The Municipal World

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

Vol. 3. No. 9. ST. THOMAS, ONTARIO, SEPTEMBER, 1893. Whole No. 33

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LYTLE'S RATE TABLES will assist you in entering Taxes in the Collector's Roll. It gives rates by tenths of a mill from one to nine and nine-tenth mills. The author, a Clerk of considerable experience, knowing what was wanted, issued the work, which should be in the office of every clerk. Price $2.00.

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ST. THOMAS, ONT.

CALENDAR FOR SEPTEMBER AND OCTOBER, 1893

Legal, Educational, Municipal and Other Appointments.

SEPTEMBER.

1. County Model Schools open.
14. Last day for Judge to defer judnment in appeals from Court of Revision for Shuniah Assessment Act.—Section 68.
15. County selectors of Jurors meet.—Jurors Act, section 13.
20. Clerk of the Peace to give notice to Municipal Clerks of number of Jurymen required from the Municipal Act.

OCTOBER.

2. Last day for returning Assessment Roll to Clerk, in Cities, Towns and Incorporated Villages, where Assessment is taken between 1st July and 30th September.—Assessment Act, section 52.

Last day for delivery by Clerks of Municipality to Collectors of Collectors' Rolls, unless some other day be prescribed by by-law of the Local Municipality.—Assessment Act, section 120.

Notice by Trustees of Cities, Towns, Incorporated Villages and Township Boards to Municipal Clerk to hold Trustee elections on sams day as Municipal Elections due.—P. S. Act, section 103 (1).

Night Schools open (Session 1893-94).

NOTICE

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

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$1.00 PER ANNUM. SINGLE COPY 10c

Six copies, $5.00. Additional copies, 75 cents each. All subscriptions to be paid in advance. The paper will be discontinued at expiration of term paid for, of which subscribers will receive notice. Prices for advertising on application.

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

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

Address all communications to

K. W. McKAY, EDITOR,
Box 749, - - St. Thomas, Ont.

ST. THOMAS, SEPTEMBER 1, 1893.

We notice that some municipalities have passed by-laws that no person, not being a bona fide resident of a township, is entitled to compensation for sheep alleged to have been killed by a dog or dogs, although he may be owner of property in the municipality.

This is rather a curious enactment and one that, if made general, would, we think, have to be set aside by legislation, if section 18 of chap. 214, R. S. O., does not already decide that the owner of any sheep or lamb killed or injured by any dog, may within three months apply to the council of the municipality in which such sheep or lamb was killed or injured for compensation for the injured etc. We cannot find that any authority is given by the statutes to municipalities to pass by-laws making the provision referred to.

Municipal Sanitation.

John Simon has truly said that uncleanliness must, without doubt, be reckoned as the deadliest of our present removable causes of disease. It is also just as true that populations, living amid filth, and within direct reach of its polluting influence, succumb to various diseases which, under opposite conditions, are comparatively or absolutely unknown, and the broad knowledge that filth makes disease is amply represented in the oldest records which exist of legislation meant for masses of mankind.

Cholera is a filth disease, and in order to prevent cholera we must prevent filth. It therefore follows, that, in order to prevent disease, of which cholera is a type, the essential condition is cleanliness. Our main defence against cholera then is thorough cleanliness; not the highest standard of cleanliness or chemical purity, but such as is opposed to filth, or putrescent refuge matter, solid or liquid, which causes nuisance by its effluvia and soakage; cleanliness of houses, cellars, yards, alley-ways, open spaces, both public and private, streets, gutters, highways, etc., and particularly cleanliness of the water supply.

How is this to be brought about? By persistent and united effort of the authorities and of individuals, encouraged, fostered and compelled by constant presentation and agitation of the subject; in a word, by creating public sentiment in its favor. The utter impossibility of the authority to carry out this object alone and single handed is evident to any one conversant with the manner in which a large proportion of the population live, in utter disregard of sanitary principles and rules. While the authorities must do their part and do it well, each individual has his share of work to do or should have it done for him.

There are always, in every large city, locations which, from the depraved and ignorant character and slovenly habits of the people and general untidiness that results therefrom, are a menace to the public health. These localities need the most vigilant supervision and incessant labor to keep them in safe sanitary condition. Cleaned to-day, they quickly relapse into their former bad condition. Repeated effort is, therefore, required to maintain them in proper sanitary condition. It is here that the missionary work of the volunteer committees is much needed. And it is these localities that should be selected for the field of operation. We must recognize the fact that the people must be instructed by painstaking labor to observe the ordinary rules of hygiene, and it is by just such organizations that this work can be accomplished in co-operation with the local authorities. The distribution of sanitary tracts does little good among this class of inhabitants. Personal intercourse and instruction are a necessity and are surely more effective and much more to be depended upon.—*Popular Health Journal.*

With the advances of civilization and the crowding of people together into villages, towns and cities, the prevalence of certain diseases becomes greater and the number of persons dying is comparatively larger. In ordinary times the various local health boards, hospitals, dispensaries and such like, are able to urge and carry out measures to prevent the spread of disease, to take care of those needing medical attention, and to exercise general medical supervision over the public. But in times of special danger it may be that the co-operation of intelligent and public-spirited citizens will be desirable.

* * *

It is undoubtedly wise to see that all precautions are taken to put a city in the best possible condition to resist the spread of cholera and to be prepared for prompt and efficent action in case the disease should appear.

Voters Lists in Cities.

An act passed at the last session of the legislature, which is to be read as part of the Ontario Voter's List Act, provides that the clerk of every city is required to deliver to the assessor a copy of the last revised voter's list and a list of deaths of male persons over 21 years of age, who died in the city since the first day of January preceding the final revision of said voter's list. This list is to be taken from particulars contained in returns required to be made to the registrar general.

Many city assessments will be completed during the present month, and attention is specially directed to the oath the assessor is required to make in returning the roll. It is as follows:

That I have made careful inquiry at every house in the said city, (or name portion of city for which assessor acts), in order to ascertain the names of all persons over the age of 21 years, their resident, who are entitled to vote at an election of the legislative assembly for the electoral district of (naming the electoral division in which the city is situate), and have entered the names of all such persons so found to be entitled to vote on the above roll.

It is made the duty of the mayor and the assessment commissioner if there is one, to see that the assessors duly perform the duties and make the necessary inquiries to obtain the names of all persons over the age of 21 years, residing in the municipality entitled by law to vote at an election of the legislative assembly.

Immediately after the return of the assessor's roll, city clerks without waiting for a revision or correction thereof, are required to make out a correct alphabetical list of all persons appearing by the assessor's roll to be entitled to vote in the said city, and within fourty days after receiving the assessor's roll he is to cause at least 200 copies to be printed in pamphlet form and shall deliver these copies as required by the Ontario Voter's List Act and an additional one copy to the assessment commissioner and where there is no assessment commissioner, the assessor if there is but one, and the assessors if there is more than one.

For the purpose of adding and making other corrections in the said alphabetical list without the necessity of a formal appeal, the assessor or assessment commissioner is required within fourteen days after the list has been posted up, to attend at a place to be appointed in the city from 10 a. m. until 9 p. m., of which the clerk is required to give notice in the same manner as in the case of appeals to the court of revision. The assessor or assessment commissioner shall attend at such pluce during the said hours from day to day as may be necessary for the discharge of the duties.

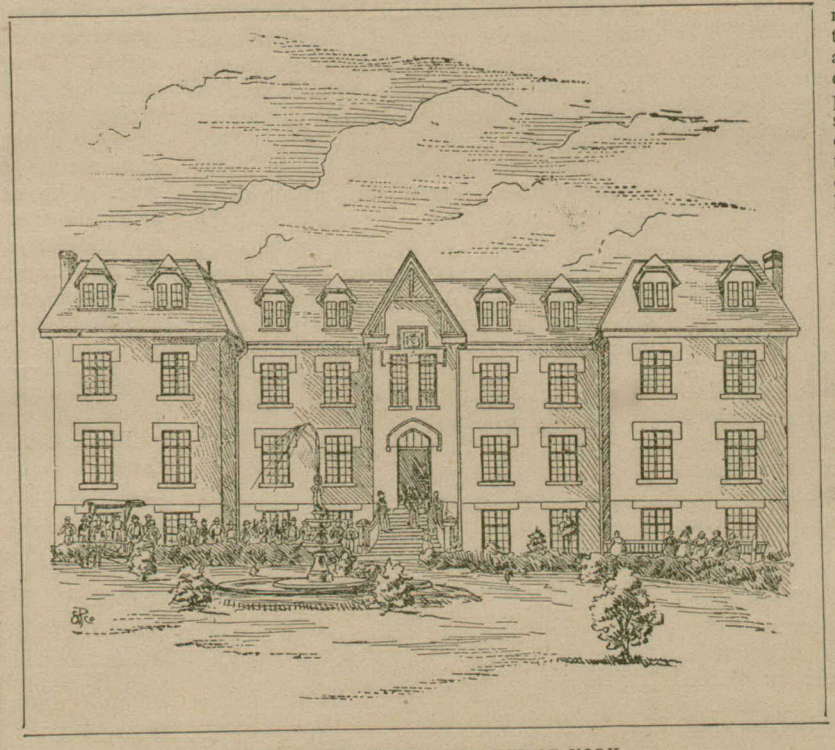
The assessment commissioner or assessor is required to take a special oath before entering upon his duties, which will be more particularly referred to in the next issue.

House of Industry—County of York.

The institution is situated about one and a quarter miles from the town of Newmarket, in the township of King, on high ground, with beautiful surroundings. The building, which is of brick, three storeys high, was opened on the 16th of January, 1883. The basement provides for two furnace rooms, a dining-room for men, a kitchen, keeper's dining-room, lock-up, pantry, two store-rooms, and dining-room for women, also two wash rooms, containing bath and four wash basins. The first floor provides two bedrooms, sitting-room and office for the keeper, room in which religious services are held, and a sewing-room, in which the clothing, etc., required in the institution, is manufactured, by hired help, also one sleeping-room, used by children, containing seven beds.

The second floor contains three bedrooms, used by the women, one containing seventeen beds and two nine beds each, also two small bedrooms, containing two beds each. On this floor the men occupy two sleeping rooms, containing nineteen and twenty beds, respectively, also two small rooms, containing two beds each.

The building is heated by hot water. The boilers formerly used were found to be expensive, and new ones, of a modern design, have been introduced. The kitchen is supplied with a John Bull steel range, and in the pantry adjoining there is a wash sink. Water is obtained from springs by gravitation; the supply is abundant and the pressure good. Tanks in the attic of the building are used as reservoirs ; fire hose and fire escapes are provided



HOUSE OF INDUSTRY—COUNTY OF YORK.

The sewage from the institution is conducted to a cess pool and distributed over the farm ; there are no water closets in the house. The out-buildings consist of one barn, about 30x40, with basement ; stable, root cellars and pig pen in connection, carpenter's shop, paint shop, frame laundry, 16x20, containing two rooms, also wood shed and ice house. The farm consists of fifty acres of land, all in good state of cultivation and well fenced. A nicely-kept lawn with fountain in front of the building, gives the place a beautiful appearance, which, with the garden and grounds, is all in good order.

According to the inspector's last annual report, this county has invested a total of $28,400 for House of Industry purposes, and during the last year the average amount expended for the keep of inmates, keeper's family and hired help was $1.20 per week, and with interest on investments added $1.48 per week. The farm stock on hand consists of three horses and four cows, which were valued at $481, the farm implements valued at $506, and the house and office furniture valued at $1,900.

The institution is in possession of a neat library, presented by W. Mulock, M. P., and others for the use of the inmates. This is something that has been entirely overlooked in many institutions. The salary of the keeper and matron is $575, and two hired girls are employed. There is no hospital accommodation, although this has been very much needed at different times. The number of children in the institution is largely in excess of what it should be, and by judicious advertising we think homes could be found for them. The accommodation for the keeper is very limited and is a matter that seems to have been overlooked when the building was erected. The interior of the main building appears to us to have been divided into rooms by inexperienced persons on a plan that should not be adopted in the construction of similar institutions in other counties.

A special meeting of the county council of the county of Waterloo was recently held to consider the report of special committee appointed to investigate the charges preferred against the keeper and matron as to the management of the House of Industry at Berlin. The report of the committee does not show that any of the charges were substantiated, nor does it find fault with the management in the treatment of the inmates or property intrusted to their care, and beyond making a few recommendations, some of which were not adopted, the report was what might have been expected. From our experience and knowledge of these institutions we would consider that an occasional investigation is almost necessary to counteract the various complaints and rumors which are constantly being circulated in a county in which a house of industry is situated. These investigations ought to be looked upon as an assistance to the management, and unless for good cause they should only be held for that purpose and not for the intention of finding fault with those in charge, as their duties are difficult and at times most unpleasant.

The Galt *Reporter*, in referring to the investigation, states :

"That the inmates of such houses are very difficult to manage. Very often they are not committed until they are almost a nuisance to every one around them, and after their admission, although they are treated as carefully and kindly as it is the purpose of the county they should be, the somewhat denial of their liberty and the fact that they must obey rules and be denied luxuries, such as they have been somewhat accustomed to, do not tend to make them very amiable or to cease grumbling." Referring to the investigation, the same paper says : "A shaking up will do no harm, as it is an evidence of vigilance on the part of our people, but there should not be a deliberate leaning towards the inmates and an antagonism against those in charge of the institution. There must be strictness and either willing or compulsory obeyance of rules in such institutions, and those compelled to obey will always magnify the means taken to compel them. With the committee of the county council, the inspector and the physician, there should be little cause for accusations of maltreatment or ground for too ready acceptation of charges made."

We agree with these remarks, and would say that if any one, desirous of finding fault with or suggesting a change in the management of a house of industry, will only bring the matter to the attention of the inspector, they will always receive a satisfactory explanation or know that the matters complained of will be attended to.

The *Economic Journal* for July gives an account of the system adopted for caring for the poor in Denmark. The act which came into force in 1892 seems to have considered the repugnance felt by the decent poor towards the workhouse and their readiness to endure considerable privation rather than enter it. It provides that only such persons as cannot be assisted in their own homes may be removed to the poor house ; even if they have to go, they must not be compelled to herd with persons of bad character, but must be accomodated in separate establishments, or at least in separate wards.

Developement of Municipal Institutions in Ontario.

It is said that Government by-town meetings is the oldest form of Government known in the world, and the student of ancient History is familiar with the Comita of the Romans, and the Ecclesia of the Greeks. These were popular assemblies held usually in the market place, the Roman Forum, and the Greek Agora. The Government carried on in them was a more or less qualified democracy.

The principles of the town meetings, however, is older than Athens or Rome. Long before streets were built or fields fenced men wandered around the earth in family parties. These were what we call Clans, and is supposed to have been the earliest form in which civil society appeared on the earth. Each Clan usually had a chief or head man, useful more particularly as a leader in war times. Its civil government, rude and disorderly enough, was, in principal a democracy. When a Clan, instead of moving from place to place, fixed upon some spot for a permanent residence, a village grew up there surrounded by a belt of vacant land or somewhat later by a stockaded wall. The belt of land was called a "mark," and the wall was called a "tun." Afterwards the enclosed space came to be known someties as a "mark" and sometimes as a "tun" or town, and in England the latter name prevailed. It was customary to call them by their Clan names. Town names of this sort are to be found all over England, and point us back to a time when each was supposed to be a stationary home of a Clan. These old English towns had their tungemot or town meetings in which by-laws were made and other important business transacted. The principal officers were the reeve, the beadle, the tithing man, or the petty constable. At first these officers were elected by the people, but after a while, as great lordships usurped jurisdiction over the land, the lord Stewart or bailiff came to supercede the reeve or beadle. After the Norman conquest, the townships thus brought under the sway of great lords, came to be generally known by the French name of "manor" or dwelling places.

The relation of the people to the lords is referred to in that strangely beautiful story, "The Cloister and the Hearth," in which Charles Reade has drawn such a vivid picture of human life at the close of the middle ages. There is a good description of the siege of a revolted town by the army of the Duke of Burgundy. Arrows whiz, catapults whirl their ponderous stones, wooden towers are built, secret mines are exploded. The sturdy citizens, led by a tall knight, who seems to bear a charmed life, baffle every device of the besiegers. At length the citizens capture the brother of the Duke's general, and the besiegers capture the tall knight, who turns out to be no knight at all, but just a plebean hosier. The Duke's general is on the point of ordering the tradesman, who has made so much trouble, to be shot, but the latter still remains master of the situation, for, as he dryly observes, if any harm comes to him the enraged citizens will hang the general's brother. Some parley ensues, in which the shrewd hosier promises for the towns folk to set free their prisoner and pay a round sum of money if the besieging army will depart and leave them in peace. The offer is accepted, and so the matter is amicably settled. As the worthy citizen is about to take his departure, the general ventures a word of inquiry as to the cause of the town's revolt. "What, then, is your grievance, my good friend?" Our hosier knight, though deft with needle and keen with lance, has a stammering tongue. He answers: "Tuta-tuta-tuta-tuta—too much taxes."

The words "too much taxes" furnish us with a clue wherewith to understand and explain the origin of municipal institutions. Many events recorded in history, sieges, marches, deadly battles and romantic plots have owed their origin to question of taxation. This issue has been tried over and over again in every country and in every age, with various results. How much the taxes shall be and who is to decide how much they shall be are always questions of the greatest importance. A very large part of what has been done in the way of making history has been to settle these questions, whether by discussion or by blows, whether in council chambers or on the battle field.

After the English had been converted to Christianity, local churches were gradually set up all over the country, and districts called parishes were assigned for the administrations of the priest. The parish generally coincided in area with the township and in the course of the 13th century we find that the parish had acquired the right of taxing itself for church purposes. Money needed for the church was supplied in form of church rates, voted by the ratepayers at the vestry meetings. The officers of the parish were the constable, the bailiff and the vestry clerks-the beadle, the waywardens, or surveyors of highways, and the haywards or fenceviewers and common drivers, or collector of taxes, and at the beginning of the seventeenth century, overseers of the poor were added. There were also church wardens, usually two for each parish, whose duties were primarily the care of the church property, assessing the rates, and calling the vestry meetings. The officers were all elected by the ratepayers.

In addition to the parish or township we find upon examination that a map of England shows the country to be divided into counties. We have seen how the clan, when it became stationary; was established, as a town or township, and in these early times, Clans were generally united more or less closely into tribes, made up of a number of Clans, or family groups. The names of the tribes were applied first with the people, and afterwards to the land they occupied. A few of the oldest county names in England still show this plainly, for example, Middlesex was generally occupied by the Middle Saxons. Each tribe had its leader whose title was, "Ealdorman" or elder nan, and as they increased in influence they took the title of kings. The little kingdoms coincided sometimes with a single shire, sometimes with to or more shires. The shires was governed by the shire mote, which was a representative body. Lords of lands including abbots and priors attended it, as well as the reeve, and four select men from each township. As the cities and boroughs grew into importance they sent representative burgers to these meetings. This shire mote was both a legislative body and a court of justice. After the Norman conquest the shire began to be called by the French name "county," because of its similarity to the small pieces of territory in that country governed by counts. The officers of the shire mote were the shire reeve, or sheriff, who was at first elected by the people, and held office for lite, but who was afterwards appointed by the king for a term of one year. The coroner, or "crowner," was especially the crown officer of the court, and the justice of the peace. In 1362, the justices of the peace in each county were authorized to hold court four times a year.

To be continued.

The Honorable James Bryce, in an article published in *The Fornm*, entitled, "How to teach civic duty," says that it should be taught in the schools, that the pupils should be made to begin from the policeman and the soldier whom he sees, from the workhouse and the school inspector, from the election of the town council and the member of the legislature. He suggests three habits to be cultivated: (1) to strive to know what is best for one's country as a whole; (2) to place one's country's interests when one knows it above party feeling or class feeling or any other sectional fashion or motive; (3) to be willing to take trouble, personal and even tedious trouble, for the well-governing of every public community on belongs to, whether it be a township, a ward, or of a city, or of a nation as a whole. And the methods of forming these habits are two, methods which, of course, cannot in practice be distinguished, but must go hand in hand: (1) the giving of knowledge regarding the institutions of the country; (2) knowledge sufficient to enable the young citizen to comprehend their workings.

* * *

The proper form of municipal government must be that of growth, shaped and determined by our political life, and the example of foreign countries cannot be of but little use in helping to solve the problem of so-called necessary reform in municipal government.

ENGINEERING DEPARTMENT.

A. W. CAMPBELL,
P.L.S., C.E., A.M.C.S., C.E.,
EDITOR.

Roads and Roadmaking.

Our present road law and the system of working the roads under it, was no doubt the best that could be devised at the time it was formulated, at least under the conditions existing then ; but we have outgrown its usefulness, and must, therefore, adopt a better and more economic system. A number of conditions operated in retaining the present crude and imperfect system so long. The rapid extension of railroads and the facilities for intercourse and shipment of products which they afforded operated largely in retaining it. The use of the navigable streams and the cheapness of watercarriage was also an important factor The use and extension of toll roads, or turnpike system affording better means of transportation on some of the principal lines of travel also operated in favor of retaining the present system. Besides the nature of the system itself and the character and abilities of the men operating it, made improvements out of the question. The overseers under the present system with rare exceptions were not trained engineers, and therefore unable to formulate remedies for the defects of the system. The system of choosing the pathmasters is therefore undesirable, because rarely competent persons are chosen by that method. Another cause that operated more than anything else in retaining the present system was the fear on the part of the tax-payers, that any reform that might be instituted would increase the taxes and thus increase the burdens and no reform would be likely to meet with their approval that threatens to increase the taxes. They must be educated to understand the value of the reforms to be instituted. They must be brought to see that improved roads will increase the value of real estate that the value of farm products will be raised thereby, that the price of commodities will be reduced, and that their social condition will be greatly improved. Unless tax-payers can be brought to see these things they will object to the adoption of any reform that will be likely to put any greater burden upon them, even for a short time. The strongest objection will, no doubt, come from the agricultural districts and yet they will be gainers rather than loosers thereby. The lot of the agriculturalist is a hard one, as evidenced by the exceeding large number of farms that come into the sheriff's hands every year, and it is important that nothing shall be done that will increase the hardness of their lot. We are all dependent upon the farmers, and it behooves us to foster and protect his calling as far as possible. The gain from improved roads would largely come to the farmer, in that the cost of transporting his farm products to market is greatly reduced because he saves largely in time and labor. They benefit the farmer at least primarily, though secondarily the towns serving as a market centre are also benefitted, and should pay their share towards the improvement and maintenance of public roads. Toll roads or turnpikes may be considered in the light of monopolies. They were undoubtedly of great importance formerly, but their usefulness will be greatly lessened by macadamising other roads. They are more frequently in bad condition than otherwise, and when this is the case, the collection of tolls is a robbery. The law requires their vacation if not properly repaired but it is seldom done. They earn usually a large dividend for the stock holders, and any public enterprise that pays a dividend exceeding the legal rate of interest appropriates its earnings in an unfair manner.

They are also unfair in that they tax the travelling public alone, while they are not the only ones benefited by them. They benefit the towns to which they extend, and the farms adjacent to the lines. It is therefore unfair to tax the travelling public alone, and the tolls or turnpikes are an outrageous burden to them. If they were properly repaired they would not be quite so objectable, but they are generally in wretched condition, and hence the tolls are a real burden. The travelling public pays road tax for the maintenance of the public roads and therefore they have a right to expect them to be kept in proper repair for travel. They are therefore an extra burden on the tax-payers, and frequently to those who pay most towards maintaining the public roads.

On these considerations turnpike roads should be abolished and their property revert to the country. Where companies do not vacate voluntarily, the country should claim them by arbitration.

All roads should be owned by the community and free for the use of the public. Roads built by individuals or corporations and operated for individual or corporate benefit, place serious limitations upon trade and travel, and throw the burden of their maintenance generally upon a community of working men, who, while they are the most valuable element of ordinary communities, are at the same time least able to bear it. And further, when roads are paid for and owned by the community, each paying according to his pecuniary ability, the burden of taxation is uniform, equitable, and seldom oppressive, while the aggregated wealth of a community may accomplish with ease that which an individual or corporate capital would never undertake without assurance for profit largely in excess of what the heaviest general tax should be.

In some counties, notably in new territory, owned and occupied by a various and enterprising people, speculative considerations might justify expenditures on public roads, far in excess of a normal and judicious rate on older established communities.

Estimating the latter, whether municipal or rural, it would be safe to fix the limit of all property taxation in cities at 2.5 per cent., and in country districts at 1.5 per cent. of taxable values, while the poll tax for roads upon every male inhabitant between the ages of 21 and 50 should be about $3. With these limits it would generally be a wise and remunerative scheme to approach a perfected and thorough system of roads and streets at such a rate of progress as would finish the work in twenty years, keeping pace meanwhile with increasing population. The average city and county cannot compass the work in a shorter time without a rate of taxation that would be seriously opressive. But of course there are many localities where without serious or opressive taxation the desired work may be accomplished in a shorter time.

To maintain our earth roads in a passable condition, we should have a law that will be practical and not as many different laws as there are townships in each county. The great trouble with our present system is, not that the work costs too much, but that it is impossible to have it done when it should be because we have too many contractors and too many incompetent overseers. Skilled men should be employed to perform these duties, and they should be paid competent salaries.

Earth roads may be much improved by crowning the road with a good scraper, handled by a team and two men. To construct a good stone surface, the stones should be broken by a crusher, to pass through a two inch ring. It should be placed on a portion of the surface, say twelve feet wide and six inches deep on dry soil with greater depth than required. It should not be screened but deposited as it leaves the crusher coarse and fine together to form a compact mass and thoroughly rolled. Hard stone is preferable when procurable. One mile will require about 2000 perches at, say at seventy-five cents per perch for breaking or hauling on the road.

Stone broken small as a true macadam requires, arched over the natural earth with proper support at the sides, would be as compact and strong as if made up piece by piece with brick and stone and save immensely in the cost of the expensive foundation though it be essential in all self-sustaining pavements. But always provided the natural surface is dry.

The cost of earth excavation will vary from sixteen to thirty cents per cubic yard; rock excavation from fifty to seventy-five cents. Stones suitable for a Telford foundation can be quarried and delivered for $1.00 per cubic yard or for an eight inch foundation about twenty-two cents per square yard. Four good pavers can readily place 300 lineal feet, eighteen feet wide per day (150 square yards per man).

This will give two and one-third cents per yard for laying the foundation.

Broken stone can generally be delivered for $1.25 per cubic yard or about fourteen cents per square yard four inches deep, allowing seven cents for screening, sprinkling and rolling, the total cost of a square yard of Telford pavement will be forty-six cents. This does not include grading, draining, bridging, etc., there is comparatively little difference between the cost of a Telford and Macadam road of the same depth. A good gravel road on a Telford foundation will cost about thirty-five cents per square yard, exclusive of grading. For reconstructing old turnpikes the cost will be from thirty to forty-five cents per square yard.

The "Good Roads" Movement.

The projectors of the "Good Road" movement are making an additional argument in support of their appeal for road improvements, out of the desirability of good common roads as feeders to the railways of the county. A pamphlet recently issued, contains the opinions of a large number or railway presidents and other officials, all testifying to the advantage, it would be to the railways of the country to have the roads improved. Among the striking suggestions contained in these opinions, is one from a representative of the Minneapolis, and St. Louis Railway, who says :

"It is not so readily done now, but in past years any new railway enterprise, no matter what its merits or backing, has had little difficulty in going to any of the towns in our western country, and on the promise of locating such railroad through them, secured a donation of large sums of money to aid in their construction. and, after paying the money and getting their competing railroad, have found, much to their astonishment and disgust, that the only result has been to build up towns on either side of them on the new road, cutting off from them business which they formerly enjoyed. Had these same towns voted one third or one-quarter of the amount they gave to this new railway enterprise to building three or four good substantial roads out into the country, naturally tributary to their towns, they would have been benefitted thereby for all time to the extent of $10.00 to $1.00, where they could ever have been possible benefitted by the new railroad, had their wildest dreams been realized.

The State That Will Grow.

Those states that soonest put into operation a road improvement system will surpass their sister states in growth and prosperity. They will increase the profits on their crops and the value of their lands, attract the best class of immigrants, and command the most capital on the most advantageous terms.—*Detroit Journal.*

Drainage.

It will be conceded that no farmer ever raised a good crop of grain on wet ground, or on a field where pools of water become masses of ice in the winter, in such cases the grain plants are generally frozen out and perished ; or, if any survive they never arrive at maturity, nor produce, a well developed seed. In fact every observing farmer knows that stagnant water whether on the surface of his soil or within the reach of the roots of his plants always does them injury.

We all well know that wheat and other grains, as well as grasses, are never fully developed and never produce good seed when the roots are soaked in moisture. Now the farms of this country, though at times they appear dry during the summer and crack open on the surface, are not in fact dry farms. On the contrary for nine months out of twelve they are moist or wet, and we need no better evidence of this fact than the annual freezing out of the plants and consequent poverty of many crops.

If we listen to the answers of the farmers, when asked as to the success of their labors, we shall be surprised, perhaps, to observe how much of their want of success is attributed to accidents, and how uniformily these accidents result from causes which thorough drainage would remove. The wheat crop of one would be abundant, had it not been badly frozen out in the fall ; while another lost nearly the whole of his by a season too wet for his land. A farmer at the west has planted his corn early, the late rains have rotted the seed in the ground ; while one at the east has been compelled by the same rains to wait so long before planting that the season has been too short. Another has worked his clayey farm so wet because he has not time to wait for it to dry, and it could not be properly tilled. And so their crops have wholly or partially failed, and all because of too much cold water in the soil. It would seem by the remarks of those who till the earth as if there was never a season just right—as if providence had bidden us labor for bread and yet sent down the rains of heaven so plentifully as always to blight our harvest. It is rare that we do not have a most remarkable season, with respect to moisture especially. Our potatoss are rotted by the summer showers, or cut off by summer drought ; and when they are neither seriously diseased nor dried up we find at harvest time that the promise has belied the fulfilment; that after all the fine snow above the ground, the season has been too wet and the crop is light. We frequently hear complaint that the season was too cold or warm and that the ears did not fill ; or that sharp drought following a wet spring has cut short the crop. We hear no man say that he lacked skill in cultivating his crop. Seldom does a farmer attribute his failure to the poverty of the soil. He has planted and cultivated in such a way that in a favorable season he would have reaped a fair reward for his toil ; but the season has been too dry or too wet ; and with full faith that farming will pay in the long run he resolves to plant the same land in the same manner hoping in the future for better luck.

We must underdrain all the land we cultivate that nature has not already underdrained and we shall cease complaints of the seasons. We shall seldom have a season upon properly drained land that is too wet or too cold or even too dry ; for thorough drainage is almost as sure a remedy for a drought as for a flood.

The necessity of drainage does not depend so much upon the quantity of water which falls or flows upon land or upon the power of the sun to carry it off by evaporation as upon the character of the sub-soil. The vast quantity of water which nature pours upon every acre of soil annually, were it all to be removed by evaporation alone, would render the whole country barren ; but nature itself has done the work of draining upon a large proportion of our land, so that only a healthful proportion of the water which falls upon the earth passes off at the surface, by the influence of the sun.

If the sub-soil is of sand or gravel or of other porous earth, that portion of the water not evaporated passes off below by natural drainage. If the sub-soil be of clay, rock or other impervious substances, the downward course of the water is checked, and it remains stagnant, or bursts out upon the surface in the form of springs.

Road Lore.

Repair should never be delayed.

Scientific supervision is essential.

Wetting down aids repair by helping the new added material to adhere to the old.

For repair, especially of large areas, as well as for construction, a steam roller effects great economy.

The use of wide tires should be encouraged, either by bounty on such, or by tax on narrow ones.

Four-wheeled freighting vehicles should not track ; the hind wheels should roll outside the track of the fore wheels.

Local tax for maintenance tends to prevent local misuse, promotes local supervision and prompts repair.

Keep on Hammering.

If we would have better roads, we must have a better system of roadmaking and repairing. We must submit to be taxed to procure them and keep them in an efficient state, and no money could be better spent. If we keep this very important matter before the public and urge its necessity upon our legislators, something must be done. But a spasmodic effort to-day, which will be forgotten to-morrow, will leave our last condition as bad, if not worse, than our first.—*Chicago Heracd.*

Highway Bridges.

We are all interested in highway bridges, whether we have anything to do with their construction or not. If we are engineers, our interest may be an especially professional and pecuniary one; as a part of the travelling public we are all concerned with the question whether they are so proportioned and built as to carry us safely and conveniently, and we may feel a moderate interest in their external appearance, preferring that they should harmonize with their surroundings rather than repel by their ugliness. As taxpayers, also, we may have an interest in a particular structure, and may desire that it shall be economical in first case, in maintenance and in length of life or usefulness.

That bridge is not necessarily the cheapest, in a correct view of the matter, which has been offered by the lowest bidder, for we must take into account, besides the interest invested on the capital invested, the cost of annual maintenance and repairs of renewal, if such renewal becomes necessary, in a greater or less length of time, and not unfrequently the pecuniary loss and public inconvenience by interruption of travel during such renewal.

Are the methods generally pursued in obtaining iron highway bridges conducive to the protection of the interests of the taxpayer and to the safety of the travelling public? Do municipal authorities take those steps when contemplating the building of a new bridge which will ensure the obtaining of a structure safe and substantial, well adapted for the place and one which, while reasonable in first cost, shall give the community a bridge lasting for a long period and requiring but little repair as time goes on? Have these officials the acquaintance with the subject and the proper technical and expert skill to know what to ask for and to assure them that they get what they ought to have?

It appears too frequently to have been the case, if we may judge by results, that county commissioners have considered themselves quite competent to handle the problem of a new bridge or on a penny wise and pound foolish policy, which so frequently characterizes the conduct of municipal improvements, have trusted themselves in the hands of interested parties to save a professional fee. Commonly, after they have been swindled or involved in difficulties through the criticisms or investigations of taxpayers or others they will call for expert advice?

Just as soon as your town or county votes money for a new bridge, certain agents (and they are as numerous as sewing machines and lightning rods) will call on or write to the town or county officers and will offer to build anything under heavens you want, of any size, shape or material and for almost any price. They will produce testimonials from all the town and county officials in the country for the excellency of their bridges, and will not hesitate to give references, even to their moral character, if you should ask it. If they find that you don't know anything about bridges they will, to save you the trouble, furnish you with a printed specification, which document will commit you to pay the money, but will not commit the bridge company to do anything at all. When the bridge is put up, you never will know whether the iron is good or bad, or whether the dimensions or proportions are such as to be safe or not. You will know that you have to pay your money but you will never know what you have got for it until some day when your bridge gets a crowd upon it and breaks down and you have the damage to pay. The ordinary routine of bridge-letting is about as follows: A few weeks before the letting occurs, an advertisement is put in a local paper, stating that on a certain day bids will be received for one or more bridges. Generally, the spans are given and often the width of roadway. In the rare cases, where the expert advice has been taken in advance, the data are reasonably full and to the point. On the day, or the day preceding the letting, from ten to a score of travelling men, some representing bridge companies, but others merely scalpers, assemble for the purpose of getting as large an amount of money as possible from the council for as light and as cheap a bridge as will be accepted. If, as is usual before inviting tenders, the council make an appropriation for the work the bridge men make it a point to ascertain the amount, and it is seldom found to be too small to build some kind of a bridge. By shortening the total length, substituting wood for iron, narrowing the roadway, decreasing the assumed allowable road, and increasing the allowable stresses, a design can be made to come within the appropriation and will leave a little to divide among the bridge men. Some commissioners who doubt their own capacity to decide everything from their own knowledge, but who wish to economize by employing as little expert advice as possible, get some engineer to look over a strain sheet to see whether the strains are correctly computed, and, perhaps, to verify the sections of the various members by the assumption which they may have decided upon or the bidder may have tendered. If done before the bridge is built, deficiencies may be corrected, but if put off until after the completion of the bridge, as I have known it to be, the result is usually a compromise, a slight patching up of some parts or a little discount from the contract price to make a settlement.

How does any commissioner know whether he got good iron or bad, or imperfectly worked, hot or cold, unless it was inspected? One favorite device of dishonest contractors is to order from the mill iron of lighter or thinner sections than are shown on the drawing or strain sheet, which cannot be detected without careful calipering, as the external dimensions are practically unchanged. This is known as "skinning the bridge."

Do county commissioners and town authorities know what kind of a bridge they ought to have, and do they get what they ask for, even if they ask for the right thing?

Do they get the material they should?

The ability of iron to withstand the strain to which it is subjected in a bridge depends not only upon the strength but upon the amount of deformation, elongation or compression, which will be produced by a given force. The elastic limit and not the ultimate strength, should be the measure of the stress allowed, and that quality of iron, for which the product of the working stress or force applied and the elastic elongation produced by it is a maximum, will be the best to resist shocks and vibration, and not that iron with high elastic limit alone, much less high, ultimate strength and little ductility. The iron should be thoroughly worked, so as to be homogenous, and what may be popularly termed tough, as distinguished from brittle.

The safe load, which a structure or piece should carry, depends not only upon the proportions which the safe load bears to the breaking load, but on the number of times the load is to be applied and released. Hence a roof truss may carry safely a greater stress than can a bridge, and a large bridge receiving its maximum stress from a full load only. A structure which will be loaded to its maximum but a few times may, therefore be strained more heavily. One sometimes wonders that the self-interest of a contractor does not force him to build a strong bridge, for it would be supposed that the failure of a structure would be damaging to his business. It seems probable, however, that he counts upon the chance that the maximum proposed load will seldom or never come upon the bridge, and, indeed, members which are strained once or a few times very considerably beyond the elastic limit, or even well towards the point of rupture, will not fail then, although they may afterwards, give way under a smaller load, while the ultimate break-down is only a question of time. If from infrequency of maximum loading the structure stands for a few or several years, the contractor will be out of the way or retired from business or will lay the failure to abuse of the bridge or neglect of others.

Hence, also we can readily see why it is that a bridge-builder is very willing to subject his bridge to a testload of the required amount, and to point to the result of such test as a convincing proof of the excellent character of the structure—a proof which most people, not experts, will be entirely ready to accept. But the endurance of such a test, once applied, or even repeated, is no evidence that the

structure is well designed and adapted to such a load, for it may have been seriously injured by the strain and give no sign, but fall without warning on some other occasion from an apparently trifling cause.

Employ a competent engineer to prepare plans and specifications and inspect the work as it goes on, and when it is done you will have a bridge which will be warranted absolutely sound by the best authority, and the people will receive full value for their money.

Meters.

While it is true that water is one of the essentials of life, there is a popular impression that it should be as free as air. This impression is disposed of with the statement that the charge is for transportation and distribution, and not for the fluid itself. It costs less to waste water than to save it, so that when we come to utilize it for domestic purposes, money, time and labor give it a fixed value per gallon.

Water cannot be obtained from any source without an investment. If we go to the lake, river or brook, where it flows as free as the air we breathe, we cannot carry it home without labor, nor can we confine it there without capital, so that under no circumstances can we obtain water without it having a fixed value represented by money. Statistics prove that water has increased greatly within the last decade, from about fifteen gallons per day for each inhabitant to more than fifty, and, in many cases, to more than one hundred, and that no provision for supply can keep pace with the reckless waste that characterizes the use of water in the majority of cities. It is altogether impossible to determine how much of all the water supplied to cities is wasted, yet when one sees the great disparity in the number of gallons used per person in different localities and the great increase of quantity supplied to the same person in the same city from year to year, one is forced to the conviction that the supply of water needs to be doubled every five years, after having made full allowance for and increase of population and of manufacturing industries.

It is not the intention of the writer to array the usual collection of statistics and well-worn arguments in favor of the use of the meter. No well-regulated engineering, sanitary, or public-spirited mind will deny that the use of meters is in the line of promoting the greatest good to the greatest number, being a benefit alike to the seller and the buyer, and objected to only by those who get more than they ought to by pro-rata tax.

The introduction and inauguration of the meter system should be gradual. The expense attending their purchase and setting should be borne by the city, and the city be responsible for the durability and reliability. There are many makers of meters and is not surprising that the casual observer is embarrased to select the right one.

The Bill, an Act Respecting Ditches and Watercourses.

In further discussing the Bill, an Act respecting Ditches and Watercourses, the Bill provides that, if an agreement is arrived at by the owners as in the next preceding section, it should be reduced to writing form "D," and signed by all of the owners, and shall within six days after the signing thereof be filed with the clerk of the municipality in which the parcel of land, the owner of which requires the ditch, is situate, but should the land affected lie in two or more municipalities, the agreement shall be in as many numbers as there are municipalities and filed as aforesaid, with their respective clerks, and the agreement may be enforced in a like manner as the award of the engineer as hereinafter provided

This does not go far enough as the drains are seldom properly located or measured, and the size of the drain, whether open or covered, properly determined, as in nine cases out of ten, we venture it is impossible for the engineer to enforce an agreement, as an award from the information given therein. And in a great many cases, as at present where the fall is not very great, the agreement is signed, and where it is a tile drain, the title will be laid by the various parties, after different fashons without any proper or regular grade, and it may be that considerable money is wasted on account of one certain individual who may have a few rods of drain, not completing his work satisfactorily although through no fault of his, but the want of proper data to work by. If the drain is worth holding a meeting over, it is money well spent by the interested parties, in having the proper survey made of it, in order that they may receive the benefit of the construction of the work which they pay for. I have been called on to enforce the construction of a drain under an agreement prepared in accordance with these provisions of the act, and it was simply impossible for me to locate the drain, much less to make a drain that would answer the purpose intended from the particulars given in the documents. Such as that John Jones shall commence at a stake standing near Henry Smith's gate and shall open up and maintain a ditch or drain to a stake planted in the course of the drain, and numbered 2, a distance of 40 rods, and said drain shall be 2 feet across the bottom, three feet deep and eight feet wide. Now it is simply absurd to expect that an open drain much less a tile drain can be constructed from any such information, if it is to be followed strictly. As usually drawn it is is impossible to carry out the agreement of this sort. The engineer should locate the drain and fix the levels, even if the parties agree as to the proportions to be made by each. The drain can then be properly described, the necessary information given to govern the parties doing the work. Everything will then be specified and definite and the delinquent parties obliged to live up to its provisions. It should not be necessary that the parties sign the agreement at the meeting, but that if an agreement is arrived at, the engineer should be called to properly locate the drain, and give the levels The agreement should then be reduced to writing, signed by the parties, and filed with the clerk of the municipality, in which the land requiring the drain is situated within, say, ten clear days from the date of the meeting. This would allow time to have the agreement drawn up by the clerk of the township or solicitor, or some person accustomed to that sort of business, as it cannot be expected to find at every meeting, one of the parties capable of properly preparing an article of this kind. A little extra time and precaution, and a trifling expense to each of the parties interested, may be the means of saving expensive litigation, failure in the working of the drain, and bad neighbors afterward.

Executors, guardians, and agents under power of attorney should be placed in the same position as real owners for the purpose of this act. The act should be made clear that the owner filing the requisition must be the owner who calls the meeting for agreement. As at the present time the act lays down that if an agreement is not arrived at, at the meeting, any owner may file a requisition with the clerk calling the engineer, while it is the intention of the act that the parties seeking the outlet shall take the action, and if the whole of the drain is to be made, the party whose lands are at the head of the work must originate it.

The municipal fathers of a town in northern Ontario are posing in a somewhat peculiar way as disciples of the evolution theory. It is not the evolution of the species which is engaging their attention, but the evolution of architectural ideas. Having been entrusted with the arrangements for the erection of a new town hall and market building to cost nearly $20,000, their first resolve seems to have been to avoid having anything to do with an architect. Their next step was to call in a local carpenter and ask him to prepare a rough design. Having secured this, they instructed one of the builders in the town to prepare the plans, which, on examination, met the views of some of the members of the council, but were declared by others, and by the majority of the citizens to be unsuitable, In order that this important point may be satisfactorily decided, it has now been found necessary to procure the opinion and advice of an architect. It is to be hoped that the evolution theory will now be abandoned in favor of common sense methods, and that in the case of this and other works of like importance, the saving of a few hundred dollars in architect's fees will not be accomplished at the sacrifice of architectural beauty and utility.—*Canadian Architect.*

LEGAL DEPARTMENT.

H. F. JELL, SOLICITOR,
EDITOR.

Municipal Councils.

THEIR POWERS AND JURISDICTION—HIGHWAYS.

Section 550 of the Municipal Act expressly confers on municipal councils, the powers given them by implication by section 546, viz: of passing by-laws for opening roads within their jurisdictions, and for entering any land in any way necessary or convenient for the said purpose. Municipal corporations are thus empowered, not only to change the direction of existing roads, but also to open new roads, not merely as substitutes for other roads running near and between the same points, but to afford a passage from one point to another where there has been no passage before. Subject to the restrictions mentioned in the statutes, municipal councils have full power to close up highways within the municipality. If the effect of closing the road will be to prevent owners of lands abutting thereon, who are unwilling that the road should be closed, from ingress and egress to and from their lands or places of residence, then the road cannot be closed, without compensation being made to such owners, and the providing by the council of some other road or way of access as a substttute for the road proposed to be closed, see section 544. This provision applies to case where the only means, or the only convenient means of access is over the road closed up, and not where there is another existing through less convenient way of access. In stopping up a road it is not necessary for the council to do more than close or abolish the highway by their enactment—they are not required to fence it in, or to place any physical obstruction in the way of people passing. It will be noticed that it is discretionery, and not obligatory upon a municipal council to open a road allowance, and the fact that a by-law has been passed, does not create such an obligation. If no other disposition be made of a road stopped up by a council, the soil and freehold would be, and become the soil and freehold of the owner of the soil, relieved of the easement in favor of the public. It is not necessary to the extension of the public right of way, that the land should be conveyed to another where the corporation has authority to do so. It might be well to call attention to the fact that section 545 requires councils in laying out roads or streets to make them not more than 100, nor less than 66 feet in width, unless with the consent of the council of the county within which the municipalty is situated, and the said section 545 also provides that no owner of land shall lay out any highway or street of less width than 66 feet without the consent of the council of the municipality. The by law opening the new road should, on the face of it, show the width of the road proposed to be opened, and should, when it authorizes a road through a man's land, show where it enters, and what course it takes. A by-law to establish a road must,on its face,show the boundaries of the road, or refer to some document wherein they may be found, as the intentions of the framers of the by-law cannot be ascertained by outside evidence. The same strictness does not apply, however,to a by-law closing up an old road. Section 551 provides for the conveyance of the original allowance for road by the council to the person or persons through whose land a substituted road runs, and who has or have received no compensation therefor: First, where the person in possession of a concession, road or side-line, has himself laid out and opened a road in place thereof, and secondly, where a new or travelled road has been laid out, and opened by the proper authority in lieu of an original allowance for road. The words "may convey" used in this section, it is well to bear in mind, are compulsory, and the corporation cannot refuse a conveyance to the person entitled to it.

Legal Decisions.

The Great Drainage Suit.

WILLIAMS VS. THE CORPORATION OF THE TOWNSHIP OF RALEIGH.

Another step has been taken and another decision given in this celebrated drainage case. The court of last resource —the Privy Council of England—has given judgment on the appeal of the defendants from the judgment of the Supreme Court of Canada, which gave the plaintiff a decision, confirming the original award of $850 damages for injuries sustained by the overflow of township drains on his property. This decision of the Supreme Court was likely to result in a strange state of affairs. The court held that the drainage clauses of the Municipal Act are permissive only, not imperative; that in order to enable the defendants to escape liability for the damages caused by the flooding, it was incumbent upon them to show, first, that the doing of the work in question was ordered by the legislature, that is, that it was imperative upon them to build the drains, and second, that the same could not have been built without causing the damage complained of. It would appear that the first ground stated in the judgment aimed at the very root of the drainage provisions of the Municipal Act, and if an order of the local legislature had to be obtained for every drain that was to be constructed, the drains that had been constructed up to that time were all improperly and illegally made. This seems to be a very extreme view to take of the power conveyed by the word "may," in section 569, which, no doubt, was intended to, and in the judgment of the judges, except those of the supreme court, did confer upon township councils the power of constructing a drain, as soon as they came to the conclusion that a majority of the persons benefitted had petitioned therefor.

The text of the Privy Council's decision is as follows:

RE DRAIN NO. 1.

The township is held liable for any damage which may have been occasioned to Williams merely through the overflow from No. 1 Drain caused by non-repair, and it is referred back to Judge Bell to assess any such damage.

THE BELL DRAIN.

The action, so far as the Bell Drain (and any similar drain) is concerned, is dismissed, because the Privy Council holds with the defendant's contention, that no action lies against a township for constructing a drain according to the plan of the engineer, adopted in the by-law, even although the drain has not a proper outlet and does damage.

AWAITING JUDGE BELL'S REPORT.

The further consideration of the action is reserved until after Judge Bell's report. This is to enable the court to ascertain whether the damage from No. 1 Drain is owing to non-repair, for which the township is liable, or to the construction of the numerous drains leading into No. 1 with sufficient outlet, for which the township is not liable.

The effect of this decision seems to be a success for the township, on the question of law, as to the liability of a township for damages arising from a defectively or improperly planned drain, authorized by by-law. The inferences or deductions to be drawn therefrom are: 1st, That any parties injured from defective or insufficient outlets, etc., may proceed by arbitration; but such claims can only extend back one year, and 2nd, That a township can charge damages, costs, etc., back upon the locality assessed for the drain causing the damage; and parties may be less apt to put the township to costs and expense when they know that all such will come back upon them.

The costs of the proceedings in the Canadian courts were given against the defendant corporation

Practically, the plaintiff gets a verdict, less what is to be deducted for the Bell drain, which will not be large.

It would seem, however, that the end of this celebrated case is not yet. The plaintiff is not debarred from continuing other actions in connection with the government drain, nor yet from proceeding for compensation for the Bell drain damage. The history of this case is as follows:

Certain lands in the township of Raleigh were drained by what were called the Raleigh plains drain and government drain No. 1. The ratepayers petitioned for

further drainage under the Municipal Act (R. S. O., 1887, chap. 184), and a surveyor was directed, under section 569 of the act, to examine locality, make plans and report as to how the drainage could be effected. In pursuance of his report the municipality caused a number of drains to be constructed leading into the Raleigh drain and government drain No. 1, with the result that the additional volume of water proved too great for the capacity of the latter, which overflowed and flooded the adjoining lands of C., who brought an action for the damages thereby. The matter was referred to a county court judge, who reported the facts in favor of C., and against the contention of the municipality, and estimated the damage at $850. The divisional court affirmed this finding and also ordered the issuing of a mandamus, under section 583 of the act. The court of appeal revised the decision, holding that the only remedy for damage to C.'s land was by arbitration, under the statute, and that he was not entitled to a mandamus. The supreme court reversed the judgement of the court of appeal, and held that the right infringed by the municipality being a common law right and not one created by statute. C. was not deprived of his right of action by sec. 483 of the act, which provides for determination by arbitration of a claim for compensation for lands injuriously affected by the exercise of municipal powers. It was further held that the municipal council had a discretion to exercise in regard to the adoption, rejection or modification of the report of a surveyor appointed under section 569 to examine the locality and make plans, etc., and, if the report is adopted, the council is liable for the consequences following from any defect therein. It was also held that the council by the manner in which the drainage work was executed was guilty of a breach of the duty imposed on it by sec. 583 of the act to preserve, maintain and keep in repair such work after its construction. The work having been constructed under sec. 573 of the Act, C. was not entitled to a mandamus under that section to compel the municipality to make the necessary repairs, to preserve and maintain the same, the notice required by that section not having been given. If the work had been done under sec. 586 notice would have been necessary. It was also held that though sec. 583 makes notice a necessary preliminary to the liability of the municipality to pecuniary damage suffered by a person whose lands is injuriously affected by neglect or refusal to repair, the want of such notice did not divest C. of his right of action, nor affect the damage awarded to him.

The municipality obtained special leave to appeal to her Majesty in Council on the ground that the appeal involved serious questions of public importance depending on the true construction of the Ontario Statutes relating to the powers and duties of municipalities.

OSBORNE VS. THE CORPORATION OF THE CITY OF KINGSTON.

In the statement of claim in this action, the plaintiffs alleged, amongst other things, that the defendants were as owners and occupants of the streets in the municipality, bound to cut down noxious weeds growing thereon, and not having done so were liable in damages; also that the defendants had made default in the performance of their duties, under the statute, in that they had not appointed an overseer of highways or other officer to discharge the duties imposed by section 9 of chap. 202, R. S. O., 1887, and were therefore liable in damages. A mandamus was also asked to compel the defendants to cut down the noxious weeds in the future. The defendants demurred to the plaintiffs statement of claim, and set up amongst other things that no action lay against them for the matters referred to, and they were under no obligation to appoint an overseer of highways, inspector or other officer for the purpose of discharging the duties imposed by the statute. On the argument of the demurrer it was held that municipal corporations are not owners or occupants of highways in their municipalities, within R. S. O. chap. 202, being an act to prevent the spread of noxious weeds, etc., nor does the word "land" therein include street or highway. The appointment of an inspector under the act, being discretionary with the council, unless petitioned for by the necessary number of ratepayers, and that of an overseer being altogether discretionary. In the absence of such appointments no duty is cast on the council to cut down noxious weeds on streets.

IN RE VIRGO AND THE CITY OF TORONTO.

This was an appeal to the Court of Appeal for Ontario, from the judgment of Chief Justice Galt, dismissing a motion to quash certain sub-sections of certain sections of by-law No. 2,453 of the city of Toronto, as amended by by-law No. 2,924. Section 12 of by-law No. 2,453 provided that a license should be taken out by: (2) All hawkers, petty chapmen, or other persons carrying on petty trades, or who go from place to place, or to other men's houses on foot, or with any animal bearing or drawing any goods, wares, or merchandise for sale, except that no such license shall be required for hawking, peddling or selling from any vehicle or other conveyance, goods, wares or merchandise to any retail dealer or for hawking or peddling goods, wares or merchandise, the growth, produce or manufacture of this province, not being liquors within the meaning of the law relating to taverns or tavern licenses, if the same are being hawked or peddled by the manufacturer or producer of such goods, wares or merchandise, or by the bona fide servants or employees, having written authority in that behalf, and such servant and employe shall produce and exhibit his written authority, when required so to do by any municipal or peace officer; nor from any peddler of fish, farm and garden produce, fruit and coal oil, or other small articles that can be carried in the hand or in a small basket; nor from any tinker, cooper, glazier, harness mender, or any person usually trading or mending kettles, tubs, household goods or umbrellas, or going about and carrying with him proper materials for such mending. Section 43 was as follows: There shall be levied and collected from the applicant for every license granted for any business or object in this by-law, classified as requiring a license, a license fee as follows: (2) For a license to any one following the calling of a hawker, peddler or petty shopman. (1) With a two-horse vehicle, $40; (2) with a one-horse vehicle, $30; (3) on a street corner or other place where permission is given therefor, other than in a house or shop, $15; (4) on foot with a handbarrow or wagon pushed or drawn, $7.50; (5) with a creel or large basket crate, $2.50, and the general inspector of license shall furnish each such license with a suitable badge to be worn by said licensee in a conspicuous place while plying his trade.

The first amending section complained of, provided that no hawker or peddler referred to in section 12, sub-section 2 of the original by-law, whether a licensee or not should prosecute his trade on certain named streets of the city. And the second amending section complained of, provided that the annual fee for a fish hawker or peddler should be with a horse, mule, or other animal and vehicle, $10, and on foot $2.50.

It was held by the court of appeal that under R. S. O., chap. 184, section 495, sub-section 3, which provides that the council of any city may pass by-laws for licensing, regulating and governing hawkers and peddlers. A city council may, acting in good faith, pass a by-law to prevent hawkers and peddlers from prosecuting their trade on certain streets.

The Chatham Planet in discussing the decision in Williams and Raleigh case says:

It shows that the result of the case is a verdict for both the plaintiffs and defendants, the appellants and the respondents.

To the profession a situation of this eminently agreeable character may be quite clear and comprehensive, but to the lay mind it will doubtless prove rather perplexing. People who are not lawyers, but can take a common sense view of things, will probably reason that as both sides in this suit cannot have had a victory one must have met with a defeat or else the issue is still undecided. This suit has been a very heavy bill of expense to Raleigh, and promises to make furtherlike inroads on the township treasury, unless the whole business of "lawing it out" be peremptorily stopped. Fairly beaten in the fight, the township council would show wisdom in at once paying off the enterprising lawyers who have so zealously kept the pot of litigation boiling for all these years, and putting pokes on its breachy municipal representatives with a penchant for jumping into the law courts. Those persons at whose instance the issue of this vexatious suit has been so stubbornly and uncompromisingly contested, have no little to answer for to the township, which they have obliged to squander so much of its good money on a case the present outcome of which is creditable neither to their sense of justice and propriety nor to their common prudence and foresight.

Claims for Damages

CORPORATIONS CANNOT BE HELD RESPONSIBLE FOR UNFORSEEN ACCIDENTS.

For many years the funds of municipal corporations have been constantly depleted by a series of drafts upon them caused by actions at law for damagse, the result of accidents to private citizens owing to defective sidewalks, bad roads, etc. In the past it has been found more profitable to arrive at a settlement with the injured citizen than to allow the case to go to court, as a jury will always favor the individual against the corporation. The result has been that parties having the slightest claims for suffering loss make a point of asking enormous recompense for their injuries. This has been the case all over the Dominion. Pictou, N. S., has suffered so much from this cause that the corporation decided to carry the case of Geldert vs municipality of Pictou to the Privy Council, as it was considered that the verdict against the corporation was unjust. The decision given was unanimous, to the effect that the municipalities are not liable for injuries sustained through non repair of the streets, but only for accidents caused by wilful neglect on the part of the corporation to repair the same. This is a reversal of the decision of the Supreme Court, and will cause a revolution in the carrying of such cases before the courts. Hitherto it has been customary to mulct a municipality in damages for injuries sustained by the bounding of a plank on the walk, owing to a nail becoming loose, plank suddenly giving way in the centre, or a washout immediately after a heavy storm. By this rendering of the law such accidents cannot be charged against the municipality, it being necessary to prove that the authorities were wilfully negligent in repairing such places. —*Ottawa Free Press.*

The Michigan authorities have passed a law, making it possible for magistrates to offer habitual drunkards the alternative of taking a gold cure treatment at some recognised institute in lieu of a sentence of imprisonment. It has been suggested that the Ontario legislature should pass a similar law and that a person accepting this option be allowed on suspended sentence for three months. A strong impulse would then be given him not to run away from the institute, leaving his cure only half finished.

A correspondent in *The Globe*, referring to the matter, suggests that in case of the penury of a person preventing him to pay for the gold cure treatment that the costs be borne in equal proportion by the municipality and the province. This is a suggestion worthy of consideration by the councils of the towns and cities in the province, and one that, if put in force and found to work successfully, should do as much good as a prohibition plebescite.

QUESTION DRAWER.

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

E. G.—School trustees of section 5 made a requisition in 1892 for $400. Council failed to strike rate high enongh to collect it. Is present council compelled to pay full amount? If so, how is it to be paid when amount was not collected?

2. A. has a claim on a lot here which is held by the government. He refused to be assessed for it this spring, but is now cutting the hay. Can collector seize hay for taxes?

1. If the amount levied for and received by the trustees last year was not sufficient for their purposes, they should ask the present council for an amount sufficient to cover what they require this year, and last year's deficiency, and see that the council levy the amount.

2. No.

C. F.—Under the local improvement sections of the Municipal Act 1892, commencing with section 612, and following, the council took steps without petition to lay down a tile drain on one of our streets. Our surveyor made his plan, and assessment on the various properties to be benefitted. Parties interested were notified of the measurements and assessments, and of the date of the court of revision. Now, supposing that all things have been legally done up to the meeting of the court, and certain appeals have been entered, and certain allowances have been made to certain parties on such appeals; the question arises, what is to be done with such allowances, can they be charged to the other properties benefited, or must the municipality at large assume such allowances? This has no reference to corner lots, or triangular pieces of property, but simply where the court's judgment differs from that of the surveyor, as to the benefit derived by such property as compared with other property to be benefited by such local improvement. The council must raise so much money, and if they reduce any particular property, they must make up that reduction in some way, and the question is, what is the legal way to make such reduction good? Is it to be charged to the other properties benefited, or paid out of the general fund of the town?

The allowances made should be assessed against all the properties benefited (including the properties in respect of which the allowances were made) pro rata according to the original assessment.

T. K.—In our municipality, about the middle of July, we had to appoint a new clerk. In doing so we appointed a man who is reeve of an adjoining municipality. Is the appointment legal or can he hold the two offices? He is also a ratepayer in our township.

We do not think the appointment mentioned by our correspondent was illegal, but it is doubtful as to whether the appointee could still hold his office of reeve of the adjoining municipality. The language of section 77 of the Municipal Act is very broad, and it is quite possible that the appointee would be held disqualified thereunder as reeve.

C. J.—Incidentally you touched upon a question that is now being discussed with a good deal of warmth in this town, and which is of such general application and importance that I think it not out of place to call your attention to the matter, and ask for your opinion and the grounds upon which you base your opinion.

In paragraph No. 2, page 117 MUNICIPAL WORLD for August, 1893, you used these words: "And the amount of any special rate imposed under debenture by-laws should be the amount required for debentures and coupons payable during the year 1894. These words imply that the council have power to raise taxes this year to pay a debt that falls due next year. Now it is contended that a council has no power to levy a rate or to collect taxes to pay a debt falling due next year, but must confine themselves exclusively to providing the means for paying debts falling due in the year in which the rate is levied.

Under sub-section 10, section 107 Public School Act, 1891, the public school board must confine its requisition to the then current year, and cannot ask for money beyond the 31st of Decem of the year in which the requisition is made.

Now the question is, can the council levy this year a rate to pay a claim that falls due next year? or must the rate be confined exclusively to raising an amount necessary to meet the claims of the current year, in which the rate is levied.

It should be borne in mind by our correspondent that the remarks referred to and quoted by him above do not apply to general rates but only to special rates levied and collected to pay debentures and coupons. In order to meet the payment of debentures and coupons maturing the 1st of January next, or thereafter previous to the collection of rates for 1894, the amounts should be levied and collected this year.—See section 342 of the Municipal Act, sub-section 2.

G. E.—The council representing this township for 1891 engaged a collector, and accepted bonds from him which were not good. The collector proceeded to collect, and during his term of office was burned out, fire catching in the roof where stove pipe passed through. Collector was in the house at the time, about twelve o'clock noon. Collector claims that $313 of township money burned in the house. Collector then cleared out engaging another party to finish collecting. The latter gave receipts to different ratepayers to the amount of about $100 in excess of amount marked paid on roll, and collected by him. The treasurer's books agree with the roll in regard to his collecting, but shows $11.62 collected by first collector, besides amount burned, which does not appear in treasurer's books. Who is liable for the missing funds?

The collector and his sureties are liable for the missing funds. The members of municipal councils, cannot, as trustees for the ratepayers, be too careful in seeing that the receipt and expenditure of the money of the ratepayers is properly secured, and in case of gross negligence in the choice of bondsmen, or the wilful selections of persons, whom they know to be worthless, it is quite possible that the members themselves would be held personally responsible.

CLERK.—A man is assessed for three lots in different road divisions; one hundred acres in each; respectively, $950.00, $1,150.00, $125.00, how many days' road work has he?

We cannot answer this question definitly, because our correspondent has not informed us, as to the scale of statute labor in force in his municipality, but sub-section 2 of section 100 of the Consolidated Assessment Act, provides that "Whenever one person is assessed for lots or parts of lots in one municipality, not exceeding in the aggregate 200 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."

T. H.—There is a county bridge connecting two portions of an incorporated village. The county keeps up the approaches to said bridge for 100 feet. Is the county or village compelled to build and keep up the plank sidewalk on the approaches.

We do not think that the liability imposed on the county by section 530 can be construed to include a liability on their part to build and keep up plank sidewalks on the approaches, but we are of opinion that the village should bear the expense of so doing.

TOWNSHIP CLERK.—Voters' list is posted up in clerk's office on the first day of August. On what day does the time expire for making appeals, and at what hour of the day?

The day of posting up the list is excluded. Therefore, the time for making appeals expires on the 31st day of August at the hour when our correspodent is in the habit of closing his place of business for the day, although we do not think the clerk would be justified in refusing to take and file an appeal if handed to him after that hour and before midnight of the 31st.

ANOTHER TOWN CLERK.—I would like to ask how you reconcile your answer to "A town clerk", in last issue of THE WORLD with section 8 of the Assessment Act, 1892.

In the last issue of THE WORLD (August) there are two sets of questions from "Town Clerk," and our correspondent does not specify to which set he refers. We do not see, however, that section 8, Consolidated Assessment Act, in any way effects either set, as it provides for the case of a person entitled to exemption from assessment for income, waiving his right to such exemption, and *requiring* his name to be entered on the assessment roll for the purpose of giving him a vote for municipal purposes.

C. F. J.—Under section 489, sub-section 9 and 9 A, a person who is a resident of a municipality, and is assessed on the assessment roll for the then current year in respect of income or personal property would not be liable to take out a transient trader's license should he engage in the sale of goods. Now, the question is, would such a person be liable to take out a license if assessed for real estate? You will notice that only income or personal property is named in those sub-sections; nothing is said about being assessed for real estate.

If assessed for real estate they would be resident, not transient traders, and would not require a license. The sections mentioned are to provide for the collection of taxes from persons doing business in a municipality who would otherwise escape taxation.—See note on page 380, Harrison's Manual.

J. B.—The boundary road between two townships has been used as a public road for the last 40 years, but at one point it was made to deviate on account of some obstruction. The present owner of the lot is demanding payment from both councils for the land taken. There is no record to show that the original owner sold the land in question, and there has never been a demand for compensation made till now.

Can the present owner collect payment?

Our correspondent does not state whether the road at the point of diversion was even assumed by the councils, or whether it was voluntarily dedicated to the public as a highway by the original owner. It does not seem, however, that the present owner could obtain compensation from the councils, as when he purchased the land, no doubt due allowance was made for any loss or damage the existence of the road might occasion him.

Neglected Children.

An act for the protection of children, passed at last session, provides that for each electoral district within the province, there shall be appointed a committee of six persons, not less than three of whom shall be women, who shall be known as the Children's Visiting Committee, for such electoral district. This committee is to be appointed by the county judge, the sheriff and the warden of the county of which such electoral division forms a part, and in the case of a city forming a separate electoral division; the committee is to be appointed by the county judge, the sheriff and the mayor, and such committee shall hold office for a period of three years. The member of the Legislative Assembly for each electoral division shall be one of the said visiting committee. The members of this committee are required to serve without compensation and the duties are principally to co-operate with the provincial superintendent and the Children's Aid Societies, which have or may be organized and to assist in the careful selection of suitable homes for orphans and neglected children and to visit each child at least once every three months. Every effort is to be made to secure homes where the children will be cared for without remuneration. Where these cannot be found there should be paid by the municipality to which the children belong not less than $1 weekly per child, and for this purpose any child is said to belong to the municipality in which it has last resided for one year, and in the absence of evidence to the contrary the residence for one year in the municipality shall be presumed. Where the municipality makes payment, under this act, for the maintenance of a child, in respect of which some other municipality is liable to make such payment, they shall be entitled to recover the amount so paid from the other municipality, and any municipality incurring an expenditure in this way may recover the amount from the parent of the child.

The Registry Act, of 1893, contains a new section, 104, which requires persons when depositing plans with the registrar, to deposit a duplicate, and the registrar is required to endorse thereon a certificate showing the number of such plan and the date when the duplicate thereof was filed with him, and the same shall thereupon request, and without any fee being chargable in respect thereof, be delivered by the registrar to the assessor or assessment commissioner of the local municipality in which the land is situated.