

The Municipal World

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

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Calendar for April and May, 1904.

April—

1. Clerks of counties, cities and towns, separated from counties, to make return of popu-
lation to Education Department.—P. S. Act, section 73.
 - Last day for Free Library Board to report estimates to the council.—P. L. Act, s. 12.
 - Last day for petitions for tavern and shop licenses to be presented.—Liquor License
Act, sections 11 and 31.
 - Last day for removal of snow fences erected by councils of townships, cities, towns or
villages.—Snow Fences Act, section 3.
 - From this date no person compelled to remain on market to sell after 9 a. m.—Muni-
cipal Act, section 579, (6), Con. Mun. Act, 1903.
 - Last day for Boards of Park Management to report their estimates to the council.—
Public Parks Act, section 17.
- GOOD FRIDAY.
5. Make return of deaths, by contagious diseases, registered during March.—R. S. O.,
1897, chapter 44, section 11.
 7. Last day for treasurers of local municipalities to furnish county treasurers with state-
ment of all unpaid taxes and school rates.—Assessment Act, section 157.
 8. Last day for collector to return to the treasurer the names of persons in arrears for
water rates in municipalities.—Municipal Waterworks Act, section 22.
 11. High Schools, third term, and Public and Separate Schools open after Easter holidays.
—H. S. Act, section 45; P. S. Act, section 96; S. S. Act, section 81.
 15. Reports on night schools due to Education Department (session 1903-1904.)
 20. Last day for non-resident land holders to give notice to clerk of ownership of lands to
avoid assessment as lands of non-resident.—Assessment Act, section 3.
 25. Last day for clerk to make up and deliver to the assessor lists of persons requiring
their names to be entered in the roll.—Assessment Act, section 3.
 30. Last day for completion of roll by assessor.—Assessment Act, section 56.
 - Last day for non-residents to complain of assessment to proper municipal council.—
Assessment Act, section 86.
 - Last day for License Commissioners to pass regulations, etc.—L. L. Act, sec. 4

May—

1. Last day for treasurers to furnish Bureau of Industries, on form furnished by Depart-
ment, statistics regarding finances of their municipalities.—C. M. Act, 1903, s. 293.
 - County treasurers to complete and balance their books, charging lands with arrears of
taxes.—Assessment Act, section 164.
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ST. THOMAS, ONTARIO, APRIL 1, 1904.

The council of the City of Windsor has passed a by-law abolishing the ward system.

* * *
Mr. D. L. McPherson has been appointed clerk of the Town of Clinton to succeed Mr. Wm. Coates.

* * *
Mr. A. C. Crosby has been appointed clerk of the Village of Southampton to succeed Mr. James Howe.

* * *
Mr. D. J. C. Munro has been appointed clerk of the Town of Thorold, to succeed Squire W. T. Fish, deceased.

* * *
Mr. F. H. Macpherson, of Windsor, has been appointed by order-in-council to make a special audit of the accounts of the Township of Sandwich West.

* * *
The first rural consolidated school in Canada has been opened at Middleton, Nova Scotia. Eight districts are consolidated, and eleven vans convey the children to and from school, the longest trip being 6½ miles. The experiment will be watched with interest.

* * *
Representatives of the nine school sections in the Township of Stamford met in Niagara Falls, on the 16th March last for the purpose of considering the advisability of establishing a consolidated school in that municipality. The majority of the representatives favored the scheme, and their discussion of the matter resulted in the passing of a resolution appointing a committee to plan routes for vehicles to carry the children, and to get estimates of the cost of the work.

* * *
The trustee of rural school sections generally will be interested in the judgment recently delivered by Mr. Justice Street in an action brought by a lady teacher against the Board of Trustees of a school section in the Township of Melancthon. The action was brought for \$2,500 damages for illness resulting, as she alleged from cold feet, due to the neglect of the trustees to appoint a

caretaker to see that the school was kept warm. The presiding Judge dismissed the action, but in his judgment makes the following remarks: "It is not to be believed that a chill, sufficient to cause so severe an illness, happening on Monday morning and hardly noticed by plaintiff herself at the time, could have remained dormant in her system till the following Thursday. The defendants, however, had disregarded their statutory duty to employ a caretaker and to have fires lighted an hour before the opening of the school—a duty owed to the teacher, the pupils and their parents—and have probably narrowly escaped being made liable to heavy damages for neglecting it."

TAXATION OF RAILWAYS.

An ideal system of taxation should be simple, equitable and uniform.

The difficulties attending the determination of such a system have been brought prominently to the attention of the public through reports of proceedings before the special committee and the Legislature.

The assessment of railways and all public corporations on the same basis as other property is necessary if a uniform and equitable system of municipal taxation is desired. This can only be done by a Provincial Board of Assessors. A division of the taxes paid by public corporations between the municipalities and Province does not affect the principle. We should be able to say that farmers, manufacturers, railways and other corporations are all taxed in the same way and at the same rate.

The success or failure of such a law would depend upon the action of the Provincial Board, the members of which should be carefully chosen. They should not be bound by hard and fast rules in the method of assessment. Experience only can suggest the most practicable and most equitable plan to pursue. The board would in time be able to lay down uniform rules of assessment and place upon corporations in any particular locality a value which is fairly equivalent to that put upon other property. The Provincial Board idea for the assessment of corporations, is being rapidly introduced throughout the United States, and is proving satisfactory. It produces equality and additional revenue. In this Province the taxation of railways has been popularized by the Pettypiece bill. Farmers associations, municipal councils, boards of trade and other bodies have petitioned for it, and the leader of the Opposition has expressed his approval. It now remains for the Legislature to consider it in the usual way.

The Political Science departments of our Provincial Universities may do a great public service during the present year by preparing a scientific criticism of the report of the Assessment Commission and the taxation and supplementary revenue laws of the Province.

THE MUNICIPAL WORLD is the most helpful publication in its special field and is doing much to enlighten the public regarding municipal government.

Uniform Accounting

The question of municipal or public ownership of public utilities is of the greatest interest to all residents of urban municipalities.

The Ontario Legislature last year appointed a special committee on municipal trading or municipal ownership or operation of public utilities, their report recently presented and distributed contains an epitome of the periodical or other literature on the subject.

Statistics relating to the activities of Ontario municipalities are given. These are, however, incomplete and unreliable for the purposes of comparison owing to the want of uniformity in methods of book-keeping.

One authority quoted in the report "believes that there should be uniformity and publicity of accounts of corporations performing quasi public service and of municipalities so that correct comparative statistics may be obtained as a basis for intelligent discussion and legislation." This leads us to suggest that the Provincial Government should publish annually full statistics in reference to the cost of public services. Until this information is available the results of municipal ownership and operation must be regarded as a controverted question.

In England, the local Government board obtains all statistics required, and the municipal year book distributes the information.

In the United States considerable attention is being devoted to the question. A law adopted in Ohio in 1902

created a bureau of inspection and supervision of public offices and provides for the establishment of uniform systems of public accounting, auditing and reporting. The movement began some years ago largely in the desire of municipal officers to make comparisons of their work with others in the same line. Various societies have reported in favor of it and several States have similar laws under consideration. The step taken in Ohio is the greatest advance which has been made.

A member of the Ohio bureau of inspection refers to the advantages of uniform reports as follows :

"Uniform reports, based upon accounts which will admit of an intelligent audit, at once become trustworthy sources of information to the people, and from these reports, after careful verification by state examiners, will be compiled comparative tables, giving to the public in a comprehensive form the receipts and from what source, and the expenditures, detailed as to each distinct purpose, so that the actual cost of each separate function of local government may be made known to those interested. These expenditures, set up in 'deadly parallel,' will enable the citizens of the various counties and cities of the state to make the intelligent comparisons of the cost of different purposes of their own local government with that of counties and cities of like population and conditions.

Whether or not the municipal ownership of public service industries be advisable will be shown by reports which will give the actual cost to the people of all service rendered the public by such industries, that comparisons may be made with the cost of like service secured through contracts with private parties. The greatest good to the public, however, from the enforcement of this law, will result from the assistance given to well-intentioned public servants in the discharge of their official duties, thereby resulting in an improved public service."

The Business Tax

In order to understand the necessity for additional business taxation in cities, towns and villages, the reasons leading up to incorporation and separation from the rural districts of which they formed a part, must be considered. In a country village, sidewalks, lights, road improvements, a public well and drainage are usually provided by the township authorities and voluntary subscriptions of those interested. As the village grows, the proportion of those who will not subscribe increases, the township council is not as liberal as the villagers think it should be and incorporation follows for the purpose of compelling all who are directly interested to pay a share of the cost of necessary improvements in the way of taxation.

Incorporation as a village, town or city directs attention to the fact that there has been a concentration of population and that the administration of local affairs must be improved. The Municipal Act provides for this by enlarging the scope of local authorities as an urban community increases in size.

The incorporation limits of a village may include a farm, the village tax rate is generally higher than that of the township with the result that the farmer who was satisfied with the township conditions pays a tax out of all proportion to benefit received. The same may be said of the owners of vacant land they do not derive the full benefit of the improvements or conveniences for which they have to pay.

It is in recognition of the principle of payment for value received that additional taxation is proposed in urban communities by the occupants of real property for business purposes.

The assessment commission proposed to make the occupants of both residence and business properties pay an additional tax at a uniform rate. The Legislative Committee decided to exempt the residences, and in the public discussions reported, the house tax, which appears to be necessary to produce equality, has not been considered. The business tax proposed is based on the value of the premises occupied for the purposes of business; businesses have been classified and the rate proposed varies from 25 to 125 per cent. The objections offered are in reference to the percentage to be paid.

The amount of tax a merchant or manufacturer may have have paid on personalty should not be considered in determining the business tax.

The industrial development of the Province favors exemption of all personal property. The value of land or immovable property is determined by movable or personal property located on or convenient to it.

The several departments of THE MUNICIPAL WORLD are always full of valuable technical and professional information.

Stratford carried the by-laws ratifying the appointment of Park and Water Commissioners.

THE MUNICIPAL WORLD is always practical in its solution of the problems of civil law and procedure.

Municipal Organization in Ontario

II.

The powers of municipal councils subject to provincial legislation extend practically to all matters of a local nature. The machinery of administration varies little in municipalities of the same class. Each municipality has its own officials, whom it appoints to hold office during the pleasure of the council. Special departments are organized in accordance with local needs and ideas.

County Councils. The seat of government for the county is the "county town." The first meeting of a council is held in the county hall or court house. A chairman, called the warden, is then selected, and holds office for one year. Standing or special committees are next struck, to which all council business is usually referred, and from which reports in the form of recommendations, etc., are made to the council. The names of these committees indicate the class of business referred to each. The usual committees are: Finance; Roads and Bridges; County Buildings; Petitions and Legislation; Printing and Contingencies; Educational; Equalization; House of Refuge; Advisory or Executive. Special committees are chosen from time to time. By-laws of the council usually provide for the routine of proceedings and the duties of officers and committees. Parliamentary procedure is observed. The chief officers appointed by the council, in addition to the warden, are the county clerk, treasurer, engineer or commissioner, public school inspector, auditors.

Warden. The warden presides over the council, signs official documents and calls special meetings. He must summon a special meeting when requested by a majority of the council. In most counties, the wardens attend all meetings of the committees of council, and have various duties under their purview, such as a general supervision of officers and business of the county, countersigning of treasurers' cheques, etc. For this they receive an annual allowance, which varies from \$50 in the county of Elgin to \$450 in Simcoe. The elections to the office of warden are often keenly contested, especially in counties where the post is recognized as a stepping-stone to political preferment.

County Clerk. The county clerk acts as secretary at all meetings of council and committees, keeps the minutes and by-laws and takes charge of the books in his office, or in a place appointed by by-law of the council. In most counties, by custom or direction of council, he has to attend to other duties than those imposed by statute. The annual salaries vary from \$250 in Dufferin to \$1,200 in York, the present average being \$477.

County Engineer or Commissioner. In many counties the control of work connected with the construction and repair of county roads and bridges is committed to a professional engineer or to one or more commissioners appointed by the council. In other counties this work is attended to by a committee of council, a professional engineer being on occasion consulted.

County Treasurer. The principal duties of the county treasurer are to receive the county rates from the treasurers of the local municipalities, to collect arrears of taxes due in respect of lands in the townships and villages of the county, and to conduct sales of lands for taxes when in arrears for three years. The proceeds of the collections and sales are paid to the local municipalities entitled thereto. In disbursing moneys, he is guided by statutory enactments and by by-laws or resolutions of the

county council. For the due performance of his duties, each treasurer is required to give security. Salaries vary at present from \$350 in Prince Edward to \$1,600 in Middlesex, the average being \$926.

Police Magistrates. Where a county council passes a resolution affirming the expediency of appointing a salaried police magistrate, the Lieut.-Governor may make such an appointment. After the expiration of one year, the council may by resolution terminate the commission of magistrates so appointed. The Canada Temperance Act requires the appointment of a police magistrate wherever and so long as it is in force. The annual salary of a county police magistrate is \$600, or such larger amount as the council may determine.

Court Houses and Gaols. The most important single duty of a county council is to provide accommodation for the courts of justice and for the registrar of deeds. York has this accommodation in the court house and gaol of the city of Toronto, just as in the county of Wentworth the city of Hamilton controls the gaol. The council selects the gaol surgeon and provides the salary of gaol officials. Otherwise gaol appointments are made by the sheriff, a provincial appointee, the appointment of gaoler being, however, subject to the approval of the Lieutenant-Governor.

General Duties. The decisions of county councils are embodied at times in petitions to the legislature and to other counties for their co-operation. When the question is of special local importance, deputations are often appointed to wait upon members of the Government. Many of the bills introduced in the legislature, to amend municipal and other laws, are suggested by these discussions. The province also utilizes the administrative machinery of the counties in many ways, not only in connection with the administration of justice, but with education, expropriation of toll roads, the care of the indigent, etc.

County Rates. A county council may appoint valuers to assess the whole county; or it may equalize or adjust the work of the local assessors so that the valuation of the taxable property in the different municipalities will be uniform. The amount required is apportioned ratably amongst the local municipalities and collected with other taxes. The council also issues licenses, under regulations fixed by by-law, for hawkers, pedlars, auctioneers, etc., carrying on business within the county.

Auditors. The county auditors, two in number, usually appointed at the first session of the council in each year, examine and report annually or as directed by the council upon the books and accounts of the county treasurer and all accounts affecting the corporation within its jurisdiction. A special board, however, of which the county judge is chairman, audits quarterly before payment of all accounts in connection with the administration of justice. A second examination of these accounts is made by one or more auditors appointed by the Lieutenant-Governor-in-Council, for the purpose of preparing a statement of accounts for which the province is liable in whole or in part. These include accounts of sheriffs, Crown attorneys, court criers, coroners, constables, etc., for services in connection with the administration of criminal justice.

THE MUNICIPAL WORLD has been a large factor in an educational way in the improvement of municipal government during the last thirteen years.

Engineering Department

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

ROAD CONSTRUCTION.

A road surface of gravel or broken stone performs various services. The ordinary dirt road of clay or loam alone ruts readily, softens quickly after a rain, and has little supporting power. A well compacted layer of gravel or broken stone over it distributes the concentrated wheel load over a greater area of subsoil; it does not rut readily and affords good surface drainage; it gives a smooth, hard, wearing surface; water does not easily penetrate it so as to soften and reduce the supporting power of the subsoil.

The depth of gravel or stone to be used must vary with the quality of the material, the amount and nature of traffic on the road and the nature of the subsoil. A dry, compact and stony subsoil needs less metal than does a plastic clay, difficult of drainage. A definite rule cannot be laid down to accurately meet all conditions, but from six to twelve inches of well-consolidated material will afford a sufficient range to accommodate most circumstances. Ordinarily ten inches of metal should accommodate the heaviest traffic to which a gravel or broken stone roadway can be economically subjected.

The amount of crown should not be more than sufficient to provide for surface drainage. A sharp crown tends to confine traffic to the centre of the road; and also in turning out, the weight of the load is thrown on one pair of wheels in such a way as to rut the side of the road. The shape of the crown is a matter on which road experts differ, but with the class of material available for roads in Ontario, and the methods and plans of construction, a form as nearly circular as possible will be found serviceable and most easily obtained.

From the edge of the open drain the graded portion of the roadway should be crowned with a circular rise of one inch to the foot from side to centre. That is, a driveway of twenty-four feet wide should be one foot higher at the centre than at the side. This amount of crown may at first appear excessive, but with gravel roads and roads metalled with the quality of stones commonly used, is not more than enough to provide for wear and settlement consistent with good surface drainage.

The elevation of the road above the level of the adjacent land need not be greater than is sufficient to provide against the overflow of storm water, which should always be guarded against. The depth of the open drain must vary according to the amount of fall and the quantity of water to be provided for; also according to the sub-drainage needed and provided. When tile sub-drains are used the open drain can often be shallow, in which case the width of the graded roadway can be narrowed, there being no danger of accidents such as are caused by a deep trench at the roadside. The tile drains should be placed below severe frost, and usually a depth of three feet will answer.

Road Drainage.

The drainage usually found on existing roads consists of open ditches on each side of the graded portion, with a depth of about eighteen inches. They are frequently carried through rises of ground, past natural watercourses. Little attention is given to the regularity of the grade in the bottom or to the amount of fall, as evidenced by the

varying depths of stagnant water at wet seasons. The object of these drains was more to procure earth to raise the centre of the road above the water line than to lower the water.

The introduction of graders, wheeled scrapers and modern road machinery requires that a roadway should, in order to construct it economically without hard labor, be such as the implements will readily form. For this reason, deep, open ditches, with sharp angles and narrow bottoms, are not now suitable; but instead, across-section of a road should show gentle curves, the rounded surface of the road not sharply defined from the ditch. The latter should be about two feet wide in the bottom, where a wheeled scraper can work, and about eighteen inches in depth.

The best practice does not direct that the old open drains should be deepened for the purpose of draining the subsoil. Deep, open drains are expensive, dangerous and unsightly, and the excavated earth generally does more harm than good to the road when used to round it up, especially if piled on top of gravel or stone. When the combined cost of construction and maintenance is considered, a tile drain laid under the bottom of open drains is cheaper and more serviceable.

It may be accepted as a general rule that roads tiled without gravel are better than roads gravelled without tile. All roads, except those on pure sand, can be improved by tile draining. A single line of tile, if placed about three feet below the bottom of the open drain, if the graded portion of the road is about twenty-four feet wide, will accomplish nearly all that tile drainage will do. If one side of the road is higher than the other, lay the tile on the high side so as to intercept the subsoil water as it flows down the slope. A four-inch tile meets most conditions, but the size will depend on the length of the drain and the amount of water to be carried away. Care must be taken to give the tile a uniform grade, so that there will be no depressions. If possible, give a fall of at least three inches in one hundred feet. The cost will be about fifty cents a rod. The work, if properly done, will be a permanent and substantial improvement to the road, and will save many times the cost by lessening the amount of gravel needed on the road.

Broken Stone.

A great proportion of the macadam roads in Ontario will be constructed of lime stone, since this rock is the most common, quarries being within access of almost any part of the Province. In quality it ranges from that which is useless to that which is almost equal to trap. Limestone, if it is tough and close grained, is an excellent material for roads on which the weight of traffic is not excessive. Some dolomitic limestones, while hard, appear to lack in toughness. Other limestones, of a slaty texture, have not good wearing qualities, are rapidly disintegrated on exposure to the atmosphere, and should be avoided. Some limestones of an open, porous nature, yield readily in this climate to the effects of moisture and frost, merely turning into mud. The excellent binding qualities of limestone make up largely for a lack of hardness, a weak cement being formed by the dust, which adds very much to its durability.

All things considered, hardness and toughness to resist wear and atmospheric action, the relative desirability of rocks is ordinarily in the following order: 1, trap; 2, syenite; 3, granite; 4, schist; 5, gneiss; 6, limestone; 7, quartzite; 8, sandstone; 9, slate; 10, mica-schist; 11, marble. Of these, the last four, sandstone, slate, mica-schist and marble, are of little value in roadmaking, except for the lower courses, when they are surfaced with a durable stone that will resist wear.

In determining the best quality of stone for road purposes, there are four prominent destructive agencies which have to be considered: 1, the crushing of loads; 2, the grinding action of the wheels; 3, the blows from the shoes of horses; 4, climatic influences of air, water and frost.

Gravel.

Gravel is made up principally of a mass of fragments of stone, rounded and worn, having been transported a considerable distance by water and ice, the pebbles representing the hardest and most durable bits of the rock from which they were detached. With it is commonly mingled a variable quantity of boulders, sand, clay and earthy matter. The rounded, water-worn character of the pebbles composing the gravel does not permit as perfect a bond as is the case with a road covering of crushed stone, in which the sharp, angular sides take a firm, mechanical clasp.

The test of actual use on the roads is the best means of determining the relative merits of different gravels, but in this considerable should be given to length of time each has been in service, the care taken in putting them on the roads, the attention to maintenance and repairs each has received, the nature of the soil on which each is laid, the manner of grading, draining, and preparing the foundation, and the amount of traffic to which each is subjected. The sound made by metal tires in passing over the road is also a means of judging the quality of the gravel. A continuously smooth and gritty sound is most favorable; if the gritty sound is absent, the gravel contains too much earthy material, while an interrupted, intermittent sound, indicates the presence of large stones. Where sand and clay are in excess, these should be removed by screening, and the large stones and boulders should be broken. If there is a considerable proportion of the latter, a method which offers many advantages is to place a rock crusher with a rotary screen attachment in the pit, passing all the material through, thereby removing the earthy substances and breaking the stones with one operation.

The Stone Crusher.

The stone crusher is one of the most important of modern additions to the list of roadmaking machines. By their use stone can be crushed much more cheaply than by the old method of hand breaking. So far as cost is concerned, stone roads are within the reach of every municipality having suitable rock in the vicinity. In the treatment of gravel a crusher is frequently very valuable, since, if containing many large stones and boulders, it will be possible to place a crusher in the pit and pass all the gravel through.

These machines are made after various patterns, the main division into rotary and jaw crushers. Some of the smaller sizes are set on wheels, and may be moved readily from place to place. Others are for stationary work in a quarry, or at a point at which stone, field boulders, etc., are brought to be broken. They are operated by steam power, a traction engine or stationary engine, or by an electric motor, as circumstances render most advantageous. Some municipalities owning a steam roller obtain power from it, but this is apt to injure the roller.

One of the most valuable features of a crusher is that by attaching it to a rotary screen the crushed stone may

be separated into grades according to size, usually such as will pass through a three-inch ring, such as will pass through a one and one-half inch ring, and fine chips and screenings. By placing the coarse stone in the bottom of the road, and the finest on top, a smoother and more durable road is obtained.

The Road Roller

The advantages to be derived from a road roller in the construction of a broken stone road are becoming more and more appreciated. Unless a roller is used the stone must be spread loosely on the road and left for traffic to consolidate. A road should be made for traffic, not by it. To leave loose gravel and stone in the roadway is neither an agreeable method of constructing a road nor will it produce the most durable road.

The consolidation of loosely spread stone or gravel by traffic is a slow process, causing much inconvenience to travel, during which the earth of the subsoil becomes mixed with the stone. Earth intermixed with stone prevents the strong mechanical bond which clean metal will assume when the stones are wedged one against the other by a roller. The particles of earth, when wet, have a lubricating influence on the stone, and under the action of wheels the surface is more readily broken up. By the use of a roller the earth subsoil should be first thoroughly consolidated. The stone should be placed on this foundation in layers, and each layer well compacted. In this way a smooth, durable, waterproof coating of stone, free from earthy material, can be laid over a firm foundation.

There are different classes of rollers. The horse roller, weighing six or eight tons, will do fairly well if a steam roller cannot be afforded, but the horse roller is not sufficiently heavy for the best results. It has to be used much longer than the steam roller. The feet of the horses, in exerting sufficient strength to move the roller, sink into and disturb the road metal, and injure the shape and quality of the roadway, while on hills it is a disadvantage.

The steam rollers are of various weights, ranging from eight to twenty tons. Rollers of fifteen tons' weight are those generally used by the towns and cities of Ontario. The cost of horse rollers is usually about \$90 per ton, or from \$400 to \$600 each. Horse rollers are, however, generally so constructed that the weight may be increased by iron castings, so that a roller of five tons may be made to weigh about seven. Steam rollers cost about \$3,000. For operation a horse roller, with two teams, will cost \$6 per day. A steam roller will cost \$10 a day, including interest and depreciation, but will do several times the amount of work done by a horse roller, so that the saving in operation is considerable.

The amount of rolling which can be done in a day varies according to the quality of metal used, the kind and amount of binder, the thickness of the layer of stone rolled, and the weight and type of roller. With broken limestone, rolled by a twelve-ton steam roller, the amount of stone compacted will average between forty and fifty cubic yards in a day of ten hours.

KINGSTON MUNICIPAL LIGHTING.

After dragging through the courts since 1900, when arbitration proceedings were commenced, and ending finally before the Privy Council, the case of the Kingston lighting plant has been voted upon by the ratepayers. A by-law asking \$182,000 with which to purchase the electric lighting and gas plants was approved on March 21st by a majority of 1,360, only 37 votes being recorded against the by-law. It is expected that the city will assume possession about July 1st.

STATUTE LABOR COMMUTATION BY-LAW OF THE TOWNSHIP OF EAST ZORRA.

A by-Law to commute all Statute Labor in the said township at an uniform rate of fifty cents (50 cts.) per day and to provide for expending the same and other moneys on the public highways.

Whereas, the highways of this township have heretofore been maintained by statute labor performed thereon under the direction of road overseers, supplemented by sufficient grants from general township funds expended by the members of the municipal council to meet all the expenditures connected therewith, and

Whereas, it is desirable that all the statute labor in the said township should in future be commuted at the aforesaid rate and the funds raised by such commutation, together with other funds which may be granted by the council of the township, should be expended by a commissioner or commissioners, to be appointed yearly by the said council ;

Be it therefore enacted by the municipal council of the corporation of the said township of East Zorra, and it is hereby enacted :

1st. That from and after the date of the passing of this by-law, all statute labor to which any person (resident or non-resident) may be liable, in this municipality, shall be commuted at the fixed rate of fifty cents (50 cts.) for each day's labor, and the amount of each person's commutation tax shall be added in a separate column opposite such person's name in the collector's roll, and shall be collected and accounted for like other taxes, and shall be kept by the treasurer in a separate account, to be known as "The Commuted Statute Labor Account."

2nd. That the said commutations shall be levied on each assessment according to the following schedule, viz. : Not more than \$900.00, the sum of \$1.00 ; at more than \$900.00, but not more than \$1,000.00, the sum of \$1.50 ; at more than \$1,500.00, but not more than \$2,100.00, the sum of \$2.00 ; at more than \$2,100.00, but not more than \$2,700.00, the sum of \$2.50, and for every \$900.00 of assessment over \$2,700.00, or fractional part thereof over \$500.00, an additional sum of fifty cents (50 cts.)

3rd. Every male inhabitant of this township, between the ages of 21 and 60 years (not otherwise assessed and not exempt from the performance of statute labor) shall pay the sum of fifty cents (50 cts.) as commutation for one day's labor, the same to be paid over to the commissioner, or one of them, if more than one be appointed, within six days of being notified so to pay, and if he refuses or neglects to do so, he shall incur the penalty prescribed by The Assessment Act of the Province of Ontario.

4th. That the sub-divisions of the public highways in this township into road divisions, as at present, is hereby abolished, but the commissioner or commissioners, in expending the commutation moneys shall see that a sum as nearly equal as may be to that formerly expended in statute labor in each division, shall continue to be so expended.

5th. That the council shall yearly appoint one or more competent persons as commissioners to oversee the construction and repair of the highways, bridges and culverts, in and bordering on the municipality, and such commissioner, or commissioners, shall be governed by by-law and direction of the council, and shall hold such office during the pleasure of the council and at such remuneration as may be fixed by the said council, or mutually agreed upon.

6th. That the clerk of the said municipality shall as soon as possible after the holding of the Court of Revision in each year, notify the commissioner or commissioners of

the probable amount of commutation money to be expended in each division.

7th. That the council shall notify the said commissioner or commissioners where to procure gravel, lumber, tile, culvert pipe, or other material to be used, and shall provide for his or their use all necessary books, pay-sheets, notices, etc., required for the proper performance of his or their duties.

8th. That the said commissioner or commissioners are hereby authorized and empowered to collect the sum of fifty cents (50 cts.) each from the persons mentioned in section No. 3 of this by-law and to expend the same.

9th. That the said commissioner or commissioners are hereby appointed as inspectors under the provisions of by-law No. 496 of this municipality, and of The Act to Prevent the Spreading of Noxious Weeds, with full power to prosecute any party or parties violating the same.

10th. That the council may at any regular meeting set apart such further sums of money as may seem required for the maintenance of the highways and the commissioner or commissioners shall expend the same, as directed by resolution of the said council.

11th. That the treasurer of the municipality is hereby authorized to pay on the order of the said commissioner or commissioners any sums which he may be directed so to pay by resolution of the council.

12th. That by-law No. 518 of this township and any other by-law, or parts of by-laws, contrary to or inconsistent with the provisions of this by-law, are hereby repealed.

Read a first and second time on the 17th day of March, A. D., 1902.

Read a third time and finally passed in open council this 25th day of March, A. D., 1902.

JAMES ANDERSON,
Clerk.

WM. STOCK,
Reeve.

STEAM ROAD ROLLERS IN ONTARIO.

Municipality.	Year purchased.	Weight (tons.)	Cost.
Belleville.....	1898	15	\$3,000
Berlin.....	1898	15	3,100
Brantford.....	1901	15	3,200
Brockville.....	1894	17	4,000
Carleton Place....	1901	10	3,000
Chatham.....	1898	12	3,135
Cornwall.....	1898	16	3,000
Galt.....	1896	15	2,700
Guelph.....	1902	15	3,250
Hamilton.....	1898	15	3,300
	1900	16	3,250
Ingersoll.....	1898	12	2,900
Kingston.....	1884	18	—
Lindsay.....	1903	15	3,250
London.....	1895	15	3,000
Niagara Falls.....	1897	12	3,650
Niagara Falls Park Commission.....	1903	7	2,300
Ottawa.....	1885	15	3,000
Owen Sound.....	1898	15	3,000
Pembroke.....	1902	15	3,250
Peterborough.....	1899	15	2,800
Renfrew.....	1899	15	875
St. Catharines.....	1897	12	3,600
St. Thomas.....	1902	12	2,950
Smith's Falls.....	1900	17	—
Stratford.....	1897	15	3,800
Toronto.....	1895	15	3,050
	1900	10	2,373
Windsor.....	1898	12	2,800
Woodstock.....	1897	10	3,300

WESTERN ONTARIO GOOD ROADS ASSOCIATION.

The annual convention of the Western Ontario Good Roads Association was held in the Municipal Buildings, Toronto, during the last week of February, and numerous questions of importance were submitted for discussion. Among those taking part in the proceedings were: Mayor Urquhart, of Toronto; Warden Hartmann, of York; ex-Warden Cummings, of Carleton; J. W. Gibbs, of Ontario County; F. Walter, of Waterloo; J. D. Evans, of York; J. A. Buchanan and R. R. Brett, of Essex; Major Bruce, of Simcoe; D. H. Moyer, of Lincoln; C. E. Hewson, of Simcoe; A. W. Campbell, Commissioner of Highways; Wm. Jackson, of Elgin; F. Shaver, of Victoria; Dr. Wood, Kirkfield; J. H. Macdonald, of Waterloo; R. F. Miller, of Rainham Centre; C. E. Lundy, of Newmarket. The Act to Aid in the Improvement of Highways and questions relative to county and township bridges were matters receiving chief consideration. Mr. Jas. Graham, Lindsay, was re-elected President, and Lieut.-Col. Farwell, Whitby, secretary-treasurer. Executive and legislation committees were also appointed. It was decided to hold the next meeting in Toronto.

ONTARIO LAND SURVEYORS.

The annual convention of the Association of Ontario Land Surveyors was held in Toronto during the last week of February with an unusually large attendance. Of special interest to municipal councils was a paper by E. G. Barrow, City Engineer of Hamilton, on "Cement Concrete Sidewalks." In Hamilton 96 miles of this walk has been laid in five years, at a cost of 12½ cents a square foot. Curbing costs 33 to 40 cents a lineal foot. Among others were papers by J. S. Sing, of Toronto, on "Transportation"; by W. A. McLean, of Toronto, on "Water Powers of Ontario"; by James Robertson, of Glencoe, E. C. Steele, of Sault Ste. Marie, and J. F. Whitson, of Toronto. C. A. Jones, Petrolea, was elected President; J. W. Tyrrell, Hamilton, Vice-President; and Captain K. Gamble, Toronto, Secretary-Treasurer. At the annual dinner speeches were made by Hon. E. F. Davis, Commissioner of Crown Lands; Col. Otter, E. D. Armour, K.C., Prof. Galbraith, and others.

EASTERN ONTARIO GOOD ROADS ASSOCIATION

The third annual convention of the Eastern Ontario Good Roads Association was held in Ottawa on March 17th and 18th, there being a large attendance from eastern counties, while a number of western counties were also represented. The president, Mr. Cummings, in his opening address welcomed the delegates warmly, and outlined the success that had attended the efforts of the association for the past year. More townships in Eastern Ontario commuted statute labor last year than ever before. Half the townships in Carleton were now doing their road work in a business like manner. The commutation system appears to be giving general satisfaction in spite of the high cost of labor and other disadvantages that have to be contended with. Three years ago not a township in Eastern Ontario was using concrete culverts, but some forty townships were using them at present, as the result of practical illustrations given by experts sent out by the association. The County of Lanark has taken the most progressive steps during the year in voting \$100,000 to construct a leading system of county roads. The movement will be successful and other counties ought to follow Lanark's good example. The Western Ontario Good Roads Association was formed as a direct result of the good work done by the eastern association. Great progress was made in the effort to secure the assistance of the Dominion Government in the building of good roads.

Mr. Cummings also spoke of the progress that was being made in the construction of good highways in the different states of the Union.

Following the President's opening address, speeches were made at the Thursday morning session by E. A. Johnson of L'Orignal; Mr. Richardson, M. P., of Grey County; Edward Kenrick, of Wentworth, and Mr. Allen, of Nova Scotia.

At the afternoon session addresses were given by Messrs Johnson of Leeds & Grenville: John Brown of Beachburg; E. A. Johnson of L'Orignal; David Mair of Almonte; Jas Ballantyne of Ottawa East, and A. W. Campbell, Commissioner of Highways.

County Councillor D. Quinlan, of Barrie, addressed the Friday morning session on the county roads of Simcoe. He said that Simcoe County raised \$100,000, and by so doing secured \$50,000 from the Ontario Government's million dollar grant, giving \$150,000 in all for the work. In all, 400 miles of road were designated for improvement and work so far has been carried out on 127 miles. Of the money available \$140,000 was divided amongst the townships, according to their equalized assessment, and \$10,000 laid aside for work on roads used by more than one municipality. The council voted a further \$40,000 to carry on the work and expected the additional proportionate amount promised by the Provincial Government. In Simcoe \$10,000 was also set aside for the improvement of the parts of the road on the plan lying in the outskirts of the incorporated towns and villages.

Other speakers were Mr. Bruce Payne of Granby, Quebec; Warden J. M. Rogers of Lanark County; Senator Edwards and Hon. H. S. Earl of Detroit. Resolutions were adopted favoring a Dominion Good Roads Bureau; the commutation of statute labor; a uniform width of four feet between sleigh runners; while a fourth congratulated Lanark County on going ahead in the good roads movement.

The next convention will be held in Brockville.

SWAMP ROADS.

Roads passing through swamps are often found difficult and expensive to construct and maintain. This arises from the fact that the soil is usually a decayed vegetable mould, always soft and mucky when wet—a condition maintained by the lack of drainage. The chief difference between a swamp road, however, and one on high land is the matter of drainage—a complete proof, if other evidence were lacking, that the most necessary rule to be observed in making good roads is to provide good drainage.

In making a road through a swamp, every opportunity should be taken to carry the water away from the roadside. If this can be perfectly done, it will cease to be a swamp road, in spite of any difference in the quality of the soil. It is too often supposed that, by throwing up a sufficiently high grade, and piling on a great quantity of gravel, a permanent road must result. This may succeed in some instances, but conditions are rare in which it does so, unless, at the same time, good drainage is provided. Pending the time when sufficient drainage can be had, the best that can be done is to lay a corduroy foundation, on this place a covering of earth, then a surface coat of gravel or broken stone. Rather than use the black vegetable mould, which becomes mucky when wet, it is advisable to cover the corduroy with clay loam, a gravelly loam, sand or clay. Sand, when slightly moist, makes a good foundation. If the case is one in which the road passes over an extremely boggy ground, a good bottom can sometimes be made by throwing in a thick matting of willows and other shrubs and branches, on which to place the covering of earth, then gravel or stone.

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.

Liability of Municipal Officer for Mistake.

220—SUBSCRIBER—Is a municipal officer liable for a mistake he makes which is a loss to the municipality, and can the municipality collect the same from him, and what course will have to be taken to collect it, and what section of the R. S. O. regulates it?

Mr. Dillon, in his work on "Municipal Corporations," thus states the law on this question: "Public officers are not the agents or servants of the corporation in such a sense as will enable the corporation, in the absence of a statute giving the remedy, to maintain actions against such officers for negligence in the discharge of their official duty. This principle does not, it is believed, apply where the corporation is injured by the negligence of its own officers, but even in such case the recovery in the absence of statute can only be for want of fidelity and integrity, not for honest mistakes." Mr. Dillon also says that "they (municipal officers) are also liable on common law principles to individuals who sustain special damage from the failure to perform imperative and ministerial duties."

The Law of the Road.

221—A. W.—1. A man is driving along the road; another man drives up behind and wishes to go by. Which side should he pass?

2. If the first man drives to the right and gives half the road, and the second man attempts to pass to the left trotting and in passing causes damage to be done to both, who is responsible for such damage?

1. Sub-section 2 of section 2 of chapter 236, R. S. O., 1897, provides that in case a person travelling or being on a highway in charge of a vehicle overtakes another vehicle, he shall turn out to the left so far as may be necessary to avoid a collision with the vehicle so overtaken, and the person overtaken shall not be required to leave *more than one-half of the road free*.

2. The first man appears to have done all that the law requires him to do. The second man did not evidently turn out to the left in passing as far as was necessary to avoid a collision with the vehicle ahead of him, and is therefore liable for any damage he thereby occasioned this vehicle or its owner.

Collection of Poll-Tax.

222—J. B.—Can a village council collect poll-tax from persons who pay no other tax? If so, must a by-law be passed for that purpose, and when may it be collected? Please state where we can find authority for it in the statutes.

Section 97 of The Assessment Act provides that "every other male inhabitant of a city, town or VILLAGE of the age of twenty-one years and upwards, and under sixty years of age, (and not otherwise exempted by law from performing statute labor), *who has not been assessed upon the assessment roll of the city, town or village*, or whose taxes do not amount to \$2, shall, instead of such labor, be taxed at \$1 yearly therefor, to be levied and collected at such time, by such person and in such manner as the council of the municipality may by by-law direct, and such inhabitant shall not be required to have any property qualification." This section makes provision for

the imposition of this tax, but the council of the municipality should pass a by-law in accordance with its provisions, providing when, by whom, and in what manner it is to be collected.

Proceedings to Close Road Allowance.

223—D. D.—A. is getting signatures for petition to the township council to close up and sell a certain road allowance. He owns the land on both sides of the road allowance its entire distance, which is about half a mile, where it ends at a navigable stream.

1. How many signatures will it be necessary for him to obtain, or would it have to be a certain proportion of all qualified voters?

2. How many signatures should a counter-petition have in order to stop the sale of said road allowance?

3. Suppose there is only one "kicker" against A.'s petition, will the council be obliged to stop the sale?

4. Would the fact of the road allowance having its terminus at a navigable stream affect the validity of by-law passed for the closing up and sale of the said road?

1, 2, 3 and 4. It is wholly in the discretion of the municipal council as to whether it passes a by-law pursuant to section 637 of The Consolidated Municipal Act, 1903, (after the preliminary proceedings prescribed by section 632 have been strictly observed) for the closing and sale of this road allowance. The presentation of a petition to the council is not a necessary preliminary condition to the passing of a by-law of this kind. If the council is of opinion that this road is not required by the general public, it may pass the necessary by-law for its closing and sale; but if the convenience of the public renders this road a necessity the council should not take any action. The fact that the road terminates at a navigable stream does not affect the powers of the council in this regard.

Where Personalty Should be Assessed.

224—D. J. S.—Mr. A. is a merchant residing in the township of X. and has a general store in the township of Z., just across the road, which is the townline. We understand that cash on hand as well as cash in bank, together with the face value of the notes, and the interest on mortgages over \$1,000.00 is assessable as personal property. In which township is A. to be assessed for that part of his personal property?

In the township of Z. sub-section 1 of section 41 of The Assessment Act provides that "every person having a farm, shop, factory, office or other place of business where he carries on a trade, profession or calling, shall, *for all personal property* owned by him, wheresoever situate, be assessed in the municipality or ward where he has such place of business, at the time when the assessment is made."

Assessment of Government Buildings and Buildings on Government Lands.

225—J. W.—1. Are Government buildings rented to tenants who are employed by the Government liable for taxes?

2. A grand stand is built on Government land, partly extending over the water. Would this building be liable for taxes?

1. If these are GOVERNMENT buildings, as stated, they are exempted from assessment and taxation by sub-

section 1 of section 7 of The Assessment Act. If, on the other hand, they are owned by private parties and rented to the Government for public purposes, the buildings, or such portions of them as the Government is entitled to occupy, are exempted from assessment and taxation under the above sub-section. (See our answer to question number 174 in our March issue, clause 2).

1. Assuming that the grand stand is owned by private parties, it is assessable in the same way as other taxable property in the municipality.

Procedure to Unseat Disqualified Member of Council.

226—G. G. A.—Members of a municipal council in 1903 act in contravention of section 435 of The Consolidated Municipal Act, 1903, and are by that section disqualified from holding any municipal office for a period of two years. The same persons are re-elected members for the council in 1904 and are declared elected pursuant to section 186 of the Act by the returning officer on January 5th, 1904.

1. What is the procedure to enforce the disqualification or rather to unseat the members?
2. Within what time must the proceedings be instituted?
3. How far are sections 11, 12, 13, 14, of 2 Ed. 7, chapter 1 and section 220, etc., of The Municipal Act applicable, and what amount of security (if any) will be required from the relator?

Sections 219 and 220 of The Municipal Act seem to apply but to members claiming their seats through an irregular or illegal election or to members becoming disqualified or forfeiting their seats since the election. Sections 15 and 16 of the Statute Law Revision Act, 1902, seem to provide for such proceedings being taken in accordance with section 63 of The Public Schools Act (I. Ed. 7, chapter 39), which requires such proceedings to be taken within 20 days after the election.

Section 15 of chapter 1, 1903, does not apply to this case at all. Leaving out officers, etc., of school corporations, it is confined to municipal officers, which would not include a member of a municipal council. We are of the opinion that sections 11, 12, 13 and 14 of chapter 1, 1902, are intended to take the place of section 220 of The Consolidated Municipal Act as to procedure. Section 220 is not, however, repealed, but is simply modified by chapter 1, 1902, as to the mode of procedure. If the councillor in this case was disqualified on nomination day we do not see why a person who is a complainant should not be limited to the time specified in section 220 the same as in the case of any other disqualification existing on nomination day. As to the security to be given we refer you to section 12 of chapter 1, 1902, and section 90 of chapter 178 Consolidated Statutes of Canada, and the rule of court made in pursuance thereof.

Assessment of Uncompleted Dwelling Houses.

227—A. G. D.—Are dwelling houses half finished, no tenants living in them, exempt, or can they be assessed?

There is no provision for the exemption of these dwelling houses, and they should be assessed at their actual cash value the same as any other property in the municipality, in accordance with the provisions of section 28 of The Assessment Act.

Alteration of School Boundaries—Procedure When Trustees Refuse to Act—Payment of Price of Road Grader.

228—B. L. P.—About two years ago there was a school section formed here, a school meeting called by the clerk of the municipality and trustees appointed, who failed to act, and so they have no school. Now the ratepayers are anxious to have a school going, and also want the section enlarged by taking in another mile, which would make the section over three miles. This extra mile has a big share of the children who would attend school. (There was no school meeting held this year.)

1. Can the council change the section and take in this extra mile?
2. Can the trustees be forced to act when appointed? If so, how will we proceed?
3. Our municipality are contemplating the purchase of a road grader. Can they arrange to make the payments in three yearly payments without getting a vote of the people?

1. If, when the additional territory has been added to this school section, no part of the section will be more than three miles in a direct line from the school house when built, the council may attach the additional territory to the section by by-law passed in accordance with the provisions of sub-sections 2 and 3 of section 41 of The Public Schools Act, 1901.

2. Section 109 of the Act provides that "every person elected as trustee, who has not refused to accept the office, and who at any time refuses or neglects to perform its duties, shall forfeit the sum of \$20, to be sued for and recovered before a Justice of the Peace by the trustees, or any person whomsoever for the purposes of such trustees."

3. No. Sub-section 1 of section 389 of The Consolidated Municipal Act, 1903, provides that "subject to the provisions of the two last preceding sections every by-law for raising upon the credit of the municipality any money not required for its ordinary expenditure, and not payable within the same municipal year, shall, before the final passing thereof, be submitted to the electors of the municipality in the manner provided for in section 338 and following sections of this Act."

Collection of Taxes on Property Unassessed.

229—W. G. M.—In the years 1902 and 1903 there were several properties in our village that were not placed on the assessment roll for these years, and no taxes have been paid on these properties for these two years. Is there any way provided in the statutes so as to enable us to collect the taxes for the years that these properties were unassessed?

We are of opinion that the taxes for 1902 cannot now be collected. Section 166 of The Assessment Act provides a method of collecting the taxes for 1903. This section provides that "if, at the yearly settlement to be made on the 1st day of May, it appears to the treasurer that any land liable to assessment has not been assessed, he shall report the same to the clerk of the municipality thereupon, or if it comes to the knowledge of the clerk in any other manner that such land has not been assessed, the clerk shall, under the direction of the council, enter such land on the collector's roll next prepared by him thereafter, as well for the arrears omitted of the year preceding only, if any, as for the tax of the current year, etc."

Proceedings on Appeal from Engineer's Award.

230—A. J. C.—A. and B. appealed against a certain award ditch laid out by the engineer for the township under The Ditches and Watercourses Act, 1897, and amending Acts thereto, said A. and B. being themselves parties to the said ditch.

The Judge, in the absence of the township engineer, upon hearing the evidence adduced before him and the counsel for the appellants, adjourned the court to a later date to hear the engineer in support of his award, whereupon the Judge set the award aside with costs against the municipality.

The parties to the award having been notified by the clerk of the municipality of the date and place fixed by the Judge holding court as required by sub-section 3 of section 22, Ditches and Watercourses Act.

1. Are these parties considered as witnesses? If so, by whom are they to be paid and what scale of fees are they allowed, and are all or any of them, by reason of their attendance at the adjourned court, entitled to pay, not having been required so to do by the council?
2. Is the municipality liable for the payment of any witnesses called in by the appellants?
3. Is the municipality obliged to pay for any assistance alleged to be given the said engineer while employed in laying out the said work, no provision having been made for such in his (the engineer's) report?
4. Is the council of the municipality obliged to pay for conveying the said engineer from place to place and no provision made in his report for the same?

1. The parties to the award, who attend the hearing of the appeal therefrom, pursuant to the notice received

from the clerk, are not entitled to be paid any fee for their attendance, unless their presence is enforced by a subpoena issued and served pursuant to sections 25 and 26 of The Ditches and Watercourses Act (R. S. O., 1897, chapter 285). It is optional with these parties as to whether they attend the hearing or not, and if they do so voluntarily they are presumed to be present to look after their personal interests in the matter and must bear and pay their own expenses. If, on the other hand, they are present in obedience to a subpoena, issued at the instance of either the appellant or the municipality, and the presiding Judge so orders, as empowered by sub-section 7 of section 22 of the Act, the municipality must pay their witness fees on the Division Court scale.

2. Yes, if present in obedience to a subpoena regularly issued and ordered to do so by the presiding Judge.

3 and 4. By "engineer's report" we presume is meant the award made by the engineer, which was the subject of the appeal. If this is so, the award having been set aside, sub-section 7 of section 22 empowered the presiding Judge "to provide for the payment of the costs in the award mentioned." If these costs were not mentioned in the award, as stated, the Judge had no power to provide for their payment by the municipality, or any one else.

Where Statute Labor Should be Performed—Assessment of Premises for School Purposes.

231—D. B.—1. Has a person holding property in two different road divisions to do statute labor for each property in each road division?

2. A man holds property in one school section and lives in another. The sections adjoin each other. Has his school tax to go to the school he lives in or be divided, the amount on each property going to school section in which it lies?

1. The latter part of sub-section 2 of section 109 of The Assessment Act provides that "every resident shall have the right to perform his *whole* statute labor in the statute labor division in which his residence is situate, unless otherwise ordered by the municipal council."

2. Sub-section 2 of section 12 of The Public Schools Act, 1901, provides that "where the land or property of any individual or company is situated within the limits of two or more school sections, the parts of such land or property so situated shall be assessed and returned upon the assessment roll separately, according to the divisions of the school sections within the limits of which such land or property is situate."

Council Need Not Pass By-Law to Add Percentage to Arrears of Taxes.

232—D. C.—Is it necessary for a municipal council to pass a by-law to add 10% to all arrears of taxes not paid on the first day of May, or does the statute provide for that?

Since this is a municipality in one of the Territorial Districts of Ontario, section 53 of chapter 225, R. S. O., 1892, is applicable. This section provides that arrears of taxes due to any municipality in any of the districts shall be collected and managed in the same way as like arrears due to municipalities in counties. Sub-section 1 of section 169 of The Assessment Act provides that "if, at the balance to be made on the 1st day of May in every year, it appears that there are any arrears due upon any parcel of land, the TREASURER shall add to the whole amount then due ten per centum thereon." It is not necessary nor can the council legally pass a by-law to authorize or empower the treasurer to add this percentage. He should perform this duty in accordance with the provisions of the above sub-section.

Township Council Cannot Build Cement Walk on County Road.

233—X. Y. Z.—1. Has a township council the power to build cement walks on the sides of a county road running through the municipality over which they preside?

2. If so, can they issue debentures and pay for same by using a certain amount of the money received from statute labor (which is commuted in the township) each year until paid?

3. Can debentures be issued by the township council for building a walk on a county road without a vote being taken from the ratepayers of the municipality through which it runs?

4. Can a township council build cement walks in a municipality under The Local Improvement Act, and if so, would they have to allow the ratepayers to vote on it?

1. If this highway is a county road, as stated, the county council has exclusive jurisdiction over it, and the township council has no authority to construct cement walks or do any other work on it.

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

4. A township council has power to pass by-laws for this purpose without submitting them to the electors of the municipality, but not for the purpose of building such sidewalks upon a county road.

Council Should Not Settle With Party to Action Without Consent of His Solicitor.

234—C. A. W.—A man drives over the end of a culvert on a dark night and loses his life. His relatives do not come to the council personally, but bring an action against the township for damages through their solicitor.

1. If the council makes a settlement with the plaintiffs, without the knowledge of plaintiffs' solicitors, would the township be liable to pay any costs incurred with plaintiffs' solicitors?

2. If any agreement is made between the plaintiffs and the council, whereby the plaintiffs agree to pay their own solicitor, and the settlement is made, plaintiffs being not worth anything, would the law compel the township to pay plaintiffs' solicitors.

1 and 2. The plaintiffs' solicitor has a lien on the sum agreed to be paid to the plaintiffs in settlement of this action, and if the defendants pay it to the plaintiffs without the knowledge and consent of the solicitor for the latter, the solicitor can successfully look to the defendants for payment of his costs.

Liability of Council for Water on Road—Duration of Responsibility of Bondsmen.

235—X. X.—A ratepayer of our township notified the council thus:

Mr. _____, Reeve:

You are hereby notified that the water from the road has entered on my property and has caused me damages to the amount of four tons of hay (\$28.00). Please remit me the amount and oblige,

Yours truly,

(Signed)

F_____ G_____

1. Is the council liable for the amount claimed?

2. Have the bondsmen of a municipal officer to be notified every year in order that they may be legally held?

1. Unless the council has, by artificial means, conducted water from the road to this man's property and deposited it there, it is not responsible for the damages claimed. If water flows naturally from the highway to and upon F. G.'s land, he should institute proceedings to have a drain constructed in the locality, either under the provisions of the Ditches and Watercourses Act (R. S. O., 1897, chapter 285), or The Municipal Drainage Act (R. S. O., 1897, chapter 226), whichever is applicable to this particular case.

2. If the treasurer was appointed for a definite number of years, his bondsmen are responsible for the proper performance of his official acts for the whole of that period without any notice, and in the case of The Township of Adjala v. McElroy (9, O. R. 80) it was held that where a treasurer was re-appointed annually for several years, the appointments were not equivalent to removals and re-

appointments but were rather a retention in office of the same treasurer, and that his sureties were not discharged in consequence thereof.

The New Assessment Act.

236—SUBSCRIBER.—Kindly tell me when the new Assessment Act now before the House will become law; also tell me what you think of it and give, in short, its principal features.

We are unable to state when the proposed new Assessment Act will become law. It is at present being considered by a special committee of the Legislature appointed for the purpose, and is being subjected to many changes. We cannot at present foreshadow its provisions, or give an opinion on them, not knowing what they will be. If and when the Act becomes law, it will be fully considered and explained in these columns.

Reeve Cannot Appoint Auditor—Councillor May be a Paid Commissioner—Preservation of Order at Council Meeting.

237—G. J. S.—1. Has the reeve power to appoint one of the township auditors independent of the council?

2. Is it lawful for the council to appoint one of the councillors commissioner of roads with pay?

3. Is the reeve compelled to protect a member of his council from abuse from a ratepayer when council is in session?

1. No. Sub-section 1 of section 299 of The Consolidated Municipal Act, 1903, provides that "subject to the provisions of the next two sections and section 309, EVERY COUNCIL shall at the first meeting thereof in every year after being duly organized, appoint two auditors, etc." This has been the law since the enactment of section 8 of chapter 23 of The Ontario Statutes, 1898.

2. Yes. Clause (a) of sub-section 1 of section 537 of The Consolidated Municipal Act provides that "nothing in this Act shall prevent any member of a corporation from acting as commissioner, superintendent or overseer, over any road or work undertaken and carried on in whole, or in part, at the expense of the municipality, and it shall be lawful for the municipality to pay such member of the corporation acting as such commissioner, superintendent or overseer."

3. The head or other chairman of the council should preserve proper order amongst ratepayers and others who are present at any meeting of the council, and section 267 of The Consolidated Municipal Act, 1903, authorizes him to expel and exclude from any meeting any person who has been guilty of improper conduct at such meeting.

Proceedings at Nomination Meeting.

238—J. R. A.—1. At nomination for municipal councillors should the nominating officer accept a nomination when the proposer or seconder has already proposed or seconded the requisite number of candidates?

2. Should the proposer and seconder appear upon the assessment roll of the municipality of the current year?

3. Should the proposer and seconder be present at nomination meeting?

1. There is no limit to the number of candidates that the same proposer and seconder may place in nomination, providing they proceed in accordance with section 128 of The Consolidated Municipal Act, 1903.

2. A meeting for municipal nominations is a meeting of the "electors" of the municipality. (See sub-section 1 of section 118 of the Act). If the proposer and seconder are entitled to vote at the election then pending, they are competent to participate in the proceedings at the nomination meeting.

3. Yes.

Village Council Cannot Make Grant to Telephone Company.

239—O. D.—The village of S——— want a telephone. The company want \$100.00 before they put it in. The village raised

\$80.00 by subscription. The township council passed a resolution granting \$20.00 toward the subscription. Would that be legal?

No.

Council May Pass By-Law Regulating Wire Fences.

240—E. G. B.—Have the township council of a municipality power to pass a by-law saying what should constitute a lawful wire fence on division lines between farms in such township, that is, specifying the kind of fence that would be thought to be satisfactory as a line fence between farms throughout the township?

Yes. Sub-section 3 of section 545 of The Consolidated Municipal Act, 1903, authorizes the councils of townships to pass by-laws "for regulating the height, extent and description of lawful division fences, etc."

Private Parties Can Erect Telephone Lines—Grant to and Assessment of.

241—W. J. D.—A doctor is erecting a private telephone from his residence in a village out in the country for eight miles. The people are supplying the poles, and the doctor is completing with wire and phone. A number of interested parties are petitioning the township council for a grant of money. I might add that the council gave permission to erect poles provided they did not interfere with the roadway.

1. Can any person, or a number of persons, erect a telephone whenever they please without a charter of any description?

2. Could the council legally make any arrangement with the owner or owners that they (the owners) were not to sell, lease or transfer their line to the Bell Telephone Co. provided the council gave them a grant of money?

3. Could the township assess a telephone partnership that has no charter of incorporation the same as the Bell Telephone Co.?

4. Does the law respecting the assessment of telephones apply the same to chartered and private telephone companies, or are there provisions for each?

1. Yes.

2. No.

3. No. The provisions of sub-sections 2 and 3a (as enacted by sections 6 and 7 of The Assessment Amendment Act, 1903), and 3 (as enacted by section 1 of The Assessment Amendment Act, 1902), of section 18 of The Assessment Act, apply only to incorporated companies, and not to telephone plants operated by private individuals as in this case. The poles, wires, etc., used in operating this telephone system will have to be assessed on the "scrap-iron" principal, that is, as so much dead material, at its actual cash value, in accordance with the provisions of section 28 of the Act.

4. The law as to the assessment of telephone systems, operated by both incorporated companies and private individuals, is fully stated in our reply to question number 3.

Regulation of Crossing Road Allowance by Railway Company.

242—J. S.—The Grand Valley Railway Co. are surveying a proposed line of railway through the township, and their line, as proposed, will cross one of the leading and probably the most travelled road in the township. This road runs along the bank of the river, and is known as the E. River Road, and even at present it is narrow and none too safe for public travel, and it is hemmed in on the side farther from the river by hills, which makes it practically impossible to widen it to any extent.

The Railway Co., apparently, purpose crossing the road five times within the distance of four miles, and each time they are crossing it on a very long angle.

1. Can we, as a council, under the circumstances prevent their crossing this road, and if we cannot prevent their crossing, can we prevent their running at such an angle and taking up so much of the roadway?

2. At what angle have they the power to cross such a public road, or, to put it in other words, what length of the public road can they use in crossing?

It would not be difficult for them to keep their track on the west side of this road, between the road and the river, and thus avoid crossing the roadway at all.

1 and 2. If the proposed method of crossing this highway by the railway company will, in the opinion of the council, be subversive of the public safety, the matter

should be so represented to the Board of Railway Commissioners for Canada, which is the proper tribunal to consider and settle a dispute of this nature. In this connection see section 184 of The Railway Act. (Chapter 58 of The Dominion Statutes, 1903).

Liability of County Council for Maintenance of Bridges.

243—N. Mc.—1. Can a county council be compelled to assess bridges built on a deviated road made in lieu of part of concession and part of townline? The bridge would have been on townline if the proper road had been followed?

2. The bridges are over eighty feet in length and were built and maintained by the township many years ago. How should the township proceed if the county is liable?

1. Sub-section 1 of section 617 of The Consolidated Municipal Act, 1903, provides that "It shall be the duty of the county council to erect and maintain bridges over rivers, streams, ponds or lakes, forming or crossing boundary lines between any two municipalities (other than a city or separated town) within the county." And sub-section 2 provides that "a road which lies wholly or partly between two municipalities shall be regarded as a boundary line within the meaning of this section, although such road may deviate so that it is in some place or places wholly within one of the municipalities, *provided that such deviation is only for the purpose of getting a good line of road*, and a bridge built over a river, stream, pond or lake crossing such road where it deviates as aforesaid, shall be held to be a bridge over a river, stream, pond or lake crossing a boundary line within the meaning of this section."

2. If these are bridges over a *river, stream, lake or pond* on the deviating portion of the boundary line, and the deviation is for the purpose of getting a good line of road, the county council should be notified by the township council to put the bridge in a proper state of repair, and if they neglect or refuse to comply with the notice, they can be compelled to do so by mandamus. We assume that these bridges are over eighty feet in length, or, if not, that the county council has not passed a by-law pursuant to sub-section 3 of section 617.

Date for Return of Statute Labor Lists—By-Law Raising Commutation Rate—Closing and Sale of Road.

244—D. D.—1. Has a municipal council authority to fix a date for pathmasters to return statute labor list?

2. Have they authority to pass a by-law raising the rate of commutation per day for statute labor from seventy-five cents to one dollar?

3. Can a municipal council legally close up and sell any road or side line not used by the public? Are not all roads laid out in the original survey of the township? Are they not the property of the Crown Lands Department?

1. The council has no authority to pass a by-law of this kind. Section 110, sub-section 1, of The Assessment Act (as amended by section 9 of chapter 27 of The Ontario Statutes, 1899,) fixes the 15th day of August as the date before which pathmasters shall annually return their statute labor lists to the clerk.

2. Yes. Pursuant to the provisions of section 103 of The Assessment Act and sub-section 2 of section 561 of The Consolidated Municipal Act, 1903. This by-law may be one amending the original by-law by substituting \$1.00 for 75c. wherever it occurs therein, or the original by-law may be repealed and a new one passed fixing the commutation at \$1.00 per day.

3. The council may pass a by-law for this purpose, pursuant to the provisions of section 637 of The Consolidated Municipal Act, 1903, after all the preliminary proceedings prescribed by section 632 have been strictly observed.

Tenure of Office of Pathmaster—Payment of Extras on Contract for Building School House.

245—T. J. T.—Is a person a pathmaster in office, or just till he returns his list, the work all performed, or if in the winter and his beat is blocked with snow, is he not the person to notify to open it, there being no by-law for winter pathmaster? Or who is, if he is not, and can he not warn the people out and give them certificates on their next year's work?

2. The trustees let by contract the building of a school house complete at a certain price. The contractor went behind, and he wants one hundred dollars more. Have the trustees the power to give it to him and not leave themselves liable, there being some ratepayers against it, or would it be legal to pay him if a majority signed a petition for that purpose, or what would be the legal way for the trustees to act, they thinking that he is entitled to it, and the trustees being the building committee?

1. A pathmaster appointed by the council remains in office until his successor is appointed, and should see that the highway in his division is kept in a proper state of repair to the extent of the means he has at his command. If during his term of office the highway in his division becomes dangerous or out of repair, and he has not the means of fixing it, he should notify the council of the dangerous condition of the road. A pathmaster has no authority to perform the duties prescribed by sub-section 3 of section 537 of The Con. Mun. Act, 1903, unless the council has passed a by-law pursuant to that sub-section giving him power to carry out its provisions.

2. We assume that the money required for the erection of this school house was raised by the issue of debentures by the municipal council in accordance with the provisions of section 74 of The Public Schools Act, 1901. If this is so, and the extra \$100, which the trustees are of opinion that the contractor should be paid, is not in excess of the proceeds of the debentures received by the trustees from the council, the trustees cannot be held liable in any way if they pay it to him. If, on the other hand, the extra \$100 would be additional to the amount of the proceeds of the debentures, the trustees have no authority to pay, until they have been empowered by the ratepayers of the section to do so at a special meeting called for the purpose, pursuant to sub-section 1 of section 74.

Dissolution of Union School in Districts.

246—W. W.—Last April a town in a municipality in an unorganized district became incorporated. In this town there is a public school, for the building of which, and later on for the completion of which debentures were issued. The school section included the whole municipality. All the rateable property in the municipality was to be and has been yearly levied to raise the money for the debentures of both loans. The debentures are of course in the name of the senior municipality.

1. What proceedings should be taken to determine the responsibility of both the senior and junior (town) municipality to the remaining debentures when they fall due?

2. In case the senior municipality decides to withdraw from the junior municipality in school matters and to erect a school of its own, what proceedings shall be taken to obtain its share of the school property, both building and land?

Sub-section 1 of section 52 of The Public Schools Act, 1901, provides that "In case a portion of the territory composing one or more school sections becomes incorporated as an urban municipality, the boundaries of such school section or sections shall continue in force and be deemed a union school section, and the provisions of the Act respecting the election of public school trustees in urban municipalities shall apply thereto until such union is altered or *dissolved*, as provided by this Act." Section 46 of the Act provides the procedure to be followed in effecting the dissolution of a union school section. Sub-section 8 of the latter section makes provision for the adjustment by the arbitrators of all rights, claims and liabilities between the different portions of the union section. We might add that that part of this section that relates to appeals from the award of the arbitrators to the

county council is inapplicable, as there is no county organization in this locality, and that every lot and part of lot in both municipalities must pay its share of the debentures mentioned, annually, according to its assessed value, until the debentures have been fully satisfied.

Enforcing Maintenance of Deviating Townline.

247—R. M.—A. and B., two adjoining municipalities, maintain the townline between them jointly. Said townline for about two miles deviates from the original road and goes through A. then follows the original townline for about one mile, when it runs to the river, the boundary between the two counties. The deviating townline is maintained jointly owing to a bend in the river county line. Four farms are so situated in B. that the only place they can perform their statute labor is on said portion of townline, which they have done for upwards of 20 years, while the residents of A. perform their statute labor on their concession road. C., the commissioner of B., claims that A. ought to perform an equal number of days' work on said townline, as B. does, and put up a claim for the amount of work done by statute labor by B. on said road, which A.'s commissioner refuses to do, or yet to set apart a road division in A. to equal B.

1. Is there no way to compel A. to do an equal amount of work, or pay money opposite B.?

2. How long can an account between two municipalities run and be collected?

1. This townline, including the deviating portion of it, is under the joint jurisdiction of the adjoining townships, A. and B., (see section 622 of The Consolidated Municipal Act, 1903). Sub-section 1 of section 620 of the Act imposes upon these townships the duty to maintain this boundary line, presuming, of course, that it has not been assumed by the county council. If the township of A. fails to agree with township B. as to its share in the maintenance of this boundary line, application may be made to the county council in accordance with section 648 and following sections of the Act for the enforcing of the maintenance of this road. On the making of this application, section 651 provides that "the county council may determine the amount which each township interested shall be required to apply for the opening or REPAIRING of such lines of road, or may direct the expenditure of a certain portion of the STATUTE LABOR, or both, as may seem necessary to make the said lines of road equal to other roads."

2. This question is too indefinite to enable us to frame a satisfactory reply.

Council Cannot Regulate Assessment—Opening and Maintenance of Roads—Salary of Sanitary Inspectors—Penalty for Creating Nuisance.

248—D. D. G.—Is the following motion legal and binding?

1. Moved by M., seconded by C., That the aggregate assessment of the township be raised 25% this year?

2. In these districts where there is no county organization, how can the ratepayers in a township compel the council to open a certain road?

3. How can one township compel an adjoining township to pay its share of keeping the boundary road and bridges in repair?

4. What pay does the sanitary inspector in a township Board of Health get?

5. Are there any extras?

6. Is there any penalty for a man drawing a dead horse out of a town and dumping the same in a creek in another township, he being the owner of the carcass?

1. A municipal council has no legal authority to pass a resolution of this kind, nor can the assessor be bound by it. The extent of the council's duty in this regard is to appoint a competent man to fill the office, and he should use his own judgment in placing a value on property in the municipality for assessment purposes. Section 28 of The Assessment Act makes provision for the method of fixing the value of assessable property.

2. It is optional with a township council as to whether it passes a by-law pursuant to section 637 of The Consoli-

dated Municipal Act, 1903, after having strictly observed the preliminary proceedings mentioned in section 632 of the Act to open a highway for public travel, and it should not do so, unless the general convenience of the public requires it.

3. There is no provision for a case of this kind. Since there is no county organization in the locality, section 648 and following sections of The Consolidated Municipal Act, 1903, are inapplicable.

4. The Public Health Act (R. S. O., 1897, chapter 248,) does not fix the amount of the salary to be paid to sanitary inspectors. This is left to the discretion of the members of the councils who appoint them.

5. This depends on the arrangement entered into between the council and the sanitary inspector at the time of his appointment. If he is appointed at a fixed salary, he should perform ALL the duties pertaining to his office for that salary. If no salary is mentioned, he should be allowed a reasonable sum for all work he actually performs.

6. The depositing of this dead animal in the creek is the creation of a nuisance. The guilty party should be notified to abate the nuisance in accordance with the provisions of section 69 of The Public Health Act (R. S. O., 1897, chapter 248). If he does not abate the nuisance within the time specified in the notice, the local Board of Health may do so, and recover the expense of so doing from the party in default, as provided in section 71 of the Act.

Township Treasurer Cannot be Trustee or Treasurer of Public School Section.

249—J. L. S.—1. Can a township treasurer be also treasurer of a school section?

2. Can a township treasurer be a trustee for a school section?

My own opinion is that he cannot hold both these offices at the same time because the trustees have to issue orders on the township treasurer. The school treasurer has to draw money from the township treasurer. The township treasurer would be issuing orders on himself if he were trustee or school treasurer.

1 and 2. We agree with you, as we deem these offices incompatible. As treasurer of a school section or school trustee, his duties would frequently clash with those he is called upon to perform as treasurer of his township.

Fees of County Treasurer—Descriptions in Tax Deed.

250—Y. Z.—In many instances, as county treasurer, I am requested by a purchaser to include in one and same tax deed many parcels or lots of land, descriptions of which require even special blanks on account of space.

1. May I charge one dollar for each purchased parcel or lot under section 201 of The Assessment Act?

2. Would such description (the west sixteen acres of north-east quarter of lot number —, concession —, township —, county —), without saying or reciting how butted and bounded, be sufficient?

1. Unless the purchaser or his assignee otherwise requests or directs, the treasurer may execute a deed for each separate parcel of land sold, and for each such deed charge the sum of one dollar. If, however, the purchaser requests the treasurer to include more than one parcel of land sold him, in the deed, he must do so, to comply with the provisions of section 201, and is entitled to only \$1.00 for preparing the deed.

2. This description may or may not be sufficient. If the lot runs directly north and south, the description is sufficient. It would mean a strip of uniform width off the west side of the north-east quarter of the lot. Land should always be described in such a way that a surveyor can take the deed and make an accurate survey of the lands from the description contained in the deed.

Clerk is Custodian of Corporate Seal—Proceedings to Divide School Section.

251—J. M. M.—1. Who should be the custodian of the municipal seal, the reeve, clerk or treasurer?

2. Can a council divide a school section after the ratepayers voted to build on the old site, and the kind of building, also by-law for levying the amount passed by the council, contract let by the School Board and work proceeded with? A party is getting up a petition and urging the council to divide the section. I might say that the School Board acted in accordance with statutes every step of the way.

3. Why have you changed the order of the Municipal Calendar from last year, as we found the old way much more serviceable in the back woods, as mail is slow in reaching us?

1. The clerk.

2. Yes, if the council deems it advisable to do so, and passes a by-law for the purpose in accordance with the provisions of section 41 of The Public Schools Act, 1901.

3. This change is not intended to be a permanent one, but was rendered necessary in the last two issues by reason of the large number of questions that had to be indexed on the same page.

No General School Levy in Union Between Township and Urban Municipality.

252—CLERK—Union school section 7 is rated as follows: Township A., \$50,000; incorporated village B., \$200,000. School house is situated in B. and four teachers are employed in said school. Should trustees receive one-fifth of \$450 out of general funds of township A.? or one-fifth out of what sum? The law states that \$150 is to be paid for principal and \$100 for each assistant. Whether that is applicable to a union of that nature is my doubt.

This is a union section formed between a township and urban municipality and the latter part of sub-section 2 of section 70 of The Public Schools Act, 1901, provides that "this section (that is section 70) shall not apply to union sections formed between township and urban municipalities." Therefore there is no authority for the levy of the general school rate mentioned in section 70 or any part of it in either that part of the union section which is located in the township, or that which is located in the village municipality.

Collection of Taxes in Union School Section Formed of Organized and Unorganized Territory.

253—C. C.—There is a union school house in the unorganized township G— adjoining us in N—. Quite a few of the ratepayers are in N—. This school put in their estimate of amount they wanted for school purposes, and we had the ratepayers in our township taxed accordingly. Now it turns out that they are unable to procure a teacher, and therefore will not need so much money, if any at all. The ratepayers of our township (of the section) are quite dissatisfied. This would not be so had they a like tax in G—. G— would possibly have tried to collect the same rate, but they failed to assess in their section last year, and some of their ratepayers refuse to pay taxes because they were not assessed. Can they collect taxes on the old assessment roll? If not, will we have to refund money (taxes) of those ratepayers in our township?

The trustees of this union section cannot levy a rate for school purposes in that part of the section in the unorganized township on the values fixed by the old assessment roll. The Public Schools Act, 1901, makes provision for the making of an assessment annually, and no other. We presume that it is the intention of the trustees to engage a teacher as soon as they can obtain one, and they can borrow their share of the money required to pay him and other expenses of maintaining the school until they can levy and collect it the coming fall, pursuant to sub-section 10 of section 65 of the Act. We presume that the share of the amount required by the trustees levied against and collected from the ratepayers in the organized municipality has been paid over by the council to the trustees in accordance with the provisions of sub-section 1 of section 71 of the Act, and cannot

therefore now be refunded to the parties who paid it. If it is not required by the trustees for the purposes of the school this year, these ratepayers will have this much less to pay the ensuing fall.

Council Cannot Grant Privilege to Obstruct Road.

254—SUBSCRIBER.—A. and B. have been in partnership in the wood business and have had the privilege of piling their wood on a certain street in town, which is not used much, the piling to be done in such a way as not to interfere with traffic. They have dissolved partnership this spring, and B. applies to the council for the privilege of the same street to pile his wood on which was granted. A. applies to the council for the same street, but council could not grant his request.

1. Can he bring action against the corporation and have the council take the privilege away from B.?

2. Has the council the power to grant that privilege to any person?

1. The corporation can be indicted for allowing an obstruction to remain on the highway, and will be liable for any damages sustained by any person by reason of this wood having been allowed to remain on the highway.

2. No, the public is entitled to the use of the whole width of this street, and the council has no power to grant authority to use it for private purposes or obstruct it to any one. We assume, of course, that this street has been legally established and dedicated to the public as a highway.

Proceedings to Enforce Cleaning Out of Drain.

255—J. C.—Three years ago the engineer came on and made an award, and my lot is a corner lot and the water empties on my lot from two sides that front on the lake road and concession 2. The ditches were made on the roads by the township. The two farms west of me also empty the water in the ditch on my place, first coming into the ditches on the roads. It is a branch ditch, and the two ditches come into one east of my place. I will enclose a map of the ditch. Last fall, in October, about the first of the month, I got blank forms from the clerk and filled them in and served them on the parties that own the farms below me that the ditches run through as well as the township. *The township part was done according to the award*, but the parties below my place never did theirs in the first place, nor did they do it according to the award last fall, after I had given them their 30 days' notice to clean out their ditches. The fact of the matter is this, my fields and buildings are flooded with the water off the road.

Can the township empty the water off the two roads when the parties below me do not take it away, and if I can collect damages, and from what parties, if any, if I warned the engineer to come and inspect the ditches last fall, in November, but he did not come. I told the reeve I had done so, also told him that the engineer had not come on to inspect the ditches?

We gather from the statement of the facts that this water was caused to flow and remain on the complainant's land by reason of the completion by the municipality of the repairing of its portion of the drain in accordance with the terms of the award, and of the non-completion of the repairing of their respective portions by the parties below. If this is so, the municipality cannot be held responsible in damages, as it only did what the law required it to do. Nor are the owners of the lands below the complainant (who seem to be the real instigators of the trouble) responsible in damages to the complainant. Section 35 of The Ditches and Watercourses Act (R. S. O., 1897, chapter 285), provides a remedy under these circumstances, and the party aggrieved must seek his remedy in the way thus provided. If the engineer WILFULLY neglected to make the inspection mentioned in sub-section 1 of section 35 of the Act, he is liable to the penalty mentioned in section 37 of the Act.

Duties of Auditors.

256—ENQUIRER.—Does the Act empower auditors to investigate back of the vouchers?

For instance, it may appear from a voucher that a commissioner or other person has been paid an amount for some special work which to the auditors appears excessive. Can they investigate or have the matter investigated?

Sub-section 1 of section 304 of The Consolidated Municipal Act, 1903, provides that "the auditors shall examine and report upon all accounts affecting the corporation or relating to any matter under its control or within its jurisdiction for the year ending on the 31st day of December preceding their appointment." A voucher produced to an auditor is simply evidence that the amount therein mentioned has been paid by the treasurer to the person or persons therein named on a certain date. It is not conclusive as to whether the money was legally or properly paid or not, and it is the duty of the auditors, in case of doubt, or the suggestion of suspicious circumstances, to investigate and ascertain the facts attending the payment. If, after investigation, they deem that any payment made by the treasurer, on municipal account, was excessive or irregular, the auditors should so report it to the council which appointed them.

Ownership of Boundary Line Between City and Township.

257—W. J. P.—Who is the owner of a boundary road between city and county, and how is it to be established?

Some years ago the city and adjoining township did work on it (separately). Since then there has been no work performed on it, as neither one claims the ownership of it, and it is now in a bad shape.

Since this is a highway lying between a city and a township, it is under the joint jurisdiction of the two adjoining municipalities (unless it has been assumed by a by-law of the county council) and should be maintained and kept in repair at the joint expense of the city and the township. (See section 622 of The Consolidated Municipal Act, 1903.)

Mode of Calculating Statute Labor.

258—A. B.—I have 97 acres in one lot and 114 in the other. My assessment is \$5,350 for the 211 acres. I am charged with two days' extra statute labor every year for the 11 acres. Is this right? I own parts lots 15 and 10. I have two deeds.

Sub-section 2 of section 109 of The Assessment Act provides that "wherever one person is assessed for lots or parts of several lots in one municipality, not exceeding in the aggregate two hundred acres, the said part or parts shall be rated and charged for statute labor as if the same were one lot, and the statute labor shall be rated and charged against any excess of said parts in like manner." The method hitherto followed in calculating this statute labor seems to have been correct; if two days is the proper number of days for the valuation of the eleven acres according to the ratio of statute labor in vogue in the municipality.

Qualification of Councillor of One Municipality as Assessor in Another.

259—RATEPAYER.—The assessor for M—— township has property both in M—— and S——. He resides in S—— and sits in the council there. He holds the office of collector for M—— township. Can he legally hold the office of assessor for M—— township?

We are of opinion that this man can legally hold the office of assessor for the township of M——. While filling this office, we do not think, however, that he can legally hold his seat in the council of S——. Sub-section 1 of section 80 of The Consolidated Municipal Act, 1903, provides that no assessor of ANY municipality shall be qualified to be a member of the council of ANY municipal corporation.

Power of Police Trustees as to Abatement of Nuisances.

260—C. O. L.—Have the trustees of a police village power to pass a by-law compelling residents to keep their yards and out-houses in a sanitary condition? If so, can the trustees be compelled to look after the same?

The trustees of a police village have no authority to pass a by-law of this kind. They are empowered by

section 746 of The Consolidated Municipal Act, 1903, to enforce the provisions of clause number 15 of that section, but these only apply to filth or rubbish deposited in or upon a street, lane, or public place. Clauses 4, 5 and 6 of schedule 3 appended to The Public Health Act (R. S. O., 1897, chapter 248), make it the duty of the sanitary inspector of the municipality in which the police village is located to cause all premises therein to be kept clean in the manner and to the extent in these clauses mentioned.

Powers and Liabilities of Police Trustees.

261—J. R.—We have an unincorporated village, with police trustees appointed, and they have taken over the sidewalks from the municipal council and are talking of laying down cement walks, as plank is out of the question, and although I wrote you before in regard to some questions, I have to trouble you again.

1. Are there police trustee villages incorporated and unincorporated? If so, what is the difference?
2. Can The Frontage Act be made applicable to village for police trustee purposes and be assessed as such, providing they have taken over the sidewalks from the municipal council? If not, can they get it enforced through the municipal council?
3. Would the trustees of an incorporated police village (if there be such) be liable for damages from accident arising from defective sidewalks?

1. A police village is an unincorporated village, that is, it has no corporate existence separate from the township municipality in which it is located. The Board of Trustees may become incorporated in accordance with the provisions of section 751 and following sections of The Consolidated Municipal Act, 1903.

2. Section 752 of the Act provides that "after the passing of the by-law incorporating the police trustees of any police village the Board of Police Trustees shall have power from time to time to pass by-laws for the construction and maintenance of any of the works, improvements, and services, to be paid for by local rate mentioned in section 664 and following sections of this Act, which may be undertaken by the corporation of any incorporated village." Until the Board of Police Trustees becomes incorporated under the above sections, and passes a by-law pursuant to the provisions of section 752, these works (including the construction of cement walks in the police village), must be undertaken and carried to completion under the authority of a by-law passed by the council of the township in which the police village is located under the authority of section 664 and following sections of the Act.

3. Not until they have become incorporated under the provisions of the sections of the Act above mentioned. After such incorporation, sub-section 2 of section 755 provides that the remedy for the non-repair of the work shall be against the Board of Police Trustees.

Qualification of Clerk of Village.

262—J. H. M.—At the last municipal election a man was elected by acclamation to fill the unexpired term of a trustee, and at the first meeting of the village council for this year was appointed an auditor for the village. Can this man, while holding these offices, hold the office of clerk of the village?

If this party was appointed an auditor of the accounts of the corporation for the year 1903, has performed his duties and received his pay, he is practically out of office as an auditor, and will not be incapacitated from accepting the office of clerk. As clerk his duties are ministerial, and therefore we are of the opinion that he can act as such, though he is at the same time a public school trustee.

Liability of Party Obstructing Highway.

263—CITIZEN.—If a party leaves an obstruction on the highway, which causes damages, can the party damaged bring an action against the party leaving the obstruction on the highway or is his only recourse to the township council?

The party injured may institute an action against the municipal corporation for the amount of the damages he has sustained, and if he secures a verdict and the person responsible for placing the obstruction, which caused the accident, on the highway, was not a servant or agent of the corporation, the municipality will be entitled to judgment over against the person who placed the obstruction on the highway for the amount of the verdict and costs, as provided in section 609 of The Consolidated Municipal Act, 1903.

Assessment of Stock in General Store.

264—W. H.—What is the proper method of assessing stock in trade in a general store? That is, what ratio of value to be placed on paid up stock?

This is personal estate and should be assessed at its actual cash value, as it would be appraised in payment of a just debt from a solvent debtor, as provided in sub-section 1 of section 28 of The Assessment Act, subject to the exemption mentioned in sub-section 24 of section 7 of the Act, that is, so much of the stock as is equal to the just debts owed by the owner on account of such property.

Assessment of Toll Roads.

265—A. R. E.—Would you kindly give me your construction of the law as to the proper method of arriving at the legal valuation of toll roads owned by Gravel Road Companies for assessment purposes? We have several such roads in our township and the companies are continually appealing to the Court of Revision for reductions of their assessments. We have had an arbitration on one portion of toll road under The Toll Road Expropriation Act, 1901-1902. Would the award made by the arbitrators be a just basis as to valuation for our assessor to take in making his assessment of such property?

Section 52 of The Assessment Act provides that plank, gravel, macadamized or other toll roads not owned by any municipal corporation shall be assessed as real estate in the municipality in which the same are situate, and in making the assessment the assessor shall take into consideration the value of (1) the land occupied by the road; (2) the materials employed in the superstructure; (3) toll houses, buildings and gates on the road; (4) quarries, gravel pits and roads to and from such places, and used in connection therewith." This property should be valued by the assessor at its actual cash value, as it would be appraised in payment of a just debt from a solvent debtor, as provided in sub-section 1 of section 28 of the Act. The assessor should use his own judgment in placing a value for assessment purposes upon the above property. If the value placed by the arbitrators on the portion of toll road valued by them is, in the opinion of the assessor, the correct value thereof for assessment purposes, he can enter this amount in his roll. The decision of the arbitrators in this regard is not binding on the assessor, but he should exercise his independent judgment in the matter.

By-Law Abolishing Dog Tax—Liability of Party Injuring Highway.

266—C. A. R.—1. Does section 2 of The Act for the Protection of Sheep and to Impose a Tax on Dogs mean that a petition is necessary every year in order to give the council power to pass a by-law to abolish the tax on dogs?

2. A petition was presented two or three years ago. The council of last year contended it was not necessary to have a new petition and passed a by-law to abolish the tax. Now a man has a claim for sheep killed by dogs. Can he collect pay for the sheep?

3. A man lives alongside the public highway. Water collects on his land by reason of the spring freshet. The owner of the land dug a ditch through the snow and turned the water in the centre of the travelled road, causing the road to be dangerous to public travel. Has he any right to thus use the highway without digging the snow from the ditches on the side of the road out so as to keep the water in them?

4. Is he responsible for any damage sustained by reason of his action in turning the water in the road?

1. No. If the council exercises its discretion and passes a by-law in accordance with section 2 of chapter 271, R. S. O., 1897, pursuant to a petition presented to them for the purpose, the by-law will remain in force until repealed by the council.

2. The council of last year had no authority to pass a by-law under section 2 of the Act on a petition filed two or three years before. It would appear that the council for the year in which the petition was filed exercised its discretion and refused to pass a by-law abolishing the levy of dog tax in the municipality. It is difficult to say whether a petition signed and filed two or three years ago now represents the ideas of the parties who signed it. Some of the signatories may have died, or ceased to be ratepayers of the municipality in the meantime, and the petition might not now be signed by the number of ratepayers required by section 2. Until the by-law passed by the council of last year has been quashed on application made for the purpose, if there is no money to the credit of the dog fund of the municipality, no payments can be made by the council for damages for sheep or lambs killed or worried by dogs.

3. No person can lawfully conduct water from his land to the highway and deposit it there to the danger of the travelling public or injury of the road.

4. The municipality will be liable for any damages sustained by reason of the dangerous condition of this road, and will have a remedy over for any damages and costs that may be recovered against it, against the person responsible for the dangerous state of the highway.

Application of Proceeds of Debentures—Qualification of By-Law Voter—Advertising By-Law—Number of Votes Necessary to Carry By-Law.

267—SUBSCRIBER.—Our township is voting on a by-law to build a town hall and extend sewerage and waterworks.

1. Can they use the money raised this way for paying off floating debt or any other purpose not mentioned in the by-law?

2. Can a man vote on it whose property is in his wife's name, but he is on the assessment roll?

3. How long must the by-law be advertised?

4. What number of votes are required to carry the by-law?

1. No.

2. Yes. See sub-section 1 of section 353 of The Consolidated Municipal Act, 1903.

3. The publication shall be for three successive weeks, in at least one number each week of the newspaper mentioned in sub-section 2 of section 338 of the Act, and the council shall put up a copy of the by-law at four or more of the most public places in the municipality.

4. A majority of the votes polled is sufficient to carry a by-law of this kind.

Assessment of Separate School Supporters.

268—A. W. R.—1. A ratepayer of R. C. Separate School No. 2 has a lot in partnership with a ratepayer of our section (R. C. Separate School No. 1) and the said lot and buildings are assessed to our school, does this lot give him any right to send his children to our school, as he is nearer to his own school?

2. A farmer has a farm assessed in two schools—R. C. separate school and public school. Can we have all his farm assessed to the separate school, as he has only one mile to the said school and over two miles to the public school?

1. Section 44 of The Separate Schools Act (R. S. O., 1897, chapter 294), (as amended by section 4 of chapter 34 of The Ontario Statutes, 1903,) provides that "any supporter of a separate school whose residence is within three miles of two or more separate schools, shall, after the first day of January, 1897, be *IPSO FACTO* a supporter of the separate school nearest by road to his place of residence." This ratepayer should therefore send his

children to, and pay the school taxes on his half-interest in this farm towards the support of the separate school located nearest to his place of residence.

2. Sub-section 2 of section 49 of the above Act, and sub-section 5 of section 13 of The Assessment Act provide that if an assessor knows a ratepayer to be a Roman Catholic, this shall be sufficient evidence for placing him in the proper column of the assessment roll for separate school supporters. If the ratepayer is dissatisfied with this method of assessing him, he may appeal to the Court of Revision, as provided in sub-section 3 of section 49 of The Separate Schools Act.

Requisites of Resolution.

269—T. Y.—If a municipal councillor moves a resolution, but does not get a seconder, has he the right to have his resolution recorded in the minutes of the council?

This depends on whether the council has passed a by-law establishing rules of order to be observed at its meetings, one of which is that a resolution should be seconded before being placed before the council for its consideration. If no such rule of order is in existence, a seconder is not necessary, and the mover of the resolution is entitled to have it entered in the minutes,

Assessment of Dogs and Collection of Dog Tax—Assessment of Non-Residents—Liability of, for Statute Labor.

270—P. A. C.—1. R. S. O., 1897, chapter 271, sections 1, etc., implies that the assessor and collector are bound by statute to put down in the assessment roll the number of dogs owned by the assessed party and collect the dog tax with the other taxes. Chapter 223, section 540, sub-section 3, says that a township council may pass a by-law to tax dogs. Must the council pass a by-law to that effect before the tax can be collected, or does the collector collect the tax without a by-law under chapter 271?

2. Any person who is not resident in the municipality at the time of assessment is put in the non-resident roll, but by writing to the clerk before 20th April he may be put into the resident roll. Is that correct?

3. Are persons in the non-resident roll liable to do statute labor?

1. Sections 3 and 4 of chapter 271, R. S. O., 1897, make provision for the assessment of dogs in a municipality, and section 5 provides for the collection of the tax thereon. No by-law of the municipality is necessary to accomplish either of these objects. The council is empowered, however, by section 2 to provide by by-law that the said tax shall not be levied in the municipality. If the council passes a by-law in accordance with this section, it may afterwards pass a by-law pursuant to the provisions of sub-section 3 of section 540 of The Consolidated Municipal Act, 1903, to impose a tax on dogs for revenue purposes only.

2. If a non-resident delivers to the clerk of the municipality the notice mentioned in section 3 of The Assessment Act, he is entitled to have his name entered on the resident assessment roll of the municipality.

3. Section 108 of The Assessment Act provides that "no non-resident who has not required his name to be entered on the roll, shall be permitted to perform statute labor in respect of any land owned by him, but a commutation tax shall be charged against every separate lot or parcel according to the assessed value."

Duties of Auditors as to School Accounts.

271—T. I. T.—There seems to be some difference of opinion here as to whether the municipal auditors appointed by the town council of the year 1903, or those appointed by the council of 1904, should audit the school accounts of the year 1903. Kindly give me your opinion in the matter.

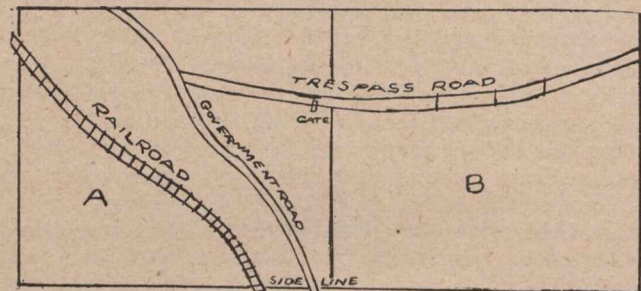
It is not stated whether the auditors have been appointed in accordance with section 299 or section 301 of The Consolidated Municipal Act, 1903. If they were appointed by the council of the town at its first meeting in

1904 they are the proper auditors to examine and report on the accounts of the school board of the town for 1903. If they were appointed by the council in the month of November or December, 1903, by by-law passed pursuant to section 301 of the Act, the council should appoint auditors pursuant to the provisions of section 299 to audit the accounts of the municipality for the year, 1903, and they would be the proper persons to audit the school accounts for that year. (See sub-section 2 of section 301 of the Act).

Closing Trespass Road—Opening New Road—Damages for Illegally Cutting Timber.

272—W. F.—In our township there is a farm belonging to A., which contains 80 acres, and as five per cent. of each lot is appropriated by the Government for road purposes and A. is of the opinion that the Government road now takes up more than the five per cent. of his lot. This road runs across a lot north-east and south-west. Also there is on A.'s lot a trespass road of about five-eighths of a mile, and there are about 20 rods of a side line, which was opened some time ago, and owing to it not being used it has grown up again with small brush. B. does not want to travel that road, and so has continued to travel the road across A.'s lot. This same trespass road runs across B.'s lot. B. has forbid A. to travel it at all. B. also has gates on this road. B. claims that A. cannot close the portion of the road on his lot. B. has also charged neighbors for travelling the road through his property.

1. What has A. to do in order to close trespass road?
2. Has the council the power to open a road to let B. out?
3. Can A. claim damages off B. for said road, as A. wants to improve his farm?
4. As B. has cut timber on A.'s lot since it has been deeded what damages can A. claim?



1. There does not appear to have been a grant to B., at any time, of a right of way over A.'s land, and unless he has enjoyed the use of this roadway uninterruptedly for a period of twenty years, there is no reason why A. should not close this road at any time he may so desire.

2. The council may by by-law, passed pursuant to section 637 of The Consolidated Municipal Act, 1903, after having strictly observed the preliminary proceedings mentioned in section 632 of the Act, open a road in this locality, if the convenience of the general public requires it, but it should not do so simply to accommodate a single individual.

3. Yes, for any damage which he can prove, unless B. can prove leave and license, either expressly or impliedly.

4. If B. has cut timber on A.'s lot, the latter can recover from B. the price of the timber, on proving his claim before the proper tribunal.

Liability of Council to Party Doing Statute Labor—Contract for Building Bridge on and Closing Road.

273—J. M.—1. A pathmaster ordered out A. to plough the road. A. broke his plough, and now asks the council to pay the bill. Is the council liable?

2. The council let the contract for a new bridge on mail road. Can the mail carrier compel the council to build temporary bridge?

3. It would be about one mile and a-half both ways farther for him around another way. It would not make much difference to anybody else. Can the council stop the road?

1. No.

2. No.

3. Subject to the provisions of section 629 of The Consolidated Municipal Act, 1903, the council may, in its discretion, pass a by-law pursuant to the provisions of section 637 of the Act (after having strictly observed the preliminary proceedings prescribed by section 632) to stop up this road, if it is of opinion that the general public convenience no longer requires it.

Dispensing With Collector in Districts — Council Should Appoint Assessor Annually.

274—I. H.—1. Is it legal for our council to pass a by-law to do away with the collector for say three years, or are they compelled to appoint a collector every year?

2. Where our council has passed a by-law doing away with the assessor for one year, whose duty is it to sign the papers notifying parties whose lands are up for arrears of taxes?

1. Section 50 of chapter 225, R. S. O., 1897, renders it discretionary with the council of a municipality in any of the unorganized districts of Ontario, as to whether it levies the rate therein mentioned or not. If the municipality has no necessary expenses to meet, and does not require any sum or sums for the purposes mentioned in section 32 of the Act in any year, no levy is necessary, and therefore no collector is required. If, however, the council finds it necessary to levy any taxes in any year, it must appoint a collector to collect them.

2. We are of opinion that this council should appoint an assessor EVERY year to perform such duties as may be required of him by law from time to time, pursuant to the provisions of section 40 of the Act, which provide that "the council of every municipality in any of the said districts shall, as soon as convenient after their first meeting, appoint one or more assessors, etc."

Levy of School Rate in Union Section.

275—R. D. R.—An equalization of a union school section in the townships of T. and S. was made in June 1903 as follows: T., 4083/4808; S., 725/4808. The old or former equalization was T., 7/8; S., 1/8.

By Dec. 15th, 1903, T. council passed an order of \$127.40 for township grant by the new equalization. S. council passed an order for \$18.75, made out by the old equalization, leaving the township grant to the school section \$3.85 short. We claim their township grant should be \$22.60. S. council refuses to pay any more than \$18.75 on the plea that their grant was made in March, 1903, when the old equalization was in force and before the new equalization was made.

1. Should S. pay by the new equalization the sum we claim, namely, \$22.60?

2. If they have a right to pay our claim and refuse to do so, what steps should we take to induce or compel them to do so?

3. The school inspector says their refusal is only a quibble. Is he right?

1. We do not see how the council of S. could appropriate or pay its share of the trustees' school levy in the union school section in March, 1903, as the trustees had until the 1st of August to file their requisition for the levy of these moneys. (See sub-section 9 of section 65 of The Public Schools Act, 1901,) and it is likely that the trustees filed the requisition long after March, 1903. The levy and collection of S.'s share could not be made until the fall of 1903, and sub-section 1 of section 71 of the Act requires the council to pay the amount to the trustees on or before the 15th day of December. If \$22.60 is the correct amount of S.'s share, according to the equalization made in June, 1903, this sum is the sum for which S. is liable to T. on this account, and should have been levied and paid.

2. The share of the levy for which the township of S. was liable, as above, should have been levied and collected and paid to the secretary-treasurer of the Board of Trustees of the union section as provided in section 49 of The Public Schools Act. Whatever balance is now payable by the township of S. on account of this levy can be col-

lected from that township by the Board of Trustees by ordinary action at law. The council of the township of T. has no occasion to bother with the matter.

3. The inspector appears to think that \$22.60 is payable, and we agree with him.

Duties of Medical Health Officer—Payment of Expenses of Parties Quarantined.

276—S. B. W.—1. What are the number of legal visits the medical health officer can make in connection with parties quarantined? Can he make any number of visits and charge the council with them?

2. After he makes the number of visits, what are his duties in quarantining and disinfecting? Can he charge the council with other calls he makes on the same parties?

3. Should the medical health officer look to the parties who were under quarantine for his pay after he makes the number of visits which is legal for a medical health officer to make?

4. Are councils compelled to appoint a medical health officer in all municipalities when they have a Board of Health, or is it at the council's option?

1, 2 and 3. There is no law limiting the number of visits a medical health officer may make to parties afflicted with a contagious disease and under quarantine. He should exercise his judgment in the matter, and make only such a number of visits as he deems necessary to afford them proper medical attendance. As to whether he can look to the council for payment of his charges depends on the circumstances of the case. If the council specifically employed him to attend the persons afflicted, or if they are, owing to their poverty, unable to pay it themselves, the council of the municipality will have to pay the bill. If the persons afflicted are financially able to pay the physician's bill, and he has not been specifically employed by the council to attend them, they are liable for and must pay the amount. (See section 93 of The Public Health Act, R. S. O., 1897, chapter 248).

4. It is optional with councils as to whether they appoint medical health officers or not. Section 31 of the Act provides that "every municipal council MAY appoint a medical health officer, etc."

Ownership of Timber on Townline.

277—D. Z. G.—Does a township own the timber on the side of a townline adjacent to it, or should the value of said timber be divided equally between both townships irrespective of which side of the road it is growing upon?

This boundary line is a strip of land lying between the two municipalities, over which they are given joint jurisdiction by section 622 of The Consolidated Municipal Act, 1903. The power to sell the timber on road allowances is conferred on township municipalities by sub-section 7 of section 640 of the Act. The selling of the timber on this boundary line should be the result of joint action on the part of the councils of the adjoining townships, and since neither township can claim to be the owner of any particular part of the timber, the proceeds of the sale should be divided equally between them.

By-Law Exempting from Taxation Must be Submitted to Electors—Police Trustees May Grant Aid to Public Library.

278—TOWNSHIP CLERK.—1. Can a council exempt from taxes for a term of years an industry already established without first submitting the question to a vote of the ratepayers?

2. Have the trustees of a police village the power to make a grant out of the general funds of the village in aid of a public library, or can the township council in which the village is situated make the grant for the village out of the funds of the police village without first submitting the question to the ratepayers?

1. No. Clause (g) of section 591a of The Consolidated Municipal Act, 1903, provides that the word "bonus" wherever it occurs in sub-section 12 of section 591 of the Act, shall mean and include "a total or partial

exemption from municipal taxation or the fixing of the assessment of any property for a term of years."

2. Yes. Sub-section 1 of section 756b of the above Act empowers the trustees of a police village to pass by-laws applicable only in the police village for any of the purposes mentioned in paragraph 4 of section 591 of the Act. This paragraph authorizes the councils of counties, townships, cities, towns and villages to pass by-laws "for granting money or land in aid of any free library established under The Public Libraries Act, or The Act Respecting Mechanics' Institutes and Art Schools within the municipality or within any adjoining municipality."

Payment of Expenses of Parties Quarantined—Opening Deviating Townline.

279—J. M.—We appointed a medical health officer in 1903. There was no salary set. The same year we had an outbreak of small-pox.

1. Who has to pay him? Is it the township or the parties whom he visited and ordered disinfection of the houses?

2. What are the duties of the medical health officer? Is he supposed to give medical treatment and charge the township for it, or has he to look to the parties quarantined?

3. What are the Board of Health's duties in a case of an outbreak of contagious disease? Can they hire constables and carriers, furnish them with doctors, and draw on the township treasurer for everything they see fit?

4. We have a deviation of the townline where there is a lake that makes it impossible to keep on the original townline. This deviation was surveyed by the Government about 45 years ago. This last year there is another party bought the land and fenced the road about eight feet wide. Can he do so?

5. We have not been able to get the field notes of the survey. We sent men to throw the fence down and the adjoining township would not take any steps in the matter. Can we compel them, and in what way, as we are likely to have trouble over the matter with the adjoining township? We would like to know the legal steps in the matter.

1 and 2. If the council specifically employs the medical health officer to attend the persons afflicted with the contagious disease, and to disinfect the premises occupied by them after their recovery, it should pay him for the services actually performed according to the tariff of fees allowed by law to physicians generally for performing similar services. If the persons afflicted are financially able to pay the amount, the council should be reimbursed for this outlay by them. If, on the other hand, these persons, owing to their poverty, are unable to pay this amount, the municipality will have to do so. (See sections 81, 82 and 93 of The Public Health Act, R. S. O., 1897, chapter 248).

3. Section 93 of the above Act prescribes the duties of a local Board of Health under circumstances of this kind, and designates the person or persons by whom the expense is to be paid.

4 and 5. The council should first assure itself that this road has been regularly established as a public highway and is located in the right place. When this has been done the person who has placed a fence on the road can be indicted for placing and maintaining an obstruction on the highway, and can be restrained by injunction from further offending. After the road has been definitely located the council should pass a by-law providing for the proceedings it purposes taking in the matter, pursuant to section 623 of The Consolidated Municipal Act, 1903, and if the other township interested neglects or refuses to pass a similar by-law, the matter should be referred to arbitration under the Act, as provided by section 624.

Council in Districts Should Appoint Assessor Annually.

280—X. Y. Z.—At our council meeting held on the 12th inst. our council passed a by-law adopting the assessment of the year 1903 (pursuant to section 42, sub-section 2 of chapter 225, R. S. O., 1897,) as the assessment of the township of W— for the current year.

The assessor and collector of our township are appointed annually. Both offices have been held by the same individual for a number of years. At our May meeting of the previous year, after the Court of Revision was over, our assessor and collector handed in their resignations, which were accepted by our council and a new collector appointed.

In October last year we held the voters' list court before the district Judge, when the assessor was notified to be present and perform what duties were required at that court. After the passing of the above by-law our council sent for the assessor of the year 1903, requesting him to notify the parties whose lands are liable to be sold for taxes in the year 1904, which said assessor declined to do on the grounds that he could not legally do so, as he had resigned said office, which had been accepted by our council.

1. If he is right in his contention what steps could our council take to have the duties performed, such as notifying and certifying to the list of lands to be sold for taxes (as previously stated), also attending Court of Revision and attending the appeal court before the district Judge, if such should be necessary, and any other duties that may arise that will have to be performed by an assessor?

2. Can any other party perform the above duties that should be performed by an assessor?

3. Could we appoint an assessor at a nominal sum to perform the above duties, as we do not wish to have a new assessment taken this year?

1. Since this assessor resigned last May, and the council accepted his resignation, we are of opinion that he is right in his contention. Section 48 of chapter 225, R. S. O., 1897, requires the council of every municipality in any of the territorial districts of Ontario to appoint one or more assessors as soon as convenient after their first meeting. Notwithstanding the fact that the council of this municipality has adopted the assessment of 1903 as that for 1904, it should appoint an assessor pursuant to the above section to discharge the duties he is required by law to perform other than the preparation of an assessment roll for the year. Some of these are mentioned in the introduction to these questions.

2. No.

3. Yes, and the council should do so, as required by the above section.

Liability of Trustees to Teacher—Trustees' Authority to Make Improvements.

281.—H. I.—A school teacher asked and was promised by the secretary treasurer a raise of salary, but neglected having the contract renewed. At the end of the term trustees would not pay the raise, although they signed and sealed annual school report prepared by teacher with the raise included. At the annual school meeting the ratepayers present authorized and requested the payment of the raise, but the trustees will not pay it.

1. Can the teacher legally collect it?

2. If so, how would the teacher have to proceed?

3. If not, would the teacher have to get special meeting advertised for payment?

4. To what extent are the trustees liable if they do not pay it?

5. Have the trustees authority to make expenditures to the amount of \$150.00 for improvements, such as putting down well, etc., without consent of the ratepayers?

1. There does not appear to have been any agreement on the part of the trustees to pay this increase in his salary to the teacher. The promise of the secretary-treasurer does not impose any legal liability on them to do so, nor does the insertion of the item in the annual report bind them to do so. The teacher should have caused the trustees to embody the proposed new arrangement as to his salary, in a resolution passed, or new agreement executed by the board. We are therefore of opinion that the teacher cannot compel the trustees to pay the increase in his salary.

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

3. This is a matter as to which the trustees may exercise their judgment, and will not be bound to comply with any directions given them by the ratepayers at a special meeting called for the purpose.

4. We do not see that the trustees are in any way liable in this matter.
5. If, in the opinion of the trustees, these improvements are necessary, they may undertake and pay what they consider a reasonable price for them, without having first received the consent of the ratepayers of the section at a meeting called for the purpose to do so.

Proportion of Cost of Laying Cement Walks Paid by Towns.

282—W. H. C.—Our council propose laying cement sidewalks under the local improvement system, and would like to know what proportion of the cost is usually borne by the towns laying sidewalks under that method?

The proportion of the cost paid by the general funds in a number of towns and cities in the Province is as follows :

Town or City.	Proportion paid by frontage.	Proportion paid by municipality.	Flankage on corner lots paid by municipality.	Street inter-sections. How paid.
Belleville	40%	60%	All	By City
Berlin	All	—	None	By Town
Brantford	All	—	—	By City
Chatham	All	—	50 feet	By City
Cornwall	60%	40%	—	—
Galt	All	—	—	By Town
Guelph	All	—	—	By City
Ingersoll	All	—	½ depth	By Town
Lindsay	40%	60%	variable	By Town
(Main Street)	50%	50%	"	By City
London	50%	50%	⅓ depth	By City
Peterboro'	60%	40%	½ depth	By Town
Woodstock	All	—	—	By City

NOTE.—In the case of Ingersoll, it is estimated that the general funds, paying for street intersections, one-half the depth of corner lots, and extra fill where much is required, bear 30% of the cost of the work. In Peterboro' the flankage allowance of one-half is restricted to a depth of 114 feet only.

Law as to Traction Engines.

283—CLERK.—A company in this district has got the idea of inventing a steam engine for the purpose of hauling in winter with sleighing large amounts of the material they use along the public highway in a municipality. Can they do so without the sanction of the corporation?

2. As the bridges are not built to carry one-sixth of the weight they claim they can haul, what position would the council be in for damages providing any accident occurred?

3. Kindly give statute, if any such exists, that a steam engine can take possession of the public highway and obstruct public travel, as in this district, through natural obstructions, a great many of the roads are so situated that there would be no way of getting past an engine with horses, and the public would have to abandon the road for travel?

The engine has been built, but on its trial was unsuccessful, but they claim with a few improvements it will be accomplished.

1. No, nor can the council of the municipality give them any authority to do so.

2. We assume that reference is made to the liability of the municipality to the owner or owners of the engine, in case of injury sustained by its breaking through a bridge. This engine is not apparently one to be used for threshing purposes or for machinery in construction of roadways within the meaning of sub-section 3 of section 10 of chapter 242, R. S. O., 1897, (as enacted by section 43 of chapter 7 of The Ontario Statutes, 1903), but is a traction engine within the meaning of section 1 of chapter 242. Therefore sub-sections 2 and 3 of section 10 of this Act are applicable. They provide that "(1) before it shall be lawful to run such engines over any highway whereon no tolls are levied, it shall be the duty of the person or persons proposing to run the same to strengthen, at his or their own expense, all bridges and culverts to be crossed by such engines and to keep the same in repair so

long as the highway is so used. (2) The costs of such repairs shall be borne by the owners of different engines in proportion to the number of engines running over such bridges or culverts." If any accident happens to this engine by reason of the failure of the owners to comply with the above provisions of the statute, the municipality will not be liable in damages.

3. The owners of this engine have no power or authority to monopolize the use of this highway, and if they persist in doing so, may be indicted for maintaining an obstruction on the highway. Section 6 of chapter 242 regulates the duties of the owners of traction engines when meeting a mounted horseman or vehicle on a highway.

Method of Working Road Grader.

284—W. S. Mc.—The township of W. W. has been operating their road grader for three years by hiring two teams of horses and driver and operator of grader (costing \$8.00 per day) and have had fairly good work done. But the council board think that they would have better service if they owned the teams, as the contractors do not want to put the outside horses on the grader. Plenty of contractors would put a good team on the tongue of the grader if some one else would put a team on the outside. W. W. council board think that this year they will buy a good team of working horses and hire one good team and driver, and think that they can work the grader for \$6.00 per day, saving \$2.00 per day, and as we work our grader for about 30 days, it would mean a saving of \$60.00, and they also feel satisfied that if we had two good teams on that they would do as much work in 20 days as we get done in 30 days, also making a big saving in wages (say \$60.00 a month), making a saving of \$120.00 in the season, and by turning the horses on grass after the work was over for a month or so we could sell them for what we would have to pay for them in the spring, or we could afford to sell them for a good deal less.

The township of E. W. have tried putting statute labor teams on graders, but find that new teams on every day does not give satisfaction, and A. township hires one team and has the statute labor teams on the different roads for the second team, but do not find this satisfactory either.

We think that our system of hiring two teams and driver is better than any of the other townships around have, but we think it can be improved on by buying at least one team of horses.

What do you think of our way of working, or would you approve of our plan for this year?

To do good and economical work with a road grader, it is absolutely necessary that the same horses should be used throughout the season, or better still, for successive seasons as far as possible. It is the universal experience that graders cannot be operated satisfactorily with "green" horses. With new teams every day, such as is sometimes the case where statute labor teams are used, a road grader becomes almost useless. Some townships know so little of the management of a road grader that they do not even hire a man for the season to operate it, but merely pass it around among the pathmasters, to be handled by statute labor men as well as statute labor teams. There is no more useful roadmaking implement than a grader, but like any other tool, its usefulness is in proportion to the degree with which it is rightly handled. To put a saw and hammer in the hands of a man does not make an expert carpenter of him.

The township of W. W., by hiring teams, driver and operator, have no doubt been able to get good work done. This is the plan generally followed where good results are obtained. In a number of cases, a traction engine is used for the re-shaping of old roads, where the grader can be operated in long stretches, without the necessity of turning frequently. On new roads, where the ground is uneven and soft, a traction engine is not serviceable; but for cutting off shoulders, etc., on old gravelled roads, it is better than horses, in that it is steady and does not stop to rest.

The proposal to buy a team of horses for use on the grader is a new one, so far as townships are concerned,

although towns, villages and cities own horses for fire purposes, street sprinkling and other corporation work.

As regards the grader, there would be a distinct advantage which would increase if the township would keep the same team from year to year. Where the roads of a township are managed under the best system, there could be work for such a team for almost the whole year, hauling bridge and culvert materials, gravel, tile for drains, drawing a snow plow, and for general repairs. It is by such means that the cost of road maintenance can be reduced and the general standard of the roads improved.

By-Law Fixing Hotel and Shop Licenses.

285—X. Y. Z.—In looking over the question drawer of your January issue I notice that No. 50 asks the question: "Is it legal for the outgoing council of 1903 to pass such a by-law?" referring to a by-law passed, as he puts it, at the last meeting of the council referred to. If that last meeting was held in December, 1903, and the license was not in the whole over \$270.00, it would appear that the council of a town would be within their rights, and if the by-law was passed later in any year than March, it then could not come into force before the first of May next succeeding the passing of the by-law. It appears in any case to be within the rights and powers of a town council to pass a by-law in any year before the first of March, providing the sum is not over \$270.00, without the assent of the electors. Section 42 expressly gives the right to levy \$200.00, and I take it that the words "in the whole" can only refer to section 42 and the preceding section. Then comes into force the provisions of section 44, which provides for the exclusive use of this Province, and shall form part of the consolidated revenue, etc., and further, this section makes it imperative on the municipality to levy this additional amount, which in this case would make the total sum mentioned in the by-law the amount that would be the extreme limit (\$270.00) without going to the ratepayers or electors for approval. We have passed a by-law under the provisions of section 42 and raised under that section \$180.00, and under section 44 the sum of \$70.00, making a total of \$250.00, which would be illegal if your answer is correct. This is an important matter, and I would like to know. Do you consider section 44 in giving your answer?

In answering the question referred to we assumed that a by-law was passed to raise \$270.00 under section 42 of The Liquor License Act, because it is only where the council of a municipality desires to raise more revenue than what is payable under sections 41 and 44 by the Act itself that a by-law is necessary. In the absence of any by-law the fees set forth in sections 41 and 44 are payable. There is no doubt whatever but that a council may pass a by-law imposing a duty not exceeding \$200.00 under section 42, and if it does, and the by-law does not otherwise provide, the fees in section 44 must be paid in addition. We have not seen the by-law in this case. It may be that it provides expressly that there shall be raised the sum of \$200.00 in addition to the \$70.00, payable under section 44, and if it is in that form it would be unobjectionable, though in excess of what is necessary.

Compulsory Erection of Wire Fences—Assessment of Logs, etc. —Numbering of School Sections.

286—W. J. T.—1. Could a township council in Rainy River District pass a by-law making the building of wire fences compulsory without compensation where new fences are to be erected along public highways in places liable to snow blockades?

2. Can logs and lumber in a mill yard be assessed at market price?

3. Each township in a municipality has its school numbered, commencing at one, and in order to designate any particular school both its number and township has to be mentioned. Could they be changed so as to number from one up over all the municipality comprising three townships?

1. No. Neither the provisions of sub-section 2 of section 545 of The Consolidated Municipal Act, 1903, nor of The Act Respecting Snow Fences (R. S. O., 1897, chapter 240,) confer such authority on a township council in a district.

2. These logs and lumber may be assessed at their actual cash value as they would be appraised in payment

of a just debt from a solvent debtor, as provided in section 28 of The Assessment Act.

3. Since these three townships form only one municipality, we see no reason why all the school sections therein should not be numbered consecutively from one up. It might be better, however, to leave them as they are, so that in the event of a dissolution of the union of these townships the numbers of the school sections would not require to be changed.

Responsibility of Treasurer and Collector for Township Moneys.

287—SUBSCRIBER.—A certain township pays its treasurer the sum of seventy-five dollars a year salary. Besides the regular book-keeping, he has to attend monthly meeting of the council, prepares the fifteenth of December financial statement, and fills in the municipal returns for Bureau of Industry. About seven thousand dollars handled during the year. The collector is supposed to hand in the taxes on hand at least once a week in sufficient time for the treasurer to deposit them in the bank that day. This agreement with the collector is not lived up to at all times. The treasurer lives nine miles from a bank, but being centrally located in the township considerable taxes are paid to him directly, the collector not handling them at all. The treasurer takes all precaution to protect all money under his control, but in case of fire or theft

1. Could the treasurer be held liable for loss under these circumstances?

2. Could the collector be held liable for any loss, providing he tells ratepayer to pay to treasurer?

3. Would the township have to bear the loss?

4. Should the township provide treasurer with a suitable safe?

1. No.

2. If the collector complies with the requirements of sub-section 3 of section 144 of The Assessment Act, and in the meantime takes all reasonable precautions to safely keep the moneys of the municipality, in his possession for the time being, he cannot be held personally responsible for losses happening from either of the above causes.

3. Yes, under the circumstances above mentioned.

4. Yes. *Houghton v. Freeland*, 26 Grant 500, was an action brought against the defendant Freeland, who was treasurer of the township of Houghton, and his sureties. He had as much as \$2,089.60 in his hands. A fire occurred, which burned his house and contents, including the money. The nearest bank was 35 miles from him, the town hall 32 miles, and the municipality did not provide a safe for him. The court held that he was not liable. The concluding part of the judgment is as follows: "I cannot part with the case without observing upon the folly and negligence of the municipal councillors of the township from time to time in providing no means for the safe-keeping of the municipal funds, either in the town hall or elsewhere.

Licensing Hawkers and Pedlars—By-Law for Building and Paying for Town Hall.

288—D. McG.—A town has in force a by-law fixing a license fee for hawkers and pedlars. A person carrying on the business of a hawker and pedlar opens a store in the town and pays the regular tax on his goods, but still carries on the business of a hawker and pedlar.

1. Can the town still legally collect the license fee for a hawker and pedlar from said person?

2. Can the council of a town legally purchase land and build a town hall and fire hall without submitting the by-law to a vote of the ratepayers, payments to be made by debentures?

1. Yes, if he peddles goods contrary to the by-law.

2. The council of a town may pass a by-law pursuant to the provisions of sub-section 1 of section 534 of The Consolidated Municipal Act, 1903, "for obtaining such real and personal property as may be required for the use of the corporation, and for erecting, improving and maintaining a hall, and any other house and buildings required by and being upon the land of the corporation, etc." A

by-law of this kind does not require the assent of the electors before its final passing. But as the money required for the erection of this hall is not money required for the ordinary expenditure of the municipality, and is not to be payable within the same municipal year in which it is borrowed, the by-law providing for the issue of debentures to secure its repayment must receive the assent of the duly qualified electors before it can be finally passed by the council.

Division of School Section—Liability for Payment of Debentures.

289—G. K.—Our school section decided by a majority of ratepayers of the section last September to take steps to build a new school house to replace the building now in use. I, as secretary of the School Board, was instructed by the trustees to call a meeting of the ratepayers to discuss the matter. The meeting was duly held and a majority instructed the trustees to take steps to build a new school. I was then instructed by the trustees to call another meeting to decide the kind of building and the cost not to be exceeded in putting up the building, viz., \$2,000.00. The meeting by a good majority instructed the trustees to apply to the council for the amount and to issue debentures for ten years. The council had done this. The trustees thereupon called for tenders for the building and awarded a contract to the lowest tender for a sum not exceeding the amount of the loan. The contractor has laid a quantity of material on the ground and is proceeding as fast as possible in preparing to erect the building as soon as the weather permits. Now some of the minority ratepayers have presented a petition to the council asking for a division of the section, and the council at its last meeting passed a resolution instructing its clerk to send a notice by regular mail to every ratepayer of the section to attend a meeting to be held for that purpose in the school house on the 26th inst.

1. Has the council the power to step in at this stage and call a school meeting to discuss the division of the section after the trustees have the debentures issued for building a new school and the building under way to accommodate the children of the section?

2. Having no county organization, therefore no county council to appeal to, as stated in section 42, clause 1, Public School Act, in case the council should decide to divide the section, wherein lies our appeal?

3. Am I right in suspecting that the last portion of clause 1, section 41, Public School Act, viz., "A majority of the ratepayers present request to be united, or as the case may be, divided," is implied in the three clauses following.

4. If at the school meeting that takes place on the 26th inst. a majority of ratepayers decide by resolution not to divide, can the council divide the section in the face of such resolution?

5. In the case of a division would the whole section, as is now existing, be liable for the debentures or the section only that the school would be in?

6. In carefully looking into clause 2, section 41, Public School Act, I cannot see the object of the council notifying the ratepayers of the section, especially as our council has done so, and in the notification has called a meeting, but nothing stated about a vote to be taken or a report to be made to council. Can you see the object?

BY-LAW NO.

Municipality of the Township of

A by-law to provide for the raising of \$2,000 by way of debenture for the erection of a school house in School Section No. 1 of the Township of

Whereas, the Board of Trustees of School Section No. 1 of the Township of _____ have applied to the council of the said municipality for the issue of debentures to raise the sum of \$2,000 for the purpose of erecting a school house in said school section.

And whereas the proposal for such loan of \$2,000 has been submitted by the trustees to and sanctioned at a special meeting of the ratepayers of the said section called for that purpose.

And whereas the whole rateable property of the said school section amounts to \$51,720.00 according to the last revised assessment roll.

And whereas it will require the sum of \$110.00 to be raised annually for a period of ten years to pay the interest of the said debt, and the sum of \$166.58 to be raised annually during the said period for the payment of the debt to be created by this by-law, making in all the sum of \$276.58 to be raised annually aforesaid upon the whole rateable property of the said school section.

Therefore the municipal council of the corporation of the municipality of the Township of _____ enacts as follows :

1. That it shall be lawful for the reeve of the said municipality and he is hereby authorized to borrow the said sum of \$2,000 upon the credit of the said corporation, for the purposes aforesaid, and to issue debentures therefor in sums of not less than One Hundred Dollars each payable at the expiration of ten years from the date on which this by-law takes effect, and to bear interest at 5½ per centum per annum payable half-yearly on the first day of the months of June and December in each year during the currency of such debentures.

2. The said debentures as to principal and interest shall be payable at the office of the treasurer of the said municipality.

3. The said debentures shall bear date as of the day when this by-law shall come into force, shall be sealed with the corporate seal of the said municipality, and be signed by the reeve and treasurer thereof.

4. The said debentures shall have attached thereto coupons for the payment of the interest thereon.

5. During the currency of the said debentures there shall be raised and levied annually on the whole rateable property of the said school section the sum of \$110.00 for the payment of the interest on the said debt, and the further sum of \$166.58 for the payment of said debt, making altogether the sum of \$276.58 to be raised annually as aforesaid.

6. This by-law shall come into force on the day of the final passing thereof.

Done and passed in council this 15th day of December, A. D. 1903, as witnessed by the corporate seal of said municipality, and the hands of the reeve and clerk.

_____, Reeve.
_____, Clerk.

1. The council has no authority to call a special meeting of the ratepayers of this school section to consider this question, but may hold a special meeting to consider the advisability of dividing the section pursuant to the petition received to that effect, after all persons to be effected by the proposed division "have been duly notified in such manner as the council may deem expedient of the proposed proceeding for this purpose, or of any application made to the council to do so. (See sub-section 2 of section 41 of The Public Schools Act, 1901). If the council deems a notice to each ratepayer sent by registered letter is expedient that is sufficient to meet the requirements of this section. If it considers it to the advantage and convenience of all persons interested to divide this section as asked, it may do so by by-law passed in accordance with the provisions of sub-section 2 of section 41, notwithstanding the fact that a new school house is in process of erection in the existing section, and that debentures have been issued and sold by the council of the municipality to pay for it.

2. There is no provision made for an appeal in a case of this kind.

3. No. The words quoted cannot be read into sub-sections 2, 3 and 4 of section 41. They are applicable only to the case mentioned in sub-section 1.

4. The council can exercise its discretion in passing the necessary by-law to divide this section, notwithstanding that a majority of the ratepayers pass a resolution against it.

5. The section as it existed at the time when the loan for building the new school house was effected will continue liable for the payment of the debentures until they have been fully satisfied. (See sub-section 3 of section 74 of the Act).

6. Sub-section 2 of section 41 constitutes the members of the council judges as to what notice is expedient to be given to all parties interested in the passing of a by-law of this kind before the holding of the meeting at which it is to be considered. As we have stated above, the council has no authority to call a general meeting of the ratepayers to consider this question.

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

Municipal Government in Ontario—An Historical Sketch

BY ADAM SHORTT, M. A.

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III

Fire Protection.

As the Canadian towns began to fill up and the streets to take shape, with buildings, mostly of wood, coming into closer neighbourhood, the danger from fire rapidly increased. In Kingston, Queenston and York his soon came to be a matter of much importance, especially in Kingston where one or two of the more wealthy of the citizens, owning stores and warehouses, had not only insured their buildings but had provided themselves with special apparatus, popularly dignified by the name of "engines," for the suppression of fire. However, the lack of any special building regulations or any corporate organization for coping with fires occasioned uneasiness to the prudent. About the beginning of 1812 a severe fire in Kingston brought the question vividly before the citizens. It was at first proposed to take up the matter through private initiative and to raise by subscription a fund for the purchase of an adequate fire-engine with hose, hooks, ladders and buckets. A volunteer fire company, as in the American towns, was also proposed. As an inducement for the citizens to join the company it was suggested that the volunteers should be exempt from serving on juries, or being elected as parish or town officers,—another side light on the craving for such honors. However, it was generally recognized that an efficient local administration, commanding the confidence of the citizens, was indispensable. Hence it was proposed that the Legislature should be at once petitioned for an Act to incorporate the town and thus give to its magistrates the necessary authority to make such by-laws, rules and regulations as they might deem necessary for the benefit of the community. But all such projects were immediately checked by the outbreak of the war. After the peace the question of civic incorporation for Kingston was again actively discussed, especially over the head of such subjects as fire-protection, improvement of the streets, and the suppression of drunkenness and vice, the legacy of war. Certain public-spirited citizens had graded the streets and laid stone foot-paths opposite their own properties, yet there was no general or concerted action. Thus while the town was prosperous and flourishing as regards many of the citizens, it was miserably backward in its corporate life. Lieut. Francis Hall, an English officer, who visited Canada at this time, gives the following concrete picture of the difference between an American and a Canadian town. Comparing Sackett's Harbour with Kingston he says: "It covers less ground than Kingston, and has fewer good houses; it has, however, the advantage of a broad flagged footway; while the good people of Kingston, notwithstanding the thousands expended in their town, and the quarries beneath their feet, submit to walk ankle deep in mud, after every shower." In attempting to account for this difference, he thinks it must be due to the fact that the people of Canada are simply here to accumulate a fortune with which to retire to Britain. Though this was an unfortunate tendency in the earlier days of the colony, resulting in much impediment to Canadian progress, yet it had little to do with municipal backwardness. The real reason for the contrast was that on the American side the people were not only permitted but encouraged to improve their local surroundings by corporate self-government, while in Canada these democratic practices were regarded as "the very worst principles" of the American system.

Incorporation.

The people of Kingston, as of other towns, were quite alive to the great defects in their local civic life, but neither the magistrates of the Quarter Sessions nor the people of the towns had any encouragement or even authority for attempting improvements. Still they did not cease to urge their needs upon the Legislature. Finally, Kingston obtained some measure of relief by the passage of an Act, the first of its kind in Upper Canada, to regulate the police within the town. This was not really a measure of self-government. It simply gave to the magistrates of the Quarter Sessions the power "to make, ordain, constitute and publish such prudential rules and regulations as they may deem expedient relative to paving, keeping in repair, and improving the streets of the said town, regulating slaughter houses and nuisances, and also to enforce the said town laws relative to horses, swine or cattle of any kind running at large in said town; relative to the inspection of weights and measures, firemen and fire companies." To meet the expenses of local improvement the magistrates were authorized to levy a special tax upon the ratepayers, not exceeding in the aggregate £100 in a year. With a total annual spending power of \$400, the magistrates were not likely to indulge extravagant conceptions of civic improvement. Still they immediately took advantage of their limited powers, and before the end of 1816 had drawn up and published in the *Kingston Gazette* a set of fourteen rules and regulations, which served as a nucleus for future by-laws in many Upper Canadian towns. These regulations referred to such matters as turnpiking the streets, grading and paving the sidewalks, preventing the obstruction of the streets, or furious driving thereon, regulating buildings with a view to prevent fires and to facilitate the extinguishing of fires and the regulation of slaughter-houses and other nuisances.

Public Schools.

In the same year, 1816, the first public school Act for Upper Canada was passed. This gave to the people of the different towns, villages and townships the first real measure of local self-government, in that it permitted them to meet together for the establishment of schools. The inhabitants of any section providing at least twenty scholars were authorized to build a school house, and, having undertaken to pay part at least of a teacher's salary, they might elect three trustees to examine and engage a teacher and authorize text-books, subject only in the latter case to the veto of the district Board of Education. Thus people who could not be trusted with the power of electing representatives to look after streets and regulate carters and nuisances were deemed quite competent to choose representatives who should be sufficiently wise and well-informed to qualify teachers and authorize text-books, as well as pass upon the other educational needs of the country.

In 1817 the measure of local government authorized for Kingston was extended to the towns of York, Sandwich, and Amherstburg. The same year authority was given to the magistrates of the Niagara district to establish a market in the Town of Niagara. This was of the same nature as the authority granted for the Kingston and York markets. From time to time other places, as they rose to importance or acquired influence, were granted the privileges of a market and a local police under the conditions already given. Also, with the increase of population and the settlement of new regions

of the country, the townships and districts of the Province were sub-divided and rearranged. But for a considerable time few additional powers were given to the justices of the peace. In 1822 the magistrates in whose jurisdiction the police towns were situated were required to render an account annually of the receipt and expenditure of the special rates levied on the towns. In 1825 the magistrates in the police towns were required to fix the price of bread fortnightly, if necessary, the price to be regulated by the price of flour during the previous fortnight. In 1826 an Act brought into operation the suggestion made in Kingston before the war of 1812 with reference to fire companies. It provided for the establishment of volunteer fire companies in the several police towns, and the granting of certificates to the efficient members, exempting them from militia duties during peace, and from the necessity of serving on juries, or as constables, or in any other parish or town office.

Municipal Self-Government, Kingston.

Some experience of the police town system conclusively proved that it afforded no adequate executive machinery for carrying out the regulations of the magistrates. Hence in several towns the people once more began to agitate for a regular system of self-government under a separate municipal corporation. Kingston again took the lead, and, after a couple of years' discussion, a public meeting was held in the court house on December 26th, 1828. The meeting resulted in the adoption of eight resolutions pointing out the inconvenience of the existing system, and the necessity for the incorporation of the town with a council whose members should be elected by ballot, every householder paying a police tax to have a vote. A committee was appointed to prepare a petition to the Legislature to this effect. The petition, as presented, contained a sketch of the proposed constitution of the town, which embodied some rather interesting features among others of a more familiar type. Thus the system of double and even triple election was brought in. The ratepayers were to elect twenty-four electors, who in turn should elect seven of their number to be town councillors, and the councillors were to elect one of their number to be the chairman or mayor of the town.

Belleville.

However, another town of the Midland district, namely, Belleville, was the first actually to get a bill embodying the principle of self-government before the Legislature. This was not a bill to incorporate the town, but merely to establish a police board in it. Still it contained a new feature, that the police board should be elected by the inhabitant householders. The measure successfully passed the Assembly, but when it came to the council it was reported upon adversely. The grounds of opposition were adroitly though fallaciously chosen. If, it was said, the people themselves elect those who are to make and enforce the town regulations, then, since men do not like to be forced, they are pretty certain to elect only such persons as will not make effective rules or adequately enforce them; hence, in the interest of efficient civic administration, such innovations must be discouraged. The report was accepted and the people of Belleville saved from their own rashness. Such being the attitude of the council, it was inevitable that the more radical measure proposed for Kingston should be rejected. Accordingly, though also passed by the Assembly, it was rejected without argument by the council.

Brockville.

Notwithstanding these rebuffs, an increasing number of towns continued to send in petitions and to have bills introduced to authorize a certain measure of municipal self-government. In 1831 the people of Brockville managed to get a bill through the Assembly for the incorpora-

tion of the President and Board of Police of the town, and for the establishment of a market. During the same session the Assembly once more passed the Kingston bill for incorporation. Both measures, however, went down before the paternal vigilance of the council. The fact of the market being introduced into the Brockville bill was seized upon as a reason for rejecting it. The following session, 1831-32, Brockville, taking the council at its word, again had its bill introduced, purged of the objectionable market feature. This time, after passing the Assembly, it came before a committee of the council composed of the more liberal members who, in language as conciliatory as possible towards the prejudices of their fellow councillors, recommended that the bill be passed. The majority of the council, however, while apparently recognizing that they could not for ever stem the rising tide of democracy, yet endeavored to mitigate its evils. As the result of a conference between the two Houses, a bill with a less democratic title was sent up from the Assembly and finally passed. This Act marks a new departure in the municipal government of Upper Canada. It made the Brockville town board a distinctive body corporate under the name of the President and Board of Police of the Town of Brockville. The town was divided in two wards. The householders of each ward were to elect two members of the corporation, and the four were to elect a fifth, though in case of disagreement the town at large elected the fifth. The five members then appointed one of their number president. The powers of the corporation, though not materially extended beyond those previously granted to the police towns, were yet much more minutely specified, since it was now necessary to distinguish between the authority of the police board of the town and the general powers of the magistrates of the Quarter Sessions, who still retained such jurisdiction over the town as was not specifically granted to the police board. The matters placed within the authority of the new board in Brockville were almost identical with the new set of general police regulations appointed for the town of Kingston by the Quarter Sessions, in March, 1830. The funds for the town were to be provided by a special rate on its assessed property, the rate not to exceed 2d. in the pound. The various town officers were no longer to be elected by the people, but appointed by the corporation. The corporation was specially prohibited from interfering with the market, which was established by special Act the following session.

Hamilton.

The next year, session 1832-3, the town of Hamilton was granted a Board of Police and a market, by an Act which combined The Brockville Police Act of the former session and The Market Act of that session. In the case of Hamilton, the town was divided into four wards, instead of two, and each ward elected one member, the fifth being chosen as in Brockville. The rate of taxation also was extended to 4d. in the pound, being double the Brockville rate. The corporation was authorized to borrow £1,000 with which to build a market house, whose site, however, was to be chosen by the justices of the peace for the district of Gore. During the same session of 1832-3, bills to establish similar corporations in the towns of Prescott and Cornwall were passed by the Assembly, but strangled by a pocket veto in the council. A futile attempt was also made to obtain an Act of incorporation for the town of York.

The following year, 1834, the towns of Belleville, Cornwall, Port Hope and Prescott obtained Acts of incorporation of the same nature as that of Hamilton. This year also York was suddenly raised from the position of a police town, under the control of the district magistrates, to the dignity of a self-governing city, the

name of which the Legislative Council changed to Toronto. The city was divided into five wards. Each ward was to elect two aldermen and two common councillors, and these were to elect a mayor from the body of aldermen. The legislative powers of the common council were specified at considerable length. They covered not only all the municipal functions of the other town charters, and of the Courts of Quarter Sessions, but a number of new powers then for the first time specifically mentioned, though in some cases previously exercised. The rate of taxation was limited to 4d. in the pound upon assessments within the city proper, and 2d. on assessments within the liberties or suburbs attached to the city. The borrowing power was limited to the amount of the revenue to accrue within five years after effecting the loan. This charter was amended in 1837, the most important new feature being the provision of a special system of assessment for the city. The various kinds of property liable to be assessed were specified, but in certain cases the valuation was left to the assessor, while in others it was definitely determined. The old rate of 4d. in the pound having been found quite inadequate to the needs of the city, the limit was raised to what in those days was regarded as the alarming proportion of 1s. 6d. in the pound, the suburbs to be taxed at one-fourth the rate of the city. In 1837 Cobourg and Picton were also incorporated.

Though Kingston had been the first town to seek incorporation, it remained under the jurisdiction of the Quarter Sessions until 1838. Then it obtained a constitution practically the same as that of the city of Toronto, though denied the title of city. It was divided into four wards, from each of which was to be elected one alderman and one common councilman. Together these were to elect a mayor, who might or might not be chosen from the council. The rate of assessment was not to exceed 6d. in the pound, and the borrowing powers of the council were limited as in Toronto, while the assessment system was also the same as that of the capital in the amended Act of 1837.

A General Municipal System Proposed.

As we have seen, under the steady pressure brought to bear upon the Government, there had been a slow but certain progress towards self-government in the Canadian urban municipalities. Yet the rural municipalities remained, down to the time of the union of the Provinces in 1841, almost in the position in which they were left by the first Parliament in Upper Canada.

In his report on Canada, Lord Durham stated that "the establishment of a good system of municipal institutions throughout this Province is a matter of vital importance. . . . The true principle of limiting popular power is that apportionment of it in many different depositaries, which has been adopted in all the most free and stable States of the Union. . . . The establishment of municipal institutions for the whole country should be made a part of every colonial constitution." On this point his successor, Lord Sydenham, frankly adopted Lord Durham's recommendation, and made it an essential part of his policy in both Provinces. It was his intention that the essential features of a general municipal system should be embodied in the Union Act. The necessary clauses had been sent home to England to be incorporated in the proposed Act. However, they met with considerable opposition in the British Parliament, and were dropped. Lord Sydenham, as Lord Durham before him, did not consider it possible that the Legislature in either Province could be brought to give up the power and patronage which local government entailed. Still, it was one of Lord Sydenham's special triumphs that he secured the passage of a local government Act during the first

session of the united Legislature. As a preliminary to this he took advantage of the suspension of the Provincial Legislature in Lower Canada to get his municipal Act passed as an ordinance of the Special Council.

District Councils Act, 1841.

All parties agreed that it would not have been possible to secure all at once a full measure of local self-government. But in the District Councils Act of 1841 the foundation of a general municipal system for the whole of Upper Canada, at least, was laid, and the way was naturally prepared for the more complete measure of 1849. The importance which Lord Sydenham attached to the establishment of a general system of local government is indicated in the following statement: "Since I have been in these Provinces, I have become more and more satisfied that the capital cause of the misgovernment of them is to be found in the absence of local government, and the consequent exercise by the Assembly of powers wholly inappropriate to its functions." When the measure came up for discussion in the Legislature it met with opposition from the extreme members of both parties. "The Tories opposed the measure because it gave too much power to the people; the radicals because it imposed checks upon that power. And with many members the bill was most unpalatable, though they did not like to avow the real motives of their dislike, because it is a death blow to their own jobbing for local purposes."

The Act as passed in 1841 under the title of The District Municipal Act went into effect on the first of January, 1842. Its chief features may be summarized as follows: The inhabitants of each district were to form a body corporate, whose powers were to be exercised by a district council composed of the warden, appointed by the Crown, and a body of councillors elected by the ratepayers in their township meetings. Every township was entitled to one councillor, and to a second where the number of ratepayers exceeded three hundred. The councillors were to hold office for three years, one-third of the number retiring each year. The council was to hold four quarterly meetings at which the warden should preside. The district clerk was to be selected by the Governor from three names submitted by the council. The treasurer, however, was to be selected by the Governor alone. A surveyor of the district, who must hold a certificate of efficiency from the Provincial Board of Works, was to be appointed by the warden, subject to the approval of the Governor. It was his duty to superintend all public works undertaken by the council, and to report annually to the warden on the works of the district. The district councils had power to make by-laws covering the usual municipal interests, such as the building and maintaining of highways, bridges, and such public buildings as were required for the use of the corporation; defraying the expenses of administering justice within the district; the establishment and support of schools; and assessing and collecting the district taxes. The system of taxation was to conform to the assessment law then in force, and the rates levied were not to exceed 2d. in the pound. The districts were prohibited from issuing notes or acting as bankers. No public work was to be undertaken by the council before it was reported upon by the district surveyor, and if the estimated cost should exceed £300 it must be approved by the Provincial Bd of Works.

All by-laws passed by the district councils were to be submitted to the Governor-in-Council who might disallow any of them within thirty days. The Governor had power also to dissolve any of the district councils and call for a new election. Nothing in the Act was to affect the special powers granted to any incorporated city or town. But all powers with reference to towns, cities, or villages pertaining to the justices of the peace before the passing of the Act should pass to the district councils. Quite generally we may say that the Act transferred all the municipal functions of the Courts of Quarter Sessions to the district councils, and the Sessions remained simply courts of justice. (To be continued)