities, towns and villages. There may be some special act relating to this particular case, but without the name of the electric light company, we have no means of ascertaining this.

Issue of Drainage Debentures.

558—W. J. D.—In the year 1905 all the necessary proceedings were taken under the Municipal Drainage Act for the draining of a marsh and the widening of a stream which continued into two other municipalities beside the initiating municipality. A by-law was passed authorizing the issuing of debentures, but the contract for the work was never let until this year, when the present council advertised again for tenders and got several, and awarded the contract of the work for this drain and two others which were put through the council last year. The contract price of the work was about 20 per cent in excess of the engineer's estimate. The present council want to issue debentures this year, and want to know if the original by-law is still valid or if it should be repealed. I might add that no assessments on the interested parties have ever been made.

2. Could the issue of one debenture cover all three drains, as they will all be finished this year, or will there have to be debentures issued for each drain?

3. If the actual cost of advertising and engineer's expenses exceed the engineer's estimate for same, can the municipality levy an additional assessment the same as when the actual cost of work exceeds the engineer's estimate of same?

1. Sub-section 3 of section 384 of The Consolidated Municipal Act, 1903, requires the issuing of debentures within two years after the passing of the by-law. We cannot say whether the debentures authorized by this by-law can now be issued, as there is nothing in the statement of the facts to indicate whether two years have elapsed since the passage of the by-law or not.

2. One debenture will not answer this purpose. The by-law under the authority of which it is issued should be referred to in each debenture, so that in this case at least three debentures should be issued, one under each by-law.

3. Yes. These expenses are part of the cost of the construction of the drain.

Collection of Statute Labor of Defaulters.

559—M. E. L.—In case pathmasters refuse or neglect to return their lists on or before August 15th, or before the collector's roll is completed, has the clerk power to place all parties on said lists on the roll as defaulters?

We do not think so. Sub-section 1 of section 15 of chapter 25 of the Ontario Statutes, 1904, authorizes the clerk to enter commutation for statute labor of defaulters on the collector's roll only when the owners or tenants against whom it is entered on the roll have been returned as defaulters to the clerk by the pathmaster. The council should pass a by-law under the authority of clause A of sub-division 1 of section 702 of The Consolidated Municipal Act, 1903, providing for the infliction of a fine upon all pathmasters who fail to return their lists as required by section 15 of the Act respecting statute labor, and otherwise properly perform the duties of the office.

Retention of Insurance Money by Town to Secure Payment of Loan to Industrial Company.

560—D. L. Mc.—A by-law was passed by the town council, authorized by vote of the people, guaranteeing a local chartered company's debentures to the amount of \$10,000, to be paid in twenty yearly annual instalments, including principal and interest under agreement.

The agreement between town and company has been carried out for nearly two years, and no default whatever has been made by the company.

This agreement provided for a statutory mortgage covering a plant of \$12,000.00 value, to which this insurance was to be assigned—briefly, and only mentioned as in ordinary mortgage for loans. Lately a fire burned about \$5,000.00 worth of this plant, and as the policy happened to cover stock as well, \$10,800.00 of this insurance money was paid by the company to the town.

The company now want the town to hand them this \$10,800.00 insurance money, and the town are in doubt because, under a certain statement you made under question No. 452, the town should retain the money. It is also held that it is discretionary with the town whether to hold or not.

The company claim the money on grounds that the insurance is only collateral, that there has been no default of theirs, and the town is satisfied on this point, that the agreement is binding yet on the town to guarantee for twenty years, that they cannot apply a collateral to cover a guarantee, that they cannot use this money if they held it idle for twenty years to pay off these debentures, unless through default of the company; that it is a debt of the company's, not the town's; that the town has no power of its own to relieve itself of its endorsement and liability by using collateral money; that if the town diverted the monies of the company from where it is owned and belongs, they would be liable to the company in consequential damages; and they also claim that if any trifling default were made (which there is not) the town possesses the right that all mortgagees do of retaining the insurance money when the security is unimpaired.

The company claim that the plant before the fire cost them over \$12,000.00, and the value to-day is over \$21,000.00, where only \$12,000.00 is required of value. Every part and feature of the agreement has been carried out satisfactorily.

What is the plain duty of the town respecting this money?

We have given this matter our most careful consideration, and see no reason why we should change the opinion we expressed in our reply to question No. 452 in our issue for July of the present year. As we understand the facts, the company assigned the insurance policy to the town in order to secure the latter against just such a loss as has happened. We think the insurance money was properly paid to the town, and that the town should retain it to secure the repayment of the sum (\$10,000) loaned the company under the original by-law. The fact that the policy covered stock as well as the plant of the company makes no difference, so long as the company assigned it absolutely and unconditionally to the town. The fact that the company has not hitherto made default in its payments does not affect the question in any way. We eliminate its sentimental element from this matter, as it has nothing to do with the legal status of the parties. The company's having performed its part of the agreement and met its payments in the past, is no guarantee that it will always do this, or continue to do business in the town. We therefore reiterate our opinion, that as trustees for the ratepayers, the council should retain the insurance money that has been paid to the town, and in doing so, we do not see that the company has any cause for complaint, as the town is simply carrying out its part of the agreement. If the town were to pay over this money to the company and the latter were to make default by the end of next year, the town would be without security. In answering this question, we are assuming that the company assigned all moneys payable under the policy to secure the due fulfillment by the company of its covenant with the town, and if our assumption is correct, the company has no right to ask the town to pay over the insurance money to the company.

Statute Regulating Speed of Motor Vehicles.

561—J. H. S.—Will you kindly let me know where I can obtain statute with reference to driving and speed of automobiles. The latest statute and chapter concerning the same.

The Act relating to the speed and operation of motor vehicles (which include automobiles) on highways, is chapter 46 of the Ontario Statutes for 1906. This is the latest Act passed on the subject, and it was not amended at the session of 1907.

Recovery of Money Paid by Mistake for Land for Road.

562—M. C.—In 1905 our council purchased from A a strip of land containing three acres off one side of his homestead for the purpose of using it as a road into B's farm. Shortly after the purchase it was found that the council could not legally spend money in making a road for a private party, consequently the transfer was not registered in the local office of land titles. The council then offered to sell the land to B, but before any agreement was made A sold to C the whole of his homestead, including the three acres formerly sold to the municipality. This last deed of sale was duly registered in the office of Land Titles. There was a mortgage against A's land at the time he sold the three acres to the municipality, but the fact was not referred to in the transfer.

Can A be compelled to refund to the municipality the money paid over to him for the said three acres? If so, what steps should be taken to make him do so?

(Municipal Officers of Ontario)

Under the circumstances we are of opinion that A cannot be compelled to refund the money he received from the municipality for the strip of land purchased from him.

Grant for Maintenance of Road in Adjoining Municipality.

563—R. M.—Can one township legally spend money in another township to improve a road, they being perfectly willing to do so, the question of legality being the only hindrance?

Yes. Section 644 of the Consolidated Municipal Act, 1903, provides that "the council of ANY municipality may pass by-laws for granting aid to any immediately adjoining municipality in making, opening, maintaining, widening, raising, lowering, or otherwise improving any highway, road, street, bridge or communication passing from or through such adjoining municipality."

A Line Fence Dispute.

564—B. S. D.—The accompanying figure represents a 100-acre lot, of which the portion within the dotted line is mostly low, wet land, covered with cedar, pine, etc., and second growth scrub. The part outside the dotted line—hardly a half of the whole—is mostly low grass land. About seven or eight acres of this grass land had at some time been ploughed, and may have been cropped, but for a number of years it has grown wild, and practically nothing has been done with the land in the way of tilling or pasturing it—stock would destroy the small trees.

A and B hold the land by deed from their father, subject to his life interest, rents, etc., also subject to the payment of charges upon the land held by a relative of a former owner, and A and B accepted this deed subject to said life interest and subject to the above dower charge, which is charged against each half of the land. May say they also hold the land under the will of their father. The dividing line between A's and B's part is across the lot X Y, and along one end of the lot there is said to be a road allowance, the exact location of which I do not know, but think that it comes off A's part, instead of off a neighbor's land. There

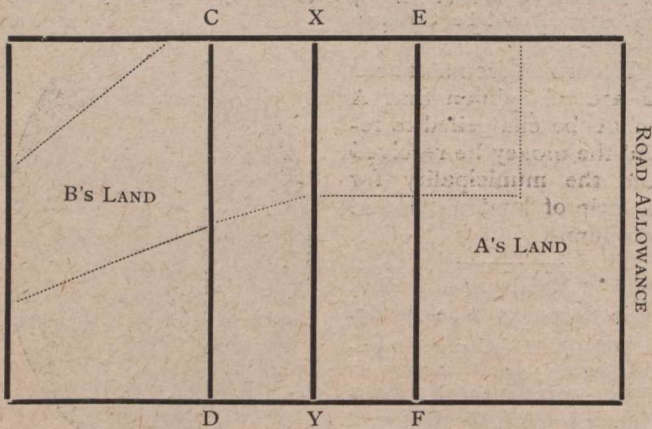


PETER F. SCHUMMER
CLERK TOWNSHIP OF WELLESLEY.

Mr. SCHUMMER was born in Syracuse, N. Y. After learning the trade of tin-smithing he attended college, and for three years was engaged as teacher of the Separate School at St. Clements, where he is at present carrying on a general store and tin business. Mr. SCHUMMER received his appointment as clerk in 1897.

is a fairly good fence around the whole lot. This fence may enclose the road allowance, and the line between A's and B's part has not been fenced, and I do not know the location of it. Now the mother of A and B claims dower in the land, and the dower commissioners appointed one-third of each fifty-acre lot across the middle of the whole hundred. This, the portion represented in the rectangular figure C D E F, is assigned to the doweress and confirmed by the court. Since this award, the land, her third, has been assessed to the doweress.

1. Can A and B compel the doweress to pay the taxes on her part and a third of the dower charged against the whole lot?
 2. Can the doweress compel A and B to build a line fence, or half a line fence, between their lots, i. e., along the lines C D E F?
 3. Would these lands be classified as unoccupied lands?
 4. In case the doweress or her agent turns stock on these lands, there being no line fences, can A and B lawfully impound them?
 5. Is the doweress obliged to build a line fence, C D and E F, before she can use the land, i. e., providing she cannot compel A and B to build their half?
 6. If the doweress makes no use of these lands whatsoever, will A and B be obliged to pay the taxes and original dower charges or can they in this case make the doweress pay these charges and taxes?
 7. Can the doweress, if she finds that she can get no income out of the lands, they being of very little value, free herself of any liability for taxes and dower charges? If so, what should she do?
- In giving your decisions please quote statutes.



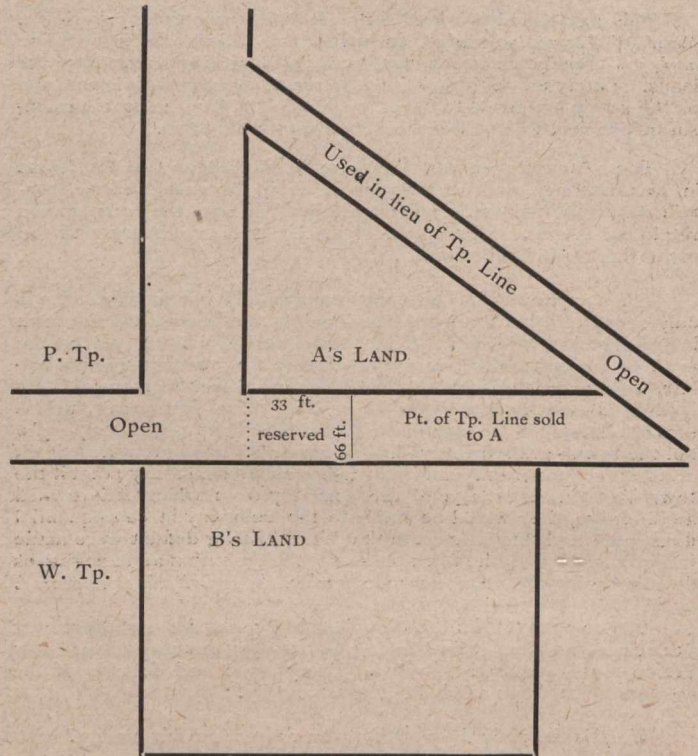
1. We cannot answer this question until we are given an opportunity of seeing the order of the Court vesting this portion of the lot in the doweress, or a true copy of it. We do not know whether this order vests the land in her absolutely or for life, or subject to or free of its share of all charges then existing against the whole lot.
2. We cannot say whether the doweress is such an owner as will enable her to initiate proceedings under the provisions of The Line Fences Act (R. S. O., 1897, chapter 284) and if she is, we do not think she can take advantage of the Act, as, from the circumstances stated, we gather that the entire lot is wholly unoccupied.
3. We think so.
4. Yes, if the doweress desires to utilize her portion of the land for pasturage purposes, she will have to see that the cattle do not trespass on adjoining lands.
5. The doweress will have to build the fence if she wishes to use her portion of the land, and from the facts as stated we do not think she can compel A or B to build any portion of the fences.
- 6 and 7. We cannot answer these questions for the reasons given in our reply to question number one.

No Power to Close and Sell Town Line.

565—L. B.—Enclosed find sketch of road which we are having some trouble about. About eight or ten years ago a part of the township line was sold to A, and as B had no other road into his land a part of the township line was reserved in the by-laws of both townships, marked in the sketch 33 ft. by 66 ft. The Reeves of the two townships were appointed to see after the conveyancing, and

everything was all right until some time ago, A sold his land to C. Now C and B have some dispute, and C closed the road into B's land and B came to the council for redress. C had his deed to a lawyer, and the lawyer told him that he could claim all the land his deed called for. We employed a surveyor to look the matter up, and found that the description in the deed was wrong, it included the part reserved for a road into B's land.

1. What course should the two townships take to recover the road into B's land?
2. Is C entitled to pay for road, and can we force C to open it?



1. We do not think the council of either township should interfere in this matter. It appears to be a dispute between B and C, and the respective municipalities should allow them to fight it out between them. We may add that we are of opinion that the portion of the town line in dispute was never legally closed. The townline between two township municipalities is a strip of land lying between them which is not located in either of them. The Consolidated Municipal Act imposes the duty of maintaining and keeping it in repair on the adjoining municipalities, but does not confer on them the authority to close or sell it.
2. C is not entitled to any pay for the road, and if he has any obstructions on it he can be compelled to remove them.

Withdrawal from Support of Separate School—Liability of Owner Withdrawing.

566—J. M.—A R. C. separate school is formed from portions of two adjoining townships, and proper notices sent by the ratepayers asking to have their property assessed to said separate school. The trustees build a new school and raise the necessary funds by note. They levy an amount annually to pay the running expenses of the school and pay a sum annually on note for construction of school house.

1. Can A, who gave notice as separate school supporter at the formation of the section withdraw by notice mailed to the clerk on January 18th, 1907, for the year 1907?
2. Will his lands in 1908 be liable for the levy to redeem note for construction of school house?
3. Have the assessors of the two townships any authority to meet and determine the proportion to be paid by each township, and if so, how long will said equalization remain in force (give authority)?

4. If such were the case, would it not be an injustice to the township from which ratepayers withdrew by giving proper notice?

1. This notice was not given in time to effect the purpose intended. Sub-section 1 of section 47 of The Separate Schools Act (R. S. O., 1897, chapter 294) provides that this notice shall be given before the *second Wednesday* in January. The second Wednesday in January this year was the 9th.

2. Yes, whether he files the notice mentioned in sub-section 1 of section 47 of the above Act within the proper time next January or not. Sub-section 2 of section 47 provides: "but any person who has withdrawn his support from a Roman Catholic separate school shall not be exempted from paying any rate for the support of separate schools or separate school libraries, or for the erection of a separate school house imposed before the time of his withdrawing such support from the separate school."

3. There is no provision made for such a meeting. Section 54 of The Public Schools Act, 1901, as amended by section 3 of chapter 32 of The Ontario Statutes, 1903, has no application, and The Separate Schools Act does not contain any similar provision. (See our reply to question No. 532 in this issue).

4. We have stated the law as it is, and whether its observance works an injustice in any direction or not, its provisions must be carried out.

Collection of Arrears of Taxes Due Section in Unorganized Township.

567—M. G.—Is a municipal council bound to collect school taxes in arrears before its establishment? Our municipal council was established in 1906 and we have back taxes of 1904-5.

If the municipal council is not bound to collect said school taxes what is the remedy?

The Statutes provide no machinery for the collection by the councils of townships in the territorial districts of Ontario, after their organization, of arrears of school taxes in sections formed in the township while it was in an unorganized state. We think the attention of the Ontario legislators should be called to this so that the legislation required to supply the defect might be enacted. No provision was made for the collection of arrears of taxes in school sections in unorganized townships while such townships were still unorganized, until section 7 of chapter 51 of the Ontario Statutes, 1907, was enacted.

Drain Should be Constructed Under D. and W. Act—Composition of Local Board of Health—Appointment of Sanitary Inspector.

568—E. J. E.—In the case of a council wishing to run water from a ditch on the road to a ravine in a ditch close by, where the direction of waterfall is doubtful, what is the course to pursue if the owner of the field objects?

1. Where is the statute on the subject to be found?

2. Can a township board of health be composed of the following: The reeve, the clerk, two councillors and another ratepayer?

3. The board of health appointed a health officer, and the clerk says that means a sanitary inspector. Is that right?

4. If this health officer is appointed by a board of health, some of its members being ineligible, could he legally act in the case of a nuisance occurring, or would he render himself liable to prosecution?

1. Proceedings should be instituted under the provisions of The Ditches and Watercourses Act (R. S. O., 1897, chapter 285), and in this way the interests of all parties concerned can be properly adjusted.

2. By sub-section 1 of section 48 of The Public Health Act (R. S. O., 1897, chapter 248) it is provided that the local board of health of a township municipality shall be composed of the reeve, clerk, and three ratepayers of the township. We do not think any of the three ratepayers appointed under the authority of this

sub-section should be members of the council appointing them.

3. The sanitary inspector is one of the health officers of a municipality, but there may be others, for instance the medical health officer, so that the general term "health officer" does not necessarily mean a sanitary inspector. The by-law appointing this official should describe him as "sanitary inspector."

4. We do not think that the mere fact that some of the members of the local board of health which appointed him are not entitled to sit and act as members of the board would render their appointment of a sanitary inspector illegal.

Power of Township Council to License or Prohibit Sale of Cigarettes.

569—W. H. B.—The municipal council of M and R township wish to put a license on the sale of cigarettes, desiring to discourage the use of them. There are several stores here, but no incorporated village.

Has the local municipality the power to prohibit or license the sale of cigarettes to any person within the municipality?

No. This is a township municipality, and sub-section 28 of section 583 of The Consolidated Municipal Act, 1903, applies only to councils of towns and villages and cities having less than 100,000 inhabitants and to boards of commissioners of police in cities having 100,000 inhabitants or more. We call attention to chapter 261, R. S. O., 1897, as to the sale of cigarettes to minors under 18 years of age.

Building Barbed Wire Fences.

570—J. H.—1. In building a line fence, is it legal for A to put up all barbed wire without notifying B?

2. Is it legal for A to build all barbed wire? If not, where will I find it in the statutes?

1. Yes, subject to the provisions of any by-law that may have been passed by the council of the township under the authority of sub-sections 3 and 4 of section 545 of The Consolidated Municipal Act, 1903.

2. Yes, subject to the provisions of any by-law that the council of the municipality may have passed under the authority of sub-section 4 of section 545 of the above Act.

Extension of Drain—Varying Assessments—Notice to Repair—Reconsideration of D. and W. Award.

571—W. R. M.—1. The council is asked to repair a municipal drain made under The Municipal Drainage Act, by a continuation of the watercourse up stream. Can this drain be extended up stream across lots 9 and 8 to road allowance, between concessions 6 and 7, under section 75 of The Municipal Drainage Act without a petition, or would a petition be required signed by a majority of all the owners interested along the proposed extension and the old drain?

2. We have in this municipality several drains made under The Municipal Drainage Act, and similar to this one. Parties above the commencement of the drain have made ditches, either awards or privately, and are using the municipal drains for outlets, and do not pay anything toward their repair or improvement. How can these parties be made to contribute and pay for the benefit they receive?

3. The Municipal Council of the Township of _____

Gentlemen,—We require municipal drain No. 8 and its branch cleaned out, and hereby request you to take the necessary steps to have it done.

(Signed) A. D., owner lot 10 N $\frac{1}{2}$, Co. 5.
B. C., " " S $\frac{1}{2}$, Co. 5.

Is the above a sufficient request or notice to have the engineer sent on to repair the municipal drain; if not, what should it include?

4. An award made by the township engineer under The Ditches and Watercourses Act was found to be insufficient to carry off the water, and was not extended to a proper outlet. One of the parties interested in this award asked to have it reconsidered. The township engineer went on and looked over the locality, and made

a new award, extending the ditch to the lake. The parties to the award failed to do their portion of the work allotted to them by the engineer under this new award. The engineer went and had the work completed, and when the cost of the work was placed on the collector's roll the parties paid under protest and brought the matter to court. The judge gave his decision against the municipality, saying that the engineer made the award without proper authority, because there were more than seven lots affected, and he, the engineer, had no resolution from the council authorizing him to go so far and petition from majority of parties interested. Can this be again reconsidered? Which award would be the one to reconsider, the original one or the one upon which the judge gave judgment? Or would the party requiring the ditch take proceedings to have a new award made, as if there had been no award made at any time?

1. We are of opinion that the extension of this drain up stream cannot be carried out under the authority of section 75 of The Municipal Drainage Act. It is practically a new drain, having its outlet in that already constructed, and a by-law for the carrying out of the work must be based on a petition signed and filed in accordance with the provisions of section 3 of the Act.

2. We do not understand why these owners were not originally assessed for outlet, if the natural flow of the water is in the direction of the drains. We do not see that anything can be done in the way of making owners using them pay a fair share of the cost of maintaining the drains, until the council is called upon to repair them, when, on the report and assessment of an engineer, the proportions of assessment may be varied under the authority of section 72 of the Act so as to include all owners using the drains for outlet purposes.

3. We consider this a sufficient notice.

4. Assuming that the engineer took into consideration more than seven township lots the award last made was invalid, and the award to be reconsidered is the original one, and proceedings for its reconsideration cannot be instituted until after the expiration of two years from the completion of the work, if it is an open drain, and one year if covered. (See section 36 of The Ditches and Watercourses Act, R. S. O., 1897, chapter 285).

ACTUAL VALUE IN ASSESSMENT.

In Mitchell the Canada Company appealed to County Judge BARRON against the assessment of certain lots, and His Honor gave judgment reducing the assessment altogether by \$1,648. The following is a copy of the judgment:

The Assessment Act (4 Edward VII., Chap. 23, Sec. 36) requires that "Except in the case of mineral lands, real property shall be assessed at its ACTUAL VALUE." I underline the words "ACTUAL VALUE," because the actual value is the aim of all proper assessment. The actual value is the point to be reached in every case where possible, and all legislation is intended to assist towards that end. In order to assist the court to find the actual value the statute provides that "in determining the value (these words must be noticed) the court may have reference to the value at which similar land in the vicinity is assessed." Thus it is seen that the court looks at other assessments to determine the actual value; but, when it is admitted that other assessments are wrong (as being too high), then it follows, that the other assessments, instead of helping the court to determine the value, mislead the court into proceeding on an incorrect and untrue basis. It is needless then to say that evidence that misleads is bad evidence, and as a fictitious assessment (however fair between the ratepayers) is no indication of value, such assessment is bad evidence and ceases to be a guide in determining the value of an appellant's land.

If, as argued, the assessment of other lands, be it right or wrong, must govern, then the Appellate Court would only have to look at other assessments without

taking further evidence, and, in fact, the assessor then would and could be the sole arbiter as to values, and he could fix them as he thought wise, and there would be no redress.

There is no denying that an equal assessment all round, however high, or however low, is equitable and just between the ratepayers, though it may be misleading and in fact a false representation to outside people who may contemplate a change of residence, but, however equitable it may be, between one another of the ratepayers whenever one or other appeals, the statute points out to the Appellate Court that he is to find the actual value of the property of him who appeals.

It has been stated by one of the greatest judges that the Actual Value is the price or amount at which the land would be taken by a creditor from a solvent debtor in payment of an honest debt.

This test, I think, would bring down the assessment in every urban municipality to a very great extent.

Then in regard to vacant ground, not in immediate demand for building purposes (and this had reference to the Canada Company's appeal), the value is the same at which sales can be freely made. This section 40 (1), and I think was long since in the Assessment Act to take the burthen off speculators who had speculated largely in city property, and who when prices dropped found themselves loaded down with large areas of unsaleable real estate. Though the supplicants for such legislation were these speculators, the legislation meets and covers other cases, and I think covers the case of the Canada Company holdings, and I therefore in such case fixed a sum against each parcel of land 25 per cent, or 30 per cent in excess of that at which the company would be willing to sell, as given in evidence. But if this last mentioned section does not apply, then we are back on the first mentioned section which requires the Actual Value to be the basis of assessment.

I fully appreciate the position the assessor is in, and the desire of the Mitchell people to maintain an equitable assessment, but my duty, as I conceive it, is to find the Actual Value and to fix the assessment accordingly, in each case that comes before me.

JOHN A. BARRON.

Stratford, August 3rd, 1907.

An exchange says: "There is talk of a change in the time of holding municipal elections. Early November has been suggested as a more suitable time, but objection is taken on the ground that this is a busy season, in the midst of the fall trade. How would the end of January do? There is generally a slack spell after the Christmas trade, in which time might be found to discuss civic affairs and make up 'slates.' The objection to the present arrangement is that it brings the municipal campaign along with the Christmas season, when nearly everybody is absorbed with private and family affairs and the business of the municipality receives careful attention from very few."

We will be pleased to receive and publish the views on the subject of any of our subscribers who desire to send them.

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In view of the prevailing scarcity of money for investment in municipal bonds and debentures, municipal corporations having debentures issued for drainage purposes on hand for sale will do well to keep in view the provisions of chapter 476, R.S.O., 1897 (The Municipal Drainage Aid Act). Within the limits prescribed by this Act, we believe the Government can be dealt with on much more favorable terms to the municipal corporation than private investors.

DESTRUCTION OF NOXIOUS WEEDS

In commenting upon the excellent condition of a farm belonging to a ratepayer of the Township of Bertie, the *Welland Tribune* makes the following pertinent remarks:

"The road along his premises is also kept clean, a rare sight at this season when all along the sides of most roads are to be seen two ribbons of thistle down, mingled with the blossoms of many kinds of wild weeds and prairie flowers, ripening to seed the adjoining farms and greatly lower the quality of crops and value of lands, thus causing farms more damage than the few hours of extra labor cost required by each farmer to cut them to the centre of the road along his land, as the present law stipulates.

"Query: Is there any township council in the county doing its duty in encouraging the much-needed civic pride of keeping clean, trim roadsides?"

"Compare a neatly-kept village street, which bespeaks thrift and enterprise of its citizens, with one of opposite characteristics, where is tolerated unsightly thickets of prickly burs and thistle heads that stick to your clothes as you pass, and you cannot help being impressed with the thought that its citizens must partake more or less of the slovenly character of their surroundings.

"Will not the passing stranger, intending to buy farm lands, judge farming communities in like manner and shun sections where ox-eye daisies, sow thistle, brush and other foul weeds have been permitted to infest farms, and which will take so large a portion of the price the land to eradicate them?"

"Better to have vacant town lots and country roadsides cultivated to the road ditch, wherever it is possible to do so, with some useful crop than have them remain places to propagate weeds to befoul the whole country side."

VIEWS ON PUBLIC OWNERSHIP

Municipal operation of public utilities in Great Britain, as observed by a committee of experts sent abroad last year by the National Civic Federation of the United States of America, is treated at length in a series of reviews by members of the committee, which were made public to-day. These reviews of the experts' reports, written by MILO R. MALTBIE, WALTON CLARK, vice-president of the United Gas Improvement Company, of Philadelphia, and CHARLES L. EDGAR, president of the Edison Electric and Illuminating Company, of Boston, are divided in opinion as to the success of the undertakings as a whole. Mr. MALTBIE is one of the members of the newly created Public Service Commission for Greater New York. This body has the widest powers and greatest responsibilities of any commission to which the regulation of corporations has been entrusted up to this time in the United States. Mr. MALTBIE spent six months in Great Britain supervising the work of the expert accountants and engineers. He says that municipal operation of public utilities in Great Britain has passed the experimental stage. He declares that the gas and electric plants operated by municipalities generally give a superior service at a relatively lower cost as compared with the privately owned companies. This condition he finds to be due principally to the higher rate of interest and profit, and the greater amount of liabilities of the private companies. By far the most interesting part of Mr. MALTBIE'S conclusion, however, is that actual ownership and operation is not necessary for the success of the municipal ownership idea. He says that the power to operate, if necessary or desirable, in many instances, has been as effective as actual operation, that the mere fact that a city has the power to step in and operate an undertaking itself often makes the exercise of this power unnecessary.

Messrs. EDGAR and CLARK favor some form of regulation of private companies rather than the adoption of the municipal ownership idea. They declare it to be plainly proven that municipal ownership is productive of many serious ills with little or no compensating good. They hold that the solution of present difficulties is to be found, not in municipal ownership and operation of public utilities, but in the election of municipal officers who will protect the governed against injustice on the part of individuals or corporations.

Restrictions Not Enough.

"It has been found in Great Britain that no system of control or regulation is complete without the power in the hands of the municipalities to purchase and operate," says Mr. MALTBIE.

"If one company may be succeeded only by another, or only hedged about by restrictions, there come times when action, not repression, is wanted, and then no remedy is adequate unless it be the power of the city to step in and operate the undertaking itself. But the mere fact that it has the power often makes its exercise unnecessary, and what the Britisher desires is not the universal adoption of some method of producing results, but the results themselves."

The reasons that have led to British municipalization, Mr. MALTBIE finds, are many. First among them, although not the most general nor the most important, is the desire to secure for the public the financial profits of the undertakings. Second, there is the desire to keep the city from being mulcted by a private company, and third the general demand for better service at lower rates. He mentions also a fourth cause, which has played a prominent part in the United States, and which is not unknown in Great Britain, namely, opposition of the privately operated public utilities companies to the welfare of the city. A fifth factor has been the belief that municipal operation would permit the co-operation of public services in a way that is not possible where different services are operated by private companies.

RAILWAY TAXATION.

Ontario either exempts her railways from taxation altogether, or subjects them to taxation so light that it is no burden at all. Ontario has no power to exact a rate or two cents per mile from the railways of this Province. Michigan taxes her railways heavily and requires its roads to carry passengers for two cents a mile. Gratitude for Ontario's forbearance should induce the railways of this Province to treat their indulgent constituents better than the railways of Michigan treat their hard taskmasters, the people of the state. Where are the signs of such gratitude? Michigan gets more money than Ontario in taxes from the railways. Michigan pays less money in fares to the railways. Michigan gives its railways a stone and gets bread in return. Ontario gives the railways bread and gets her reward in the form of service as poor and rates as high as the public will stand.—*Toronto Telegram*.

We clip the following from the *Goderich Star*: A drive to Clinton last Monday convinces one that the statute labor law is wrong. The piles or stretches of fresh gravel on the roads lead one to the conclusion that this is the wrong season of the year to make good roads. Fresh gravel most assuredly should not be put on the roads during the dry or heated term of the year. It does not pack or solidify, but rather spreads to points where the real traffic does not extend. *The Star* believes that the fall term or damp season would be the best and most profitable time to do this work. Even as late as November might give much better results. At all events, July and August for gravelling are anything but satisfactory.

THE NECESSITY FOR GOOD ROADS.

In a recent report to the County Council of the County of Perth, Mr. GEO. L. GRIFFITH has the following to say anent county road systems :

"To the many the realization of the plan for a system of county roads does not perhaps mean very much, but to the little band of patriotic and unselfish workers who struggled unceasingly for several years it opens up a new sight of possibilities that may now be worked out in some systematic and comprehensive form.

"Good roads will benefit the farmer, the merchant and the workman, and will do more towards the advancement of civilization than any one improvement that is in the power of man to accomplish. In fact every part of the country still without railway communication should be made accessible by a system of good roads. It is a chief rule that the suitable improvements of highways within reasonable limitations will nearly double the value of the land adjacent to it.

"Every effort of the engineer will be particularly directed to disseminating information upon the costliness of bad roads, the economic benefits to all classes of the community of good roads, and the best methods and materials for road construction.

"The average distance farm products are hauled in the United States is about twelve miles, and the cost of transporting farm products over good hard stone roads was found to be about 8 cents per ton per mile of travel, while over bad dirt roads the cost was found to be 25 cents.

"Good roads mean an increase of values to the owners of the lands ; they mean a more rapid development of the country, more contentment amongst the people residing in the country ; they mean, in fact, an advanced step in our civilization, our progress and our prosperity."

He also makes the following interesting comments on the construction and maintenance of culverts :

"In my tour of inspection I found many broken culverts. The breaks in culvert pipes are caused chiefly by the difficulties encountered in ensuring an unyielding support for the pipe, and by the inelasticity of the joints. In dry sand, loam or clay, the bottom of the trench may be shaped to the pipe, but in rock, gravel or wet ditches this cannot be done, and it is practically impossible to back-fill properly with the material taken from the trench under and around the pipe of the largest sizes where the natural foundation has been disturbed.

"Ruptured pipe can only be avoided by filling the space under the pipe and up to one-third of its height, or by filling up to the top of the pipe with fine sand or earth, flooding it to enable the sand to flow entirely under and around the pipe, thus ensuring a firm foundation."

MUNICIPAL ADVERTISING PROFITABLE

Columns have been printed of late about enterprising cities and towns whose public spirited men and business merchants have raised funds for advertising to extend their manufacturing industries and promote growth of population, but very little has been said as to the results. This is because the co-operative municipal advertising plan is a comparatively recent development, and in many cases has not had time for a fair trial.

An interesting report has lately been published by Winnipeg papers on the work of the Winnipeg Industrial Bureau. Eighteen months ago this organization, whose executive is composed of representatives drawn from ten organized business bodies of the city located 22 new manufacturing industries. The population increased at the rate of 60 actual new residents every day, or in other words the population in 1905 was 79,975, and to-day is 111,717, and the bank deposits increased in the past year

over 66 per cent. The Winnipeg experiment is a marked success, and to a great extent demonstrates that if natural advantages exist within a municipality, judicious advertising properly placed is a good investment, and thus convinced, the Industrial Bureau is looking to still greater things as shown in the report referred to. Estimates for the coming year have been struck as follows :

Printing.....	\$1,800 00
Postage.....	500 00
Legal.....	200 00
Entertainment and transportation.....	400 00
Office maintenance and supplies.....	1,275 00
Salaries.....	4,200 00
Advertising :	
Newspapers.....	5,000 00
Magazines.....	5,000 00
Trade papers.....	3,000 00
Special advertising.....	1,825 00
Total estimates, June 30.....\$25,000 00	

Though the idea of forming an Industrial Bureau in Winnipeg, when first mooted, was conceded by nearly all to be a good and profitable factor in advertising the city, few indeed realized what a public benefit such a plan was destined to prove.—*Berlin News-Record*.

RESULTS OF MUNICIPAL OWNERSHIP IN FORT WILLIAM

To all those interested in the question of municipal ownership, the following facts will be of interest. Commissioner WM. MCCOLL, of Fort William, while in Galt the other day, called to pay his respects to *The Reporter*, and during an interview volunteered the following information :

Fort Williams owns and operates its own water, light, and telephone systems, and what is more, makes it a paying proposition, although these necessities are supplied to the public at a much lower rate than could be obtained from any private company.

There are 1200 subscribers on the telephone at \$12 per annum. Central energy is the system used, and the service is all that could be desired, while the price is such as to enable those in only moderate circumstances to enjoy the advantages of a 'phone. This department last year made a net profit of \$2,000.

Half a million dollars is to be spent in installing a new waterworks system. The water will be got from Loch Lomond, a lake 7 x 1½ miles in extent and 27 miles away from the city. In order to conduct the pipe line by the shortest route it will be necessary to bore a tunnel through a mountain, a mile long. This will give the city the best supply of water in Western Ontario.

The power for lighting purposes is derived from the Kakabeca Falls, twenty miles distant, where 700 horsepower is generated. The cost for domestic lighting is 35 cents per candle power per annum. The cost to the town for street lighting is \$300 per year. In addition to the power for lighting, the town can sell up to 5-horse power to any one customer for manufacturing purposes. Above this amount application has to be made to the company at the Falls. In speaking of the lighting scheme, Mr. MCCOLL described it as a perfect success.

The new C. P. R. elevators and the Canada Iron Foundry are among the largest users of power from the Falls.

The population of Fort William is about 13,000, and is growing at the rate of 2,000 a year. One of the hardest problems the city has to face is that of housing. It is a most difficult thing to rent a house in the city, but the uilding trade is very active and relief is hoped for before many months.—*Galt Reporter*.