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Calendar for May and June, 1904.

Legal, Educational, Municipal and Other Appointments.

May—

1. Last day for treasurers to furnish Bureau of Industries, on form furnished by Department, statistics regarding finances of their municipalities.—Consolidated Municipal Act, 1903, section 293.
- County treasurers to complete and balance their books, charging lands with arrears of taxes.—Assessment Act, section 164.
5. Make returns of deaths by contagious diseases registered during April.—R. S. O., 1897, chapter 44, section 11.
6. Arbor Day.
15. Last day for issuing tavern and shop licenses.—Liquor License Act, section 8.
- Contents of earth closets to be removed on or before this date.—Public Health Act, schedule B, rule 2, of section 14.
23. Empire Day.
24. Victoria Day.
31. Assessors to settle basis of taxation in union school sections.—Public Schools Act, section 54 (1).

June—

1. Public and separate school boards to appoint representatives on the high school entrance examination board of examiners.—High Schools Act, section 41 (2).
- By-law to alter school boundaries, last day for passing.—Public Schools Act, section 41 (3).
20. Earliest date upon which Statute Labor is to be performed in unincorporated townships.—Assessment Act, section 122.

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ST. THOMAS, ONTARIO, MAY 2, 1904.

Mr. Edward W. Brown has succeeded Mr. T. A. Agar as clerk of the village of Woodbridge.

* * *

The council of the township of Colchester South, at its meeting last month, passed a by-law abolishing statute labor in that township.

* * *

Notwithstanding an effort to curtail amendments, the municipal legislation of the present session is as voluminous as usual. We expect to publish all amendments of importance, with explanations, in our next issue.

* * *

The recent destruction of the wholesale business section of Toronto shows that there is a limit to municipal protection services. The owners of the properties burned have contributed a large proportion of the municipal revenue and were entitled to protection from fire. A business tax should be a payment for protection services rendered by the municipality and the proportion of benefit is the real estate value of land and buildings irrespective of the nature of the business. The rate of business taxation in the new Assessment Law requires wholesale businesses to pay a higher rate than retailers. The reason for this has never been very well defined and can only be attributed to a desire to increase the municipal revenues at the expense of the wholesale men.

* * *

The town of Port Arthur owns and operates the electric street railway in the municipalities of Port Arthur and Fort William, the electric lighting of the town of Port Arthur and the municipal telephone plant. Owing to the publication some time ago, in the *Ottawa Free Press*, of what appeared to be an impartial criticism of the results of the operation of these public utilities, the town has, in reply, published an official statement in reference thereto, showing the town to be in a sound financial condition and well satisfied with their experience in public ownership and operation of its electrical franchises. The criticism is attributed to the opposition of the Bell Telephone Company.

ASSESSMENT OF RAILWAYS

A Provincial Commission will Report on that and other Municipal Questions.

The taxation of railways will be increased for the purposes of supplementary Provincial revenue. All suggestions for the further assessment of railways for municipal purposes have been disposed of by the adoption of the following report of a special committee of the Legislature :

Your committee are of the opinion that the railways of the Province of Ontario could bear additional taxation without interfering with their efficiency, and without imposing upon them burdens disproportionate to those imposed under the Assessment Act on real estate generally or upon other corporations.

Your committee has observed that, under the Assessment Act now before your Honourable House, municipal corporations have been authorized to tax certain portions of railway property heretofore exempt. Your committee has also noticed that under a Bill introduced by the Provincial treasurer, the Provincial tax upon railways has been greatly increased, and, as your committee are advised, will yield a revenue of about \$200,000 per annum as against \$35,000 received under the old rate of Provincial taxation. So far, however, no legislation has been suggested, except in this measure, which would tax, either by the municipalities or by the Province, foreign railways with running powers over Ontario railways, or the great railway car loaning corporations, or other corporations owning their own cars which your committee believes use the Ontario railway system for the transportation of freight along Canadian railways easterly and westerly. In regard to these latter, your committee is of the opinion that legislation should be provided whereby car loaning corporations aforesaid, and other corporations not coming within the purview of other legislation should be made to contribute to the Provincial revenue, and to that end, if practicable, legislation might be introduced this session.

As to the methods to be adopted in the early future, for the purpose of taxing all railway corporations, your committee is of the opinion that instead of now appointing a commission specially for that purpose, the matter of railway taxation might be entrusted to a Provincial commission, that would take into consideration such questions as to bonding powers and capitalization of companies concerned in the operation of public utilities, the investigation of questions arising in connection with the floating of debts and application by municipalities for legislation consolidating debenture debts, and possibly the approval of all by-laws by municipalities purporting to confer monopolistic rights on public utilities; such commission to have the power to advise upon the terms of such by-laws and generally for matters, similar to certain State commissioners of the United States or the local government board of enquiry of the mother country. It would be the duty of such commission, among other matters, to make all necessary enquiries regarding corporations that are subject to municipal and provincial taxation, and particularly the basis of the taxation of railways.

Your committee would therefore recommend that, in the meantime, a commission consisting of three persons be appointed to collect information on the various phases of railway legislation in force in the United States and also statistics as to the value of railway property owned and operated or used in this Province in order that the Legislature may be informed whether any other basis than that which now prevails in the Province of Ontario might not be more equitable, so far as the railways are concerned, and might not yield a more generous revenue to the Province.

Effect of Popular Prejudices on Public Business.

(Public Policy.)

A Government by the people may be an ideal democracy, but it cannot be an ideal business organization while the people who govern are swayed by popular prejudices rather than reason and the logic of experience. The administration of every public official is paralyzed in the degree to which popular prejudice governs. The cost to the people of this country of inefficient public administration so caused cannot be computed. This is a serious matter and should receive careful attention from every citizen.

When popular prejudice deliberately prefers representation by inexperienced and incompetent men to representation by experienced men, who have demonstrated their ability, the cause of good and efficient government is doomed. Election or appointment to office has no power to confer wisdom upon the ignorant, ability upon the incompetent. The power of prejudice is shown by its effect on the minds of people in causing them to forget this truth when taking political action, while they recognize it in every other selective action of their lives.

When good citizens remain passive and permit popular prejudices to control political action they must expect to have public offices filled by "good fellows," every means by which they earn the title of "good fellow" being a tendency or habit that disqualifies them for efficient public service. This is the soil that generates corruption.

Honor Those in Office.

Another anomaly is found in the seeming incapacity of the people to understand that virtuous indignation energetically expressed against the conduct of incompetent or corrupt men in office is not a full discharge of their civic duty. Where one man in office is deliberately incompetent or viciously corrupt one hundred others are conscientiously endeavoring to discharge the duties of their office intelligently and efficiently. When the press and the people take the course of endeavoring to honor honesty and efficiency in office as ostentatiously and energetically as it now attempts to dishonor dishonesty and inefficiency they will find an effectual remedy for the evils of which they complain. What better encouragement can be given to a public official than the knowledge that a good service record is a good title to office as long

as he wishes to hold it. The need of the people to have an efficient man in office is perpetual. The sure way of satisfying this need is to make it a fixed public policy to appoint every public official who has performed his duties honestly and efficiently. Of all senseless prejudices the one against keeping good men in office is the most devoid of reason. The cry of "rotation in office" has in it no element of common sense.

If we are to have good government we should recognize and encourage the men who give it to us. The forces which favor bad government are highly appreciative and they have good memories. Generous public recognition of good service in public station will be helpful to the men who render it and it cannot fail to exert an influence for good upon all those who may be tempted to play the part of a demagogue.

Be Generous in Honors and in Compensation.

In private employment honest and efficient service is rewarded not only by continuous employment, but by advancement and increased compensation. The absence of this inducement in the administration of public affairs is sufficient to account for a wastage of tax-payers' money, which, in amount, so far exceeds all losses by dishonesty as to make the latter hardly noticeable. One of the illogical arguments urged by advocates of the ownership and operation of public service utilities is that there would be a great saving in the item of salaries for administration. When has it occurred in the history of the efficient management of any business that reasonable payment for good ability was not a good investment?

The cheapest wages and salaries are those that produce a profit. Wages and salaries that produce a loss are never cheap.

This inability of the people to obtain honest, intelligent and efficient service is the natural result of a popular prejudice against public officers and a wrong conception of what is a just compensation for the services they render. Before the people can reasonably expect efficient administration of public business they must adopt a fixed public policy of making a good service record not only a title for re-election or appointment, they must make it a valid voucher for good pay. The people must learn the good economy of being generous in honors and in compensation.

Encouraging Public Officers.

(Chicago Chronicle.)

Men who call themselves good citizens are inclined not only to neglect important public duties but to remain passive when they should be active in the moral support which they owe to good government.

Wherever a public officer appears to be enforcing or interpreting a law without respect to persons, the men who believe in law and order should take measures to let him know that his courage and independence have not been overlooked.

No man in the highest office is insensible to public approval. It is the dread of censure quite as much as the desire to cultivate approbation which produces the demagogue.

We are all inclined to take too much for granted. If one man obviously makes a bid for the labor vote we may say he is inclined that way and probably forget all about it. If another enforces the law justly and without reference to persons we say he has backbone and good sense and we forget all about that, too.

If we are to have good government we should recognize and encourage the men who give it to us. The forces which favor bad government are highly appreciative and they have good memories. Generous public recognition of good service in public station will be helpful to the men who render it and it cannot fail to exert an influence for good upon all those who may be tempted to play the part of the demagogue.

There is a constant pressure upon many public officers to do wrong. Much of this influence comes from organized sources. Whether it is formidable or not, it has that appearance and it is successful oftener than it should be.

It would be a good idea to create an alert and watchful public opinion for the purpose of exerting a counter pressure in favor of good government, and one of the most important features of the movement should be the encouragement of letters, resolutions and speeches of approval for all who administer the law fairly and fearlessly.

Municipal Government in Ontario—An Historical Sketch

BY ADAM SHORTT, M. A.

Reprinted from The University of Toronto Studies in History and Economics.

IV.

The Act of 1841 was obviously a compromise measure, for while it practically created self-government in the rural districts it still left a considerable restrictive and regulative power in the hands of the Executive Government. Hence though the Act worked fairly well, for such a new measure, it failed to satisfy the rising popular demand for complete self-government, which was the absorbing constitutional issue during the decade which followed Lord Durham's report.

In 1843, before the rupture between Lord Metcalfe and the first Baldwin cabinet, a bill to establish complete self-government in all forms of municipal corporations in Upper Canada was brought in by Mr. Baldwin and passed the Assembly, but was suppressed by the Council. No further move was made until the second Baldwin cabinet came to power under Lord Elgin. It was altogether fitting that under Lord Elgin's enlightened administration both central and local administration in Canada should have been finally placed on that basis of self-government on which they now rest. This was accomplished in the case of municipal government by the Act of 1849, commonly known as the Baldwin Act. The preamble to this Act sufficiently indicates the scope and purpose of the measure. "Whereas it will be of great public benefit and advantage that provision should be made, by one general law, for the erection of municipal corporations and the establishment of regulations of police in and for the several counties, cities, towns, townships and villages in Upper Canada, etc." One of the most important features of the Act is that in it, for the first time, we find a serious recognition of the township as the unit of rural self-government. Taking the various municipal corporations in order, we have the following summary of their respective spheres and powers.

Townships : The inhabitants of each township, having upwards of one hundred resident ratepayers, are incorporated as a municipality. The township may be divided into rural wards for the purpose of electing township councillors, though as an alternative they might be elected at the annual town meeting. There were to be five councillors for each township. These were to elect from among themselves a town reeve, and in townships containing 500 ratepayers or over, a deputy-reeve as well. The town reeve was to preside at all meetings of the councils, or in his absence, the deputy-reeve. The council appointed three assessors and one collector. Township councils had power to make by-laws for the following purposes : The purchase of such real property as may be necessary ; the building of a town hall, and the erection and support of common schools ; the appointment of pound-keepers, fence-viewers, overseers of the highways, or any other officers who may be necessary to carry out the purposes of the Act ; regulating the duties of the township officers, and remunerating them ; the opening of drains and watercourses ; the construction and maintenance of highways, streets, bridges, etc. ; controlling inns and taverns ; restricting animals from running at large ; destroying weeds, and regulating shows and exhibitions ; controlling and granting privileges to road and bridge companies ; enforcing and applying statute labor ; borrowing money for municipal purposes, under certain restrictions ; and making general local regulations not inconsistent with the provincial laws.

Counties : The municipal council of each county shall consist of the Reeves and deputy-Reeves of the towns and townships included in it. The county council shall

elect the county warden from the body of councillors. The council shall undertake to open, improve, and maintain special county roads and bridges, though it may also give grants to township roads. In addition to the usual municipal powers, the county councils might enact by-laws for such purposes as providing grammar schools for the county, regulating ferries, opening county drains, granting licenses to road and bridge companies, and taking stock in them.

Police Villages : The county council may, on petition of the inhabitants of an unincorporated village, erect it into a police village, and provide for the election of police trustees, whose powers shall extend to such matters as regulating buildings and their contents, with a view to preventing fires ; and adopting measures for the suppression of nuisances.

Incorporated Villages : The inhabitants of certain specified villages, or others afterwards to be authorized by the Provincial secretary, shall be a body corporate ; and, with respect to the village council, the appointment of Reeves and other general powers shall be on the same footing as townships. They shall, however, have additional authority as to streets, sidewalks, etc., the regulating of markets, weights and measures ; the suppression of nuisances and the prevention of vice ; the control of taverns and licenses, and the framing of regulations for the prevention of fires, and for protecting the public health.

Towns : Special corporate powers are given to fifteen towns whose limits and divisions into wards are set forth in schedule B of the Act, and to all future towns which may from time to time be raised to that position by proclamation of the Governor. The corporate powers of a town are to be exercised by a council to be composed of three councillors from each ward. The mayor was to be elected by the councillors from among themselves. The mayor would act as town magistrate unless, on petition to Crown, a special police magistrate should be appointed. The town council should appoint one of their number town reeve, and another a deputy-reeve, where the town contained more than 500 resident freeholders. These would represent the town in the county council. The chief powers of the town councils were to make by-laws for the usual purposes of minor municipalities, and also for the lighting of the streets, for assessing property for local improvements, and quite generally, for undertaking whatever may be necessary for the peace, welfare, safety and good government of a town.

Cities : Special corporate powers were granted to three cities—Hamilton, Kingston and Toronto, and to any others that might be constituted from towns containing upwards of 15,000 inhabitants. The corporate powers were to be exercised through a council consisting of a mayor, aldermen and common councillors. Each of the wards into which a city might be divided should elect one alderman and two common councillors, and these should elect one of the aldermen to be mayor. Each city constituted a separate county with a recorder's court which took over the powers of the Court of Quarter Sessions. The city police magistrate and the recorder might be the same person. The general functions of a city council were to be the same as those of a town council, though exercised on a larger scale and with a fuller organization involving special powers.

A large portion of the Act deals with powers and regulations which are common to several forms of municipal corporation. Thus cities and towns may hold property for certain special purposes not incident to the other corporations. Every municipality was required to transmit to the Governor an annual statement of its debts, and on petition of at least one-third of any corporation, the Governor-in-Council might appoint a commission to investigate its financial affairs. Municipalities were prohibited from acting as bankers, or from issuing any notes, bonds or debentures to pass as money. They were given authority to contract with parties to build roads or bridges and take tolls on them, such tolls to be regulated through a by-law of the corporation.

Looking at the Baldwin Act in its historic significance we must admit it to have been a most comprehensive and important measure, whose beneficial influence has been felt not merely in Ontario, but more or less throughout the Dominion. Scarcely a session of the Legislature has passed since the year of its enactment without bringing amendments, altering and enlarging, though not always clarifying its details. Yet in all essential principles its spirit and purpose are embodied in our present municipal system. Hence with it may fittingly close this sketch of the development of responsible government in the municipal affairs of Ontario.

Engineering Department

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

THE SCIENCE OF ROADMAKING.

Roadmaking is a science, a branch of engineering, the difficulties of which are not usually appreciated. It is a common expression that "anyone can make a road," which merely indicates that the average man knows so little about road construction that he does not realize how much there is to know. If it is true that anyone can make a road, it is also true that anyone can build a house, a bridge, or a steamship. "Anyone" can do these things, but in most cases at a great waste of money and labor, and with very inferior results. For centuries in England it was left for anyone to make the roads. It was not until McAdam and Telford appeared, but one century ago, that the people in England became convinced that "anyone" could not build a road. This work was then placed in the hands of expert road-builders and the transformation has been nothing short of wonderful.

In too many townships of Ontario "statute labor" means that once a year the ratepayers gather to make roads under the direction of "anyone." They plow and scrape the mud and pile on a ridge of gravel. After violating every rule and principle laid down by Macadam, after doing everything Macadam told the people of England not to do, the result of this statute labor is called a macadamized road.

Among the earliest roads of which we have definite information were those built by the Romans chiefly as military highways, leading east and west to the remote provinces, from which arose the proverb, "All roads lead to Rome." So substantially were these roads built, of layer upon layer of stone and concrete, three and four feet in thickness, that many of them still remain, and are commonly believed by the peasantry of Spain and of other countries of Southern Europe to be of supernatural origin. These roads were built at an enormous waste of money and labor, and while of the greatest durability, they lack the first essential of modern construction—a properly balanced union of economy and efficiency.

For several centuries after the downfall of Rome, roadmaking became a forgotten art. In France, during the eighteenth century, under the engineer Tresauguet, road construction was revived, but on very different principles from those followed by the Romans. The type of road built by the French engineer was that introduced into England by Telford, and consisted of a foundation of large stones, laid on edge and carefully shaped, upon which was placed a coating of finer broken stone. Early in the nineteenth century McAdam advocated and constructed in England a still more economical design, in which the foundation of large stone was omitted, but greater care was given to drainage and roadbed. McAdam's system is that most commonly followed to-day, with a number of important alterations consequent upon the introduction of roadmaking machinery.

In the time of McAdam the best method obtainable was to break stone by hand, which was then placed loose on the roadway and left for traffic to consolidate. The process of consolidation was slow, during which a considerable amount of the stone was forced into and mixed with the earth subsoil, injuring the consistency of the

road. Under present methods, by means of a crusher, stone is broken much more cheaply than it could be done by hand.

Stone dust and chips (screenings) are created in the process of crushing, which are used to fill the voids, instead of waiting for this to be produced by traffic, or allowing the clay or loam from beneath to be forced up among the stones. With a road roller the road metal is made thoroughly compact, forming a strong, waterproof covering over a firm subsoil. The result is that more perfect work is done in a few days and at less cost than the methods of McAdam or Telford would accomplish in several months. The main features of present day roadmaking, which are of recent introduction, are :

- (a) The use of grading machines for forming the earth subgrade and open drains.
- (b) The thorough drainage of the soil underlying the road so as to make a strong foundation.
- (c) The use of a roller to consolidate both the earth foundation and the surface layer of stone or gravel.
- (d) Where broken stone is employed, the use of a crusher to prepare the metal, instead of breaking the stone by hand.
- (e) The screening of broken stone so as to grade it, for application to the road in layers according to size.

HIGHWAY BRIDGES

The use of concrete does not cease with tile and small span arch culverts, but may extend to arches of considerable span, while for abutments and piers it is the most satisfactory material available.

Concrete bridges have been commonly built with spans of thirty and forty feet. Last year an arch of thirty foot span and fourteen foot roadway was erected on the townline between the townships of Downie and South Easthope, at a cost of \$635. The thickness of the floor is only fourteen inches, and the abutments at each end are three and a-half feet thick at the base, and two and a-half feet at the top, is almost wholly of concrete, but the flooring is reinforced to some extent with metal. The method of construction was to first construct a wooden substructure between the abutments. On this was placed four inches of concrete, in which was imbedded steel rods of one and three-quarters inches diameter, running lengthwise, and ten inches apart. Three inches of concrete was laid on this, then a layer of woven wire stretched from end to end of the bridge. On this a coating of concrete was laid, then another layer of wire; and so on, making a total thickness of fourteen inches at the centre of the bridge. A concrete parapet wall takes the place of a railing. This is also strengthened with wire, heavy bolts run downward and are fastened in the floor so that the wall adds to the strength of the bridge.

Highway bridges of longer span are now being commonly constructed with steel superstructures and concrete or stone masonry abutments. When timber of the best quality was more plentiful and cheaper than now, wooden bridges were no doubt more economical, but with the growing scarcity of lumber, increased price, and poorer quality obtainable, the more durable if more expensive materials will, after a term of years, be found the cheaper.

Wooden bridges supported on piles do not last for more than eight or ten years, during which period a considerable amount has to be spent for repairs. Concrete piers and abutments, if well built, should last a century or more, while the steel superstructure, with proper attention, should last at least half as long. So that, although the initial cost of a wooden bridge may be only one-half or one-third that of a steel and concrete structure, the latter will in the end be the cheapest. In addition it will be safer, less liable to collapse, and will be more convenient for traffic.

Well made concrete is cheaper and fully as durable as stone masonry. Just as the cost of stone masonry varies at different localities, in accordance with the cost of stone, labor, etc., so the cost of concrete will vary according to the relative cost of gravel, broken stone, Portland cement, and labor. For piers and abutments, the cost of concrete usually ranges from \$4 to \$6 per cubic yard, as compared with stone masonry at from \$10 to \$14 per cubic yard. Under almost any circumstances concrete is cheaper than stone masonry.

In a paper read before the Eastern Ontario Good Roads Association Mr. Allen of Nova Scotia said :

Our experience has shown us that for any span over 40 feet, iron or steel is more economical than wood, except in a few cases where the foundations are very bad and where the current and ice will permit of pile bridges being used. Nearly all of our bridges are pin connection Whipple truss, as we find these the most satisfactory, but we have used a number of riveted bridges, especially in the smaller spans.

The following table gives the current price of iron and steel for iron superstructures, made up from tenders received in 1895. Since then the prices have varied somewhat from year to year, according to the price of steel, but the tenders received this year are pretty much in accordance with this. This gives a cost per pound of about four cents, which includes the cost of erection and the cost of a wooden floor.

Iron or Steel Bridges
Current Prices

No.	Spans.	Width of Roadway				
		12 feet.	14 feet.	15 feet.	16 feet.	18 feet.
1	40 feet	\$ 300 00	\$ 330 00	\$ 350 00	\$ 375 00	\$ 400 00
2	50 "	400 00	430 00	460 00	475 00	525 00
3	60 "	500 00	540 00	560 00	575 00	625 00
4	80 "	900 00	975 00	1,000 00	1,025 00	1,100 00
5	100 "	1,050 00	1,175 00	1,200 00	1,225 00	1,300 00
6	120 "	1,450 00	1,500 00	1,560 00	1,600 00	1,700 00
7	140 "	2,100 00	2,200 00	2,250 00	2,300 00	2,425 00
8	160 "	2,700 00	2,825 00	2,925 00	3,000 00	3,200 00
9	180 "	3,100 00	3,275 00	3,400 00	3,525 00	3,800 00
10	200 "	4,500 00	4,800 00	5,000 00	5,135 00	5,400 00

The following is the method adopted in estimating the most economical bridge. Take a span of 100 feet with our usual roadway of 15 feet at a cost of \$1,200, and supposing the iron work to last forever, provided it is properly scraped and painted, the cost per year would be as follows :

Interest on \$1,200 at 4%.....	\$ 48 00	annually
Average cost of scraping and painting...	15 00	"
Renewing wooden floors every six years..	12 50	"
Cost per year.....	\$ 75 50	
Cost of wooden bridge for 100-foot span..	\$600 00	
Interest on \$600 at 4%.....	24 00	annually
Renewing bridge every 10 years at \$600..	60 00	"
Cost per year.....	\$ 84 00	

It would thus be seen that the advantage is in favor of the iron bridge, and we have found that this increases very rapidly as the span increases in length, whereas they become about equal when the span reaches 50 feet, and below that wood actually becomes the most economical.

On the other hand, there is a great disadvantage in frequent renewals on account of the inconvenience to traffic, which, of course, is in favor of the steel bridge, but on the other hand a steel bridge is not absolutely permanent, and will have to be renewed some time, so that something should be allowed for its renewal in giving a fair comparison of both.

ROAD DRAINAGE.

The name "macadam" is commonly applied to any road surfaced with broken stone, and in this respect is a very unfortunate misnomer. It is the neglect to provide a dry subsoil that is the greatest cause of the bad conditions of roads throughout Canada to-day. Roads which are not well drained are but a repetition of the English roads as they existed before the time of macadam—they are the roads which the system of macadam displaced. A roadbed in which sub-drainage is not sufficiently provided is the opposite of a macadam road.

The importance of drainage cannot be too thoroughly impressed. Clay in thick beds, when dry, will support from four to six tons per square foot of surface, according to the quality of the clay. If but moderately dry, it will support from two to four tons only per square foot of surface. If the clay is wet and soft it will yield to almost any load. Gravel, if well compacted, forms a much stronger roadbed, is less yielding to the action of moisture, and for this reason, even for a thin surface coating, strengthens the road somewhat. But the real strength of the road must lie in the subsoil. Vegetable molds and alluvial soils are weak, having a sustaining power of only one-half to one ton per square foot, and for this reason it is well to remove such soils, securing if possible, a gravel, clay or sand foundation.

A dry subsoil becomes of greater necessity in a cold and moist climate, such as prevails throughout Ontario for a considerable portion of the year. The injury done to roads by frost is caused entirely by the presence of water. Water expands on freezing, and the more there is under a road and above the frost line, the greater is the injury. In freezing, the particles of soil in immediate contact with the water are first compacted. When room for expansion ceases within the body of the soil itself, owing to its saturated condition, the surface is upheaved. When thawing takes place, the subsoil will be found honeycombed, ready to settle and sink beneath traffic. It is, therefore, of the utmost importance that the soil should be relieved of all water of saturation as quickly as possible by under-drainage. The impassable condition of the roads during spring, often ankle-deep with mud, is to be attributed very largely to a wet subsoil which has been honeycombed in this manner.

The making of a strong foundation thus resolves itself largely into a question of under-drainage, and the means whereby under-drainage is obtained must be adapted to the manner in which water finds its way under the road, and the nature of the soil. A soil retains in its texture, by capillary attraction, a certain amount of water. In the case of a plastic clay soil, which will absorb nearly one-half its weight and bulk of water, the water retained in this way may be the cause of injury. In the case of gravelly, sandy or other porous soils, it is necessary to remove only the water held by hydrostatic pressure in the foundation of the road. The effect of this is, that with a clay subsoil, underdrains are nearly always beneficial in securing a strong foundation, and are necessary for traffic of even moderate degree. With porous soils, on the other hand, the necessity and means of drainage will depend upon the height to which the water rises in the foundation, and the direction from

which it comes. When a strong foundation is needed these under-drains should be three or four feet below the surface of the subsoil.

Their location with respect to the road should be varied with circumstances. The most effective type of drainage employed is a system in which there is a tile drain on each side of the roadway underneath the open gutters, with V-shaped drains at intervals from the centre of the roadbed to the side drains. From this the scale descends to drains at the sides of the roads only; then a drain at one side only, or in the centre of the road; then only an occasional drain at springy or damp points.

It is of advantage to understand the manner in which underdrains act in different cases. With porous soils, in which the water rises under hydrostatic pressure, the water enters the tile from below, just as water rising in a vessel finds an outlet in the sides or flows over the top, so the under-drains supply the necessary outlet for this excessive moisture at a proper depth from the surface; it "lowers the water line."

With clay the process is different. Absorbing and holding as it does, like a sponge, a large quantity of water, drains are less effective, but none the less necessary. The cracks and fissures which appear throughout the surface of a baked soil during summer drought, afford a clue to the action of underdrains upon the soil. As the clay yields up its moisture, it shrinks, is torn apart. These fissures, commencing at the drain, spread in different directions, and each fissure thus becomes a new drain leading to the tile. This process goes on, the fissures become filled with sand, vegetable and other porous matter, so that they assume a degree of permanency, and in clay soils, underdrainage is more effective after several years than at first.

COUNTY ROADS

Road systems extending over a considerable area, comprising the more heavily travelled market roads, and maintained in accordance with a good standard, have been adopted as county systems, largely under the influence of the Highway Improvement Act of 1901. Counties establishing these systems are Wentworth, Simcoe, Lanark and Wellington. The Hastings system will be brought under the Act, while Carleton, Oxford and others are taking steps towards this end. Municipalities are notably conservative with respect to systems of road management. In many townships the statute labor system has remained almost unchanged for more than a century in spite of its many defects, and the manifest advantages that would arise by adopting more suitable township systems. It was anticipated that county systems would be adopted very slowly, and it is a matter of much promise that such counties as Wellington, Wentworth, Lanark, Simcoe, Hastings, Oxford and others should receive the proposal so favorably.

The Act does not contemplate an expensive system of roads. The aim is rather to secure uniform and systematic work, to employ and properly operate modern and economical implements, to provide careful, constant and methodical supervision and maintenance; to provide object lessons in the care and treatment of roads, and set examples for those having charge of the remainder. Where a county system is adopted, no greater road mileage is maintained by the ratepayers. Whatever mileage is assumed by the county council merely relieves the township council to that extent. As a rule, to combine the more important roads in one class under one management, with proper methods and tools for dealing with this special class of work, is a measure that will reduce taxation rather than increase it; and will at the same time produce a better class of roads.

A large expenditure is not demanded from the municipalities taking advantage of the Act. The intention is to do the greatest amount of good by aiding the counties and townships to help themselves. All the expenditure placed on roads will be spent in the county, and thus returned, in a great measure, to those who contributed in the first place, together with the Provincial grant.

Country roads are, for the most part, those benefited by the Act, and it is a means of requiring the urban municipalities to aid in the maintenance of the common highways, from which they derive a great benefit, without heretofore sharing in the cost. As an illustration, the City of Toronto, containing about one-tenth of the population and wealth of the Province, would ordinarily be entitled to one-tenth of the \$1,000,000, or \$100,000. None of this grant, however, is spent within the limits of Toronto, but all is spent on the roads of rural or township municipalities.

Wherever it has been proposed to form a system of county roads, and thereby obtain the county's share of the \$1,000,000 grant set apart by the Legislature, it has been customary for the county council to call a conference of all municipal councils, or their representatives within the county. At these conferences, the majority of which have been, by the request of the counties, attended by the Commissioner of Highways, the meaning and intention of the Act has been explained, and to some extent a plan of roads considered. A second conference has then been called, to further discuss the details of the proposal before any well-defined plan has been reached. When this has been done it rests with the county council to pass a by-law definitely laying down a system of county roads. A copy of this is sent to each township council within the county and they have three months in which to consider it. Each council will, within the three months, report to the county council their acceptance of the plan, their rejection of it as a whole, or such alterations in the system of roads as would meet their approval. If a township wishes roads taken other than those proposed by the county, in case of failure to agree, the matter will be submitted to arbitration. If more than a third of the municipalities oppose the by-law as a whole, the question must be submitted to a vote of the people. If the by-law meets the acceptance of the municipal councils, or two-thirds of them, the county council may, at the end of three months, proceed to perfect their plans for the improvement of the roads.

The highways to be assumed as county roads, the distribution of the expenditure upon these roads, where the work is to be undertaken, and similar details of management, are left almost wholly to the judgment of the county council and the municipal councils interested. The actual improvements may be placed wherever they will be most serviceable and effective in bettering the condition of the roads, and the distribution of the expenditure must therefore be governed by local circumstances. What has been done would indicate that the county system of roads has been made to comprise about one-tenth of the entire road mileage within the county, but these have been selected wholly with a view to local markets and the trend of travel.

It will be of advantage in most cases to have the roads connect and form a continuous system of county roads, but it is not necessary that they should do so. In some counties the trend of travel is all in one direction, leading to one market centre. In other counties the trend of travel is divided into a number of district centres. Nor is the trend of travel marked by county or township boundaries, but divides according to local conditions, the most important factor in determining the line of travel, being, as a rule, the nearest or best market. These circumstances must be all taken into consideration in

framing a county system of roads, and the aim should not be so much a connected system as a most useful one.

The amount of money a council shall spend on the roads is not defined by the Act, except that, in case money is raised by the issue of debentures, these debentures shall not exceed two per cent. of the equalized assessment of the county.

The only restriction is with regard to the amount to be received as Government grant, this to be one-third of the cost of the work, up to, but not exceeding the county's appropriation of \$1,000,000.

This money, payable by the Government, may be drawn as the work progresses, and the rapidity with which it is drawn will depend upon the expenditure the county decides to make. It may be drawn in one year if a sufficient amount of work is done by the county. Or the work may be extended over several years, and the proper proportion of the money due under the Act will be paid from year to year as earned.

The roads to be assumed must not be confused with any previous county systems which have existed, many of these having become of secondary importance owing to the building of railways and the growth of new local markets. Only those roads should be selected which can make good their claim to being still the roads of greatest travel. This is a matter which county councils, with the advice of township councils, will undoubtedly view from a county standpoint, and by them the best possible selection will be made, so that it is not a matter upon which the Act places any restriction.

The roads to be assumed under a county system should, however, be those which are most used by the public, and which will best serve the requirements of the people in each section. These roads may consist of one road in each township, or several roads; or part of one road, or parts of several roads, may be selected. As a general thing, they should consist of what are now the most heavily travelled roads in each township, leading to the market town or village, of the district.

Statute labor assessed against the lands fronting on the improved roads may be commuted by the township council in which the lands are situated, if the council so desires. The property adjacent to the improved roads will undoubtedly derive a direct benefit which should render it liable to such a measure. The commutation money will belong to the township, to be used as the council may direct. A natural step would be to use it in improving other roads in the township; while some townships propose using it in paying the rate levied against the township for county roads.

Most counties, and the councils of the various municipalities agree as to the general principles of a county road system and the benefits that arise therefrom. But certain details in adjusting a system to meet the local circumstances in a few cases, appear to create the chief difficulty in the acceptance of a county system of roads. To meet such cases, the Act provides that the county council may make a specific or annual payment to township councils not benefited by the proposed county road system, to reimburse them, wholly or in part, for the amount they pay annually to the county road fund. The county council may also make grants to towns and villages in certain instances.

IN THE UNITED STATES.

National aid for road improvement is becoming one of the important questions before the people of the United States. Hon. H. S. Earle, in a recent address at Ottawa said:

"The tremendous expense connected with the purchase of rights and the building of the great Panama canal has had some hindering effect upon the national aid for roads legislation; but this and the expense connected with the St. Louis Exposition, and the fact that we have soon a presidential campaign on, cannot keep down the demand for national aid for good roads.

The first bill was introduced by Walter P. Brownlow, member of Congress from the State of Tennessee, and it has made his name a house name in every house in the land; and while it was not popular at the time, it has become so, and I believe that there have been more letters written to him, and more petitions sent to him asking that the bill be passed than ever to any other congressman or about any other bill.

His first bill planned that the money appropriated should be divided according to the population of the different states; but this was found wrong in principle, for the small states that were thickly populated would get golden streets before the larger and more sparsely settled states would get enough to have any material effect upon the roads.

But his bill attracted the attention of the country to such an extent that now several bills have been introduced by different congressmen and even by senators in the very conservative body known as the United States Senate.

Mr. Brownlow has introduced at least three bills, and each has been a less complicated bill than the one before it, until the last one introduced on February 3rd, 1904, leaves it to the commission of three men, one to be appointed from the political party in power, the second from the largest minority political party and the third member to be a civil engineer from the army department, to decide how and under what rules the money shall be distributed.

In my opinion no like sum of money can be expended that will have so good a developing effect on the whole country as the money that will be appropriated for the improvement of the roads; for the national aid will not be given unless a like amount is raised by the locality where the roads are to be improved, and it will have a beneficial effect on the kind of road, for the government will not give this aid unless the roads are improved along scientific lines, and after they are improved will have to be kept in good repair, or no further aid will be granted to that locality.

It is planned in all of the national bills that the national government shall pay half of the expense in improving the roads and the state or other smaller subdivisions pay the balance, but the national government leaves it to the localities to arrange for their half as they may see fit, so that they can either do it by state and county and township, or by assessing abutting property or in any other way that they may decide upon.

There is one thing certain, if the United States gets good roads and Canada has poor ones, the drift of emigration will be to us; if Canada gets good roads and we don't, the drift of emigration will be to Canada; so either both must improve their roads or neither, or else the country that does not will lose some of their very best citizens; but as both are leaders in everything else, it seems to me that both ought to do whatever is necessary to lead in the common wagon roads.

And not alone for the reason that it saves in the cost of transportation, but for that and also for the reason that good roads make it easy to get to school, to church, to library, to farmer's club meetings, lectures, and last, but not least, easy to get to the neighbor's sitting-room and dinner table, all of which tends to generate better and more enlightened girls and boys, and so a better Dominion of Canada and a better United States of America."

QUESTION DRAWER

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

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

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

Township Engineer Cannot Employ Substitute—Drainage Act Amendments.

290—T. B.—1. When an engineer is engaged by township council as engineer and takes the declaration of office when he is requested to lay out or investigate a ditch in the said township, is it legal for him to send a substitute who did not take any declaration or sign any contract with the said council to do the work?

2. Does The Drainage Act amendment which you refer to in January number affect The Drainage Act only, or does it affect The Municipal Ditches and Watercourses Act also?

1. No. Sub-section i of section 4 of The Ditches and Watercourses Act (R. S. O., 1897, chapter 285,) provides that "every municipal council shall name and appoint by BY-LAW ONE person to be the engineer to carry out the provisions of this Act, etc.," and sub-section 3 requires the engineer so appointed to take, subscribe and file with the clerk of the municipality the declaration mentioned in this sub-section, *before entering upon his duties.*

2. We presume reference is made to our article setting forth the amendments passed in 1903 to The Municipal Drainage Act (R. S. O., 1897, chapter 226,) on page 24 of our January issue. These amendments relate to The Drainage Act alone, and not to The Ditches and Watercourses Act (R. S. O., 1897, chapter 285).

Fees of Engineer.

291—J. L.—An engineer is hired by a township council to report on drains. In the estimate is \$5.00 for engineer for attendance at Court of Revision. If two Courts of Revision are held in one day can the engineer collect \$10.00 for the two courts?

If the council did not fix the salary or fees to be allowed the engineer when he was engaged, and \$5.00 is a reasonable fee, and one that is in accordance with the tariff of fees allowed to engineers generally for performing similar services, this engineer is entitled to charge \$5.00 for each Drainage Court of Revision he attends at the request of the council. The engineer is not bound to attend a Court of Revision of this kind, however, nor is it compulsory on a council to require his attendance, unless his presence is deemed indispensable.

Disposition of Surplus from Sale by Poundkeeper—Council Cannot Exempt from School Taxes—Clerk Must Prepare School Map—Councillor May Inspect Township Documents.

292—H. S.—An Indian traded a horse with a white man about the year 1892. He found he was beaten. He returned the horse in the night, broke the stable door, left him, and took his own. He was summoned before a Justice of the Peace and ordered to return the horse. He did so, but refused to take the other away. The white man put the horse in pound. He was advertised and sold. The poundkeeper retained his fee and paid other charges. The balance, some \$25.00, was handed over to the treasurer of the township. The Indian's heirs now claim the \$25.00 paid to the treasurer.

1. Did the poundkeeper pay the balance to the proper parties, the Indian not claiming the money?

2. Can the present council legally pay their claim? The clerk tells us we can pay anything if we do it in the way of a grant. Is he right?

About the year 1890 an extensive Milling Co. asked the council of the township of D. to be exempted from paying taxes on their plant. The council granted their request

3. Has any council the power to relieve a company from paying school tax on property in a S. S.? If not, what steps have the trustees to take to collect the back taxes, and from whom? Can any ratepayer in the S. S. take action?

4. Can any member of the council insist on the clerk's drawing a map of the different school sections in the township? If he refuses what is the penalty?

5. Can the clerk of a township refuse when asked by a member of the council to produce certain accounts as far back as 1897, or does it require a motion and a majority of the board to compel him to do so?

1. Yes. See the latter part of section 19 of chapter 272, R. S. O., 1897.

2. No. Municipal corporations in Ontario are created and governed by the statutes of the Province, and the councils thereof have no power to pay out corporate funds for any purpose not specifically authorized by statute.

3. At the time the council purported to exempt this company from taxation the law on the subject was contained in section 366 of chapter 184 of The Revised Statutes of Ontario, 1887. This section was as follows: "Every municipal council shall by a two-thirds vote of the members thereof have the power of exempting any *manufacturing establishment* or any water works or water company in whole or in part from taxation, *except as to school taxes*, for any period not longer than ten years, and to renew the exemption for a further period not exceeding ten years." The council had NOT, therefore, the power in 1890 to exempt this Milling Company from taxation for school purposes, nor has it now such authority. (See sub-section 12 of section 591 and clause (g) of section 591a of The Consolidated Municipal Act, 1903). There is no way of recovering the school taxes that should have been paid in past years, but the council should see that these taxes are placed on the collector's rolls of the municipality for future years.

4. Sub-section 4 of section 12 of The Public Schools Act, 1901, makes it the duty of the clerk of every township in this Province to prepare, in duplicate, the school map therein mentioned. The penalty for his neglect or refusal to perform this duty is a fine not exceeding \$10 to be recovered in the manner provided in section 100 of the latter Act.

5. Sub-section 1 of section 284 of The Consolidated Municipal Act, 1903, provides that "*any person* may, at all reasonable times, inspect any of the particulars aforesaid, as well as the minutes and proceedings of committees of the council, whether the acts of such committees have been adopted or not, and also the assessment rolls, voters' lists, poll books and *other documents* in the possession of or under the control of the clerk, etc." The clerk cannot therefore legally refuse to produce these accounts for inspection by a member of the council, if the production is asked at a reasonable time.

Collection and Payment Over of Township School Levy.

293—L. S. T.—1. Is it proper in case of a rural union school section, part of which lies in different townships, for the clerk of the township in which the school house is situated when he has received trustees requisitions for school moneys to notify the clerk of the other township interested, stating the amount that should be paid by them to the school board interested?

2. As a result of the above the school board did not receive the amount of their requisition, one township contributing far too much, the other too little, of the amount "as per special rate levied according to the assessor's equalization."

They were also short in the \$150.00 which should be taken from the general funds of the township. Who is at fault?

3. Can the mistake be rectified, and how should the trustees proceed?

1 and 2. Sub-section 9 of section 65 of The Public Schools Act, 1901, provides that the trustees shall submit to the municipal council on or before the 1st day of August, or at such time as may be required by the municipal council, an estimate of the expenses of the schools under their charge for the current year. This estimate should be submitted by the trustees to the councils of each of the townships of portions of which a union school section is composed. The respective councils should then levy their proportions, as fixed by the assessors in equalizing the union school section assessment, against the ratepayers in their municipalities. (See sections 71 and 54 of the Act). Section 49 of the Act requires the collectors of the municipalities interested to collect these amounts and pay them to the treasurers of their respective municipalities, to be paid by the latter to the trustees of the union school section on or before the 15th December. (See also sub-section 1 of section 71). The trustees would appear to us to be at fault, by reason of their not having filed their estimates with the council of each municipality interested.

3. The trustees should borrow sufficient funds to meet the deficiency, as authorized by sub-section 10 of section 65 of the Act, and include in their estimates filed with the councils of the several municipalities in which the union school section is located the following year a sufficient sum to retire the note or notes given to secure repayment of the money so borrowed.

Assessment of Telephone Instruments.

294—T. H.—Are instruments placed in stores, offices and dwellings by a Telephone Company at a rental per year liable to be assessed, and if so, to whom and in what manner, as land or personal property?

These instruments are assessable against the company as land or real estate, in the manner mentioned in sub-sections 2, 3 and 3a of section 18 of The Assessment Act, as enacted by section 1 of chapter 31 of The Ontario Statutes, 1902, and section 6 of chapter 21 of The Ontario Statutes, 1903. Prior to the passing of this legislation it was held by County Judge Carman in the case of Bell Telephone Company v. Village of Winchester (31 C. L. J. N. S. 667) that the posts or poles of a telephone company with their permanent attachments, were assessable as realty, and in re Canadian Pacific Telegraph Company (34 C. L. J. 709) it was held that the switch boards and telegraph instruments, with their attachments connected with the poles and wires, and being in use in the business of a telegraph company, are assessable as realty.

Tenant's Liability for Taxes.

295—I. G. W.—What is your opinion as to the following? Should tenant who agrees to pay ordinary taxes pay special school taxes also? Is he entitled to pay towards furnishings in a new school house?

If this lease is in the form provided by The Act Respecting Short Forms of Leases (R. S. O., 1897, chapter 125,) and contains a covenant on the part of the lessee to pay taxes, except for local improvements, the

lessee is liable to pay "all taxes, rates, duties, and assessments whatsoever, whether municipal, parliamentary or otherwise, now charged or *hereafter to be charged* upon the demised premises, or upon the lessor on account thereof, except municipal taxes for local improvements or works assessed upon the premises benefited thereby." (See clause 2 of schedule B appended to the above Act). If on the other hand the lease is not made in pursuance of the above Act, the word "taxes" alone will not include a special rate.

Liability of Municipality for Plough Broken Clearing Away Snow.

296—P. C.—We are having very deep snow up in the County of B. this winter, and the roads have been bad. A week ago we had a thaw, and the pathmaster on our beat turned out to have the road ploughed. He first called out Mr. W. with his team, but as W.'s plough was away back in the field under the snow, the pathmaster and his son came along to Mr. S. and got his plough (which was a new one) and hitched Mr. W.'s team on to it. Mr. W. was driving his own team and the pathmaster's son was holding the plough. When the plough was returned it had a broken head. Mr. S. was also called out to shovel snow, and was allowed time of this season's statute labor for shovelling, but was allowed nothing for the plough. Is the township council or who is responsible to Mr. S. for the damages done to the plough?

The council of the township is in no way responsible for the damage done. If there is any one liable it is the party who actually caused the injury.

Levy of Township School Rate.

297—J. D.—Last year the teacher of U. S. S. No. 1 of W. L. and G. resigned, and school was closed for three months despite the efforts of trustees to engage a new teacher. The council of W. L. withheld a proportionate amount of general levy, while G. paid in full.

1. Can said U. S. S. recover the amount unpaid?
2. Would it be illegal for the new council to pay?
3. If it is not legal to pay, what should be done with the money?

1. It is only a school section in which a public school has been kept open for the whole year which is entitled to be paid \$150 out of the township school levy. In a case like this one, the townships interested should levy only a proportionate amount, as is provided in sub-section 1 of section 70 of The Public Schools Act, 1901. We gather from the statement of the facts that W. L. levied the whole of its share of the \$150. Notwithstanding this, the trustees cannot recover from W. L. any more than the union section is entitled to, that is a proportionate part of the share of the \$150 to be levied by that township, according to the length of time the school was kept open during the year.

2. Yes.
3. The surplus levied should be retained by the council, and that much less levied this year.

Weigh Scale Regulations.

298—C. G.—The Town of ——— at the expiration of each year lets the public weigh scales to the highest bidder, everything else being equal. The council now wish to pass a by-law compelling all coal, etc., dealers to have coal sold to the citizens weighed on the market scales, and I would like to know if a municipal council has the power

1. To compel all coal sold for private use to be weighed on public weigh scales?
2. If so, have they the power to compel the dealers to settle with the lessee of market scales, say five cents per draft?
3. Can the council legally settle the cost of weighing out of the general funds of the municipality or make arrangements with the lessee to pay less rent and he do the weighing in his contract?
4. Can the council compel all wood to be brought to the public market for sale?
5. Can the vendor be compelled to bring his wood for sale in a flat rack?
6. Can the vendor be compelled to have it measured and pay five cents per cord or load?

1. We are of the opinion that the council of a town has power to pass a by-law of this kind. Sub-section 9 of section 580 of The Consolidated Municipal Act, 1903, provides that councils of towns may pass by-laws "for regulating the measuring or weighing (as the case may be) of lime, shingles, laths, cordwood, coal and other fuel." This authority involves the power to enact that any of these commodities shall be weighed on the public weigh scales.

2. A reasonable fee can be charged for weighing coal.

3. Yes.

4. Yes. In re Fennell and The Town of Guelph (24 U. C. R. 238, 242) a clause that "meat, fish, poultry, eggs, cheese, grain, hay, straw, cordwood, shingles, lumber, flour, wool, meal, vegetables, or fruit (except wild fruit) shall not be exposed for sale within the municipality before noon at any other place than the market" was held good as to the articles named in the statute, but bad as to the other, there being no authority to so enact with regard to them.

5. Yes.

6. A by-law may be passed requiring that wood be brought to the public market for sale and measured, and a fee paid, but the by-law must state the exception in sub-section 5 of section 579 of the Act. If neither the vendor nor the purchaser desires the wood to be measured the council cannot, by by-law, compel its measurement.

Assessment of Property of Joint Stock Company.

299—J. G.—Has a stock-holder in a Joint Stock Company, incorporated under the Ontario Act, the right or privilege or similar right as to the assessment of the company's property as a member of a partnership has under chapter 224, section 25, sub-section 2, R. S. O., 1897?

1. The personal property of an incorporated company is assessable against the company in the same manner as if the company were an unincorporated company or partnership, except a bank or a company coming within the exception contained in sub-section 2 of section 39 of The Assessment Act, but we do not think that a shareholder in an incorporated company has the same right as a member of a partnership has under sub-section 2 of section 25. It means simply that the assessor is to assess the personal property of a company in the same manner as if it were a partnership. See section 40.

Collector of Taxes—Maintenance of Injured Indigent at Hospital—Assessment of Saw Mill Machinery and Saw Logs.

300—C. F.—1. Our collector returned his roll on the first of February with about four hundred dollars collectable taxes uncollected. Would the council be justified in paying his salary?

2. Can the taxes be collected from the parties this year, or is the collector and his bondsmen only held responsible?

3. If so, what redress has the collector? Can he pay those taxes and sue those parties in the Division Court, or does the law exempt those parties when the roll is returned, they having chattels to destrain?

4. Also give further information pertaining to the question, if possible.

5. A non-resident is brought into our municipality from a lumber camp in the district who had received an injury, and it appears, without any means of support. The Board of Health held a meeting without notifying the reeve, sent the patient to the hospital and ordered the treasurer to pay the cost, which he did. Was the business legal?

6. If not, who is responsible?

7. Could the council collect the same from the contractor?

8. Is a saw mill machinery assessable if not on the owner's property, but in the municipality?

9. The mill machinery was bought on time. Who should be assessed, the seller or buyer?

10. A saw mill company have about one million feet of logs in their boom, which they will manufacture into lumber. Are those

logs assessable, the most of them being bought in the State of Minnesota and brought over?

1. If through the negligence of the collector an amount of taxes equal to his salary has been lost to the municipality, the council would be justified in refusing to pay him his salary.

2. If there was no property out of which the taxes could be made by distress, they should be returned to the treasurer. They cannot be put in this year's roll. The collector is liable if the taxes were not collected by reason of his negligence. We cannot express any opinion as to the liability of the bondsmen without seeing the bond.

3 and 4. No action can be brought against tax defaulters until the remedies provided by The Assessment Act are first exhausted.

5 and 6. We think that the Board of Health exceeded its powers in this case, because it does not appear that the person referred to was infected with any of the diseases mentioned in The Public Health Act. It may be that if all the facts of the case were furnished authority would appear, but upon the information it does not appear to be a case which the Board of Health should have dealt with at all. The treasurer paid the money on the order of the board, and having done so, it is doubtful if the council can recover the money from anybody. We do not think it can.

7. No.

8. Yes.

9. The buyer.

10. Yes.

Assessment of Income and Personal Earnings.

301—N. H. Y.—1. A. has an income from personal earnings of \$1,000 and from other sources of \$400. For what amount should he be assessed?

2. B. has an income from personal earnings of \$400 and from other sources of \$1,000. For what amount should he be assessed? See Provincial Statutes, 1903, page 514, section 26.

1. Nothing.

2. \$600.

Proceedings to Remove Fences From Road Allowance.

302—J. G. L.—1. If a ratepayer enters a complaint to the council that his neighbor is putting or has put his fence out upon the road allowance, is the council compelled to take action and cause him to remove his fence?

2. Should the complainant make his complaint in writing? Would it be legal for a council to act on a verbal complaint?

3. If one ratepayer enters a complaint against all the roads in a municipality, believing them to be in the majority of cases less than four rods wide, would the council have to take steps to cause all parties whose fences were upon the road allowance to remove the same?

1. No.

2. In view of our answer to the first question, it is unnecessary to answer this. Generally speaking, complaints to the council should be in writing so that they may be filed and acted upon when the council deems it necessary to do so.

3. No.

Appointment and Duties of Road Commissioner in Village.

303—J. D. W.—This is an incorporated village. The council at one of their meetings, February, 1904, appointed a road commissioner under the direction of the council, and he was not accepted. And later on, at another meeting, they appointed another party and he would not accept, and then the council appointed the reeve. Now the reeve has accepted it and signed declaration of office, and as there were a lot of logs, lumber and shingles, bolts, and in fact one of the streets was completely blocked, and as the village by-law calls for the notice on those parties to be served by a road commissioner, and the road commissioner served the notice on the parties on March 24th, and the streets are not cleared. The by-law calls for ten days' notice, and if not cleared, that said road commissioner

can sell same or charge two dollars per day for each and every day thereafter, and at the council meeting held April 4th the council held that the road commissioner had no right nor any instructions from the council to have those streets cleared and that he was not a commissioner until that the by-law was signed in open council, and that what was done was of no use, and then they passed a by-law authorizing the road commissioner to open those streets according to the by-law.

I was appointed road commissioner on March 21st, signed all papers required for said office one or two days later. Then on March 24th I served notice on some parties who had logs and lumber piled on the streets of our village to remove the same, and they have not done so, saying that I have not an order from the council.

1. Does the commissioner's office take effect on signing declaration or by-law being signed in open council?

2. Have those parties to be notified again and given another 10 days?

3. If first by-law appointing commissioner was not law until signed in open council, has the commissioner to wait until by-law giving him orders to clear those is signed at our next meeting?

4. Can commissioner do anything in repairing opening or clearing off streets without getting orders from the council?

1, 2, 3. We assume that the village by-law referred to was passed under the authority of sub-sections 3, 4 and 5 of section 557, of The Municipal Act. These sub-sections do not authorize the council to impose a penalty of \$2.00 a day upon a defaulter under the by-law. Road commissioners must be appointed by by-law, and a person appointed to that position has no authority to act until the by-law appointing him has been finally passed, signed and sealed. A notice to remove obstructions given by the road commissioner before the by-law appointing him was completed would be invalid and a fresh notice would have to be given. According to section 537 of The Municipal Act a road commissioner is a person who is appointed as superintendent over any road or work undertaken or carried on at the expense of the municipality. This is not a case of this kind, but it does not matter what he is called if the by-law names him as the officer to enforce it.

4. No.

Grants from Municipal and School Corporations in Aid of Public Libraries—Hotel Regulations—Law Regulating Gambling.

304—L. J. M.—1. Can moneys be requested and granted in aid of Public Library from both the municipal council and school trustee boards at the same time?

2. May school trustees vote on their own decision a sum of money to Public Library without reference to ratepayers, and if lawful, what is the extent of such grant?

3. Municipal aid to Public Libraries in rural districts is limited to $\frac{1}{2}$ mill. Does this apply to school trustees' grant as well, or if both assist, the limit of the combined grant?

4. License Act.—What, according to law, are the restrictions put upon licensed saloon-keepers with regard to musical entertainment, such as gramophone and other musical instruments, operated in the bar-room and designed to attract the young?

5. Are minors allowed to frequent such resorts?

6. What definite legislation should be offered against raffling of poultry or other articles by dice-throwing within or without saloon premises?

1. Yes.

2. Yes. The amount is in the discretion of the council or school trustees.

3. The limit of $\frac{1}{2}$ mill does not apply to a school corporation. Section 14 of The Public Libraries Act is compulsory; that is, the council is bound to levy and raise the amount required by the Free Library Board, but not exceeding a half mill in the dollar. This section makes no reference to a school corporation, and it appears to be confined to libraries established in cities, towns or incorporated villages. (See section 2, Part I., of the Act). Section 31 of the Act provides: "Any municipality or school corporation may contribute to the maintenance of a Public Library as such corporation may deem expedient,

etc." This section is not compulsory like section 14, but is permissive so that a municipal council or school corporation may grant such aid as it deems expedient.

4. We are not aware of the existence of any statutory restrictions with regard to the matter referred to, but we think that these matters are entirely for the license commissioners to deal with under their powers to make regulations regarding taverns and shops under The Liquor License Act. (See section 4 of that Act).

5. There is no law prohibiting minors from frequenting saloons. See section 78 of The Liquor License Act, which prohibits the supplying of liquors to minors, and see chapter 247, R. S. O., 1897, which imposes a penalty upon keepers of billiard and other rooms for admitting minors under 16 years of age.

6. Municipal councils may pass by-laws for the suppression of gambling houses. See sub-section 4 of section 549 of The Municipal Act. See also section 81 of The Liquor License Act. The following sections of the Criminal Code may be usefully referred to, viz.: 203, 783, 207, 201, 202, 704, 196, 204, 197, 199, 200 and 575. Parliament has legislated so much upon the subject of gambling already that we are unable to say what more definite legislation can be enacted.

Qualification of License Holder.

305—C. H.—A member of a council wishes to take out a license for say butchering or livery. How would it affect his qualification?

It will affect his qualification, because a member of a council cannot vote with the other members and grant a license to himself. Besides this, though a license may not be a contract, it nevertheless comes within the spirit of section 80 of The Municipal Act.

Levy of School Taxes in Union Section.

306—E. B.—1. In a union school section in this municipality the assessor's equalization is 15 and 85 per cent. to school rate, the 15 per cent. being the addition to form the union and the school of 85 per cent. where the schoolhouse is located, and has received the municipal grant of \$150, if school is kept open the year. Is this right, or should it only receive 85 per cent. of this \$150 grant?

2. Is there not a limitation clause as to time for moneys paid?

3. In remodelling school sections and enumerating their bounds by lots and concessions, one school was left out of the remodelling, and three lots off this school section were added by another by-law and not rescinded by oversight. Can this section claim these three lots not enumerated in the present by-law under the by-law not rescinded?

1. If this union school section employs only one teacher and the school therein was kept open for the whole year, it was entitled to be paid \$150 out of the general school levy in the several townships of parts of which it is formed. Of this sum 15 per cent. should be levied and paid by one township, and 85 per cent. by the other. (See sub-section 2 of section 70 of the Public Schools Act, 1901.)

2. Sub-section 1 of section 71 of the act requires all moneys collected in rural school sections to be paid to the secretary-treasurers of the different sections, on or before the 15th December, in each year.

3. The by-law forming or establishing this school section will remain in force until repealed or amended by a by-law passed by the council in accordance with the provisions of the above act.

Apportioning Cost of Laying Granolithic Walks in Village.

307—J. M. McC.—1. Can a village build cement walks without a petition to do so from the owners along the frontage where the walks are to be built?

2. In case they can do so, can the council pay the whole cost out of the general rate?

3. What latitude has the council in apportioning the share of cost to be levied on the owners and the municipality?

1. Yes, if in the opinion of two-thirds of the members present at any regular meeting of the council it is desirable in the public interest to do so. See section 677 of The Municipal Act.

2. No.

3. The council on an affirmative vote of three-fourths of the members of the council may provide from the general funds of the municipality such larger or smaller proportion than 40 per cent., as they may deem expedient. Though the council cannot pay the whole cost out of the general funds, yet they have a wide latitude in apportioning the cost between the municipality and the owners of the property. See sub-section (2a) of section 678.

Assessment of Pine Lumber.

308—A. McK.—I have been assessor in M. township this year. I have been working on some of your stationery supplies. There is 7,000,000 feet of pine lumber cut in this township and piled. The company claim it is not assessable. Is it liable to be assessed?

We advise you to assess it and let the company appeal to the Court of Revision, and from that court to the County Judge if the Court of Revision affirms your assessment.

Effect of Neglect to Collect Taxes—Calling Election to Fill Vacancy.

309—W. T. H.—1. If a council neglects to collect taxes on rented property for two years, and the tenant does away with his goods, can they put it against the land, or who is responsible for them?

2. If a councillor resigns his seat can the council at the same meeting call a nomination and an election for a man to fill the vacancy?

1. If, during the time the roll was in the collector's hands, there were sufficient goods on the lands in respect of which these taxes were payable, liable to seizure for taxes, by the seizure and sale of which the collector could have realized the amount, and he neglected to do so, the amount cannot legally be returned against and realized by a sale of the lands. If these taxes have been lost to the municipality through the negligence of the collector, the council should look to him for reimbursement.

2. Section 212 of The Consolidated Municipal Act, 1903, makes provision for a case of this kind. It enacts that where a vacancy occurs in a council by resignation, the head of the council for the time being, or in case of his absence, or of his office being vacant, the clerk, or in case of the like absence or vacancy in the office of the clerk, one of the members of the council shall forthwith by warrant, etc., order an election to fill the vacancy.

Assessment of Telegraph Co.—Allowing Rebate on Taxes.

310—A. J. R.—1. Suppose a Telegraph Company's assessment is fifty dollars and the rate is seventeen mills on the dollar, what amount should be placed on the collector's roll for collection of taxes in an incorporated village where there is no statute labor?

2. Can the council, when making the rate for the year, make the rate such that it will allow the reduction of 5% if taxes are paid before December 14th?

1. Eighty-five cents (85c.)

2. The council may, by by-law passed pursuant to the provisions of section 60 of The Assessment Act (as enacted by section 4 of chapter 27 of The Ontario Statutes, 1899), allow a discount for the payment of taxes, or any class, or of any instalment thereof, on or before a day or days therein named.

Qualification of Councillor—Addition of Territory to Village.

311—P. Z.—1. If a councillor of a village disposes of all of his property in the municipality after being duly elected and subscribing to declaration of office, can he hold his seat in such council if he removes from the village into the adjoining township?

2. In order to annex a portion of a township (thickly populated) to a village bordering on the boundary of the municipality concerned, is it necessary to float a petition?

1. Yes.

2. Section 16 of The Consolidated Municipal Act, 1903, provides as follows: "In case the council of any village petitions the Lieutenant-Governor to add to the boundaries thereof, the Lieutenant-Governor may (subject to the provisions of section 12 of this Act) by proclamation, add to the village any part of the localities adjacent, which, from the proximity of the streets or buildings thereon, or the probable future exigencies of the village, it seems desirable to add thereto, and in case the territory so added belonged to another county, it shall thenceforward for all purposes cease to belong to such other county, and shall belong to the same county as the rest of the village."

Sunday School Hall Not Exempt from Taxation.

312—J. A. P.—The Independent Order of Foresters and the council hold their meetings in a class-room in a Sunday school hall in our township, and pay a small rent for the same. Is the hall still exempt from taxation?

No. This is not a "place of worship" within the meaning of sub-section 3 of section 7 of The Assessment Act.

Compelling Removal of Fences on Road Allowance—Obstruction of Street—Collection of Livery License.

313—A. C.—At the last meeting of the village council a petition was presented to compel S. to remove his fence off of the road allowance. The map of the village calls for a street along the river north of the G. T. Railway to Lake St. Clair 73 feet, and east along the water's edge the whole length of S. farm (is in park lots).

1. Can he be made to move his fence according to the plan of the village, or should an engineer be employed to survey the same?

2. Can the scow men obstruct the street repairing their scows or lighters?

The council of 1903 passed a by-law licensing a livery barn at \$20.00. He paid for the first year, which ended in December last, but has not paid anything for this year.

3. Can he be made to pay \$20.00 by entering the same in Division Court?

1. If the street referred to was laid out by S., but has not been dedicated to the public, the council has no power to compel S. to remove his fence from the street. In re Morton and the City of St. Thomas, (6 A. R. 323), it was held that the registration of a plan of a subdivision of a town lot and sales made in accordance with it, does not constitute a dedication of the lands thereon to the public. Under the circumstances we are therefore of opinion that the council has no power to enforce the removal by S. of his fences from this street.

2. If the street referred to is the same one as that referred to in the first question, the council cannot prevent the scow men from obstructing it. On the other hand, if it is a street which has not only been dedicated to the public, but accepted by the corporation by by-law, the council can prevent its obstruction.

3. No.

Appointment of Assessor.

314—E. F. P.—In appointing an assessor by the council, should the council appoint a person who had not sent in an application in writing in the place of one who does. This year the council in making appointments asked if there was any one applied for the office. There was only one application, and it was read by the clerk. Then the reeve said there was another person applied to him for the office, but not in the regular way. Although the one who applied in writing was far more fit for the office, his application was not entertained and the other was appointed.

Is this right, or have the council exceeded their rights in appointing as they did?

The council before this had only taken notice of those who had asked for it.

In order to comply with the provisions of section 295 of The Consolidated Municipal Act, 1903, the council

should appoint to the office of assessor such person as it deems competent to discharge the duties of the office in a satisfactory manner at such a salary as the council and person appointed agree upon. It makes no difference whether the person appointed applies for the office in writing or not.

Election of Directors of Mutual Fire Insurance Co.

315—W. L. M.—We have a Mutual Fire Insurance Company in our township. In compliance with the statute the term of office of one-third of the directors expires every year. They have nine directors, so that three directors are appointed every year.

Has the President a right to allow two of said directors to be appointed by acclamation, then accept two or three nominations for the third director and ballot for him?

The proceedings for the election of these directors was irregular and unauthorized by statute. Sub-section 2 of section 124 of chapter 203, R. S. O., 1897, provides that "the election of directors shall be by ballot."

Removal of Building Obstructing Highway.

316—J. C.—There is a lady on the highway and her neighbors have notified the council to have her removed, as she is a nuisance to the public.

1. Will he have to prove it, as there is no person else complaining, or will he have to pay part of the expense, or what course will the council have to take, or would it not be better for him to give her five dollars and get her off quietly?

2. Will she have to pay the expense if the council has to put her out?

3. Would the council have to find a house for her, as she has a small family, or where will they put her?

1. We assume from the statement of the facts that this lady is occupying a house which is erected or encroaches upon the highway. If this is so, she may be indicted for maintaining a nuisance on the highway, and she may be compelled by mandamus to remove the building if she persists in refusing to do so, but the council is not bound to take any action in the matter. If they take proceedings the complainant will not be compellable to pay any part of the expense. If the person complained against is poor and has no property out of which costs could be realized, the cheapest and easiest way out of the difficulty would be to pay her \$5, if she will accept this sum, and move the building off the highway.

2. If the council take proceedings against her and are successful, the court may order her to pay the costs, but that will not help the council if she is unable to pay them.

3. No.

Remuneration of Township Councillors Should be Fixed by By-Law.

317—ENQUIRER.—The members of our council were receiving \$1.50 per day for session and committee work. By a resolution they raised it to \$2.00 per day. There has never been any by-law passed regulating their pay. Is this resolution legal or shall they be obliged to pass a by-law?

Section 538 of The Consolidated Municipal Act, 1903, authorizes councils of counties and TOWNSHIPS to pass BY-LAWS "for paying the members of the council for their attendance in council, or for paying any members while attending on committee of the council at a rate not exceeding \$3 per diem, and five cents per mile necessarily travelled (to and from) for such attendance." A resolution of the council is not sufficient for this purpose.

Qualification of Reeve of One Municipality as Treasurer of Another.

318—O. K.—A. is a merchant living in the incorporated village of B. He has been treasurer for the township of C. for the past four or five years. At the nomination for the village council for the year 1904, he was nominated as reeve and elected.

At the first meeting of the township council he was reappointed as township treasurer.

1. Can he hold the office and do business legally?
2. If illegal, must he resign and be re-elected for one or the other of said offices?

He has transacted a great amount of business since he has been in office.

1 and 2. A. can legally hold and transact the business pertaining to the office of treasurer of the Township of C., but, while filling this office, we are of opinion that he cannot also retain the reeveship of the village. Section 80 of The Consolidated Municipal Act, 1903, provides that no treasurer of ANY municipality shall be qualified to be a member of the council of ANY municipal corporation. A. should resign the office of reeve of the village, and if he fails to do so within 10 days after he has become disqualified to hold the seat, proceedings may be instituted to unseat him pursuant to the provisions of section 208 of the Act. The fact that A. became disqualified to hold his seat as reeve of the village, does not invalidate any municipal business he may have transacted prior to his resignation or unseating (as the case may be).

Duties of Clerk as to Production of By-Laws.

319—P. K.—1. Where a clerk is requested to bring with him a by-law to the council, is he supposed to lay it on the table to be read by the reeve, or can he take it into an ante-room and invite one of the councillors in there, and he also knowing that others wanted it read?

2. Was this legal on the part of both?

3. Where a clerk is requested by a councillor to bring a by-law held by him to the council, is he supposed to bring it, or can he reject?

1, 2 and 3. Section 282 of The Consolidated Municipal Act, 1903, provides that the clerk shall preserve and file the originals and certified copies of all by-laws of the municipality and keep them in his office, or in the place appointed by by-law of the council. Sub-section 1 of section 284 of the Act provides that "any person may, at all reasonable times, inspect any of the particulars aforesaid, etc., and also the assessment rolls, voters' lists, poll books, and other documents in the possession of or under the control of the clerk, etc." As a matter of courtesy, however, the clerk may and should, on request, produce a by-law at any meeting of the council, and read it to the councillors for their information, or allow them to peruse it.

Time for Filing Assessment Appeals—An Electric Railway By-Law.

320—J. F. S.—1. In our township the assessor says you may appeal from your assessment within fourteen days from the 30th of April (so marks it on the notice), but the assessor in the next township says fourteen days from the 1st of May. Which is right?

2. A by-law was passed by our municipality granting running powers to an electric railroad. The time was limited and has now expired. The company are asking for a renewal. Can that by-law be amended the same as an Act of Parliament, or must a new by-law be put through the council? The by-law was altered as to time for commencing to build and changed the hour for running one car?

1. Section 56 of The Assessment Act requires the assessor to deliver to the clerk of the municipality the assessment roll, completed and added up with the affidavits attached, on or before the thirtieth day of April. Sub-section 2 of section 71 of the Act requires the notice of appeal to be given to the clerk within fourteen days after the *day upon which the roll is required by law to be returned*. Therefore the 30th day of April is the date the assessor should fill in his assessment notices and return his roll, and if he return it on that day, notice of appeal must be given within 14 days from that date. If, however, the roll is not returned within the time fixed for that purpose, notices of appeal may be given to the clerk 14 days after the return of the roll. (See sub-section 2 of section 71).

2. A new by-law should be passed for this purpose.

Qualification for Clerkship of Newspaper Publisher.

321—X. X. X.—Can a publisher of a county local paper act as village clerk legally where the village printing is done by him?

This publisher can accept and legally hold the office of clerk of the municipality if, before entering on the performance of the duties of his office, he can make the declaration mentioned in section 312 of The Consolidated Municipal Act, 1903, by which he is required to declare that he has neither by himself nor his partner, either directly or indirectly, any interest in any contract with or on behalf of the corporation, save and except that arising out of his office as clerk. The spirit of the law appears to be that a clerk should not have any contract with the council other than that arising out of his clerkship, but notwithstanding that, we do not think that he forfeits his office if, after he has made the declaration of office, he enters into a contract of this kind.

Powers of School Arbitrators.

322—J. D.—In school section No. 7 of W. L., we had an arbitration to add territory and change boundaries of said section. This was six years ago. Two lots were taken from S. S. No. 2 and added to No. 7 section. Said lots had just finished paying debentures on their school and were to be exempt from building new school in S. S. No. 7, when it was the intention to build the following year, but was not proceeded with until now. The arbitration award reads lots — and — to be exempt from building the first new school in S. S. No. 8 in W. L.

Are said lots now liable to help build new school?

Yes. We are of opinion that the arbitrators had no authority to insert in their award a provision exempting these lots from helping to pay for the first new school house in the section to which they were thereby attached. Sub-section 1 of section 42 of The Public Schools Act, 1901, (formerly section 39 of chapter 292, R. S. O., 1897,) authorizes an appeal to the county council against any by-law of the township council for the formation, division, union or alteration of a school section or school sections or against the neglect or refusal of the township council to form, unite, divide, or alter the boundaries of a school section or school sections within the township. Sub-section 3 of this section empowers the county council to appoint arbitrators to *hear such appeal* and to form, divide, unite or alter the boundaries of the school section or school sections so far as to settle the matters complained of. There does not appear to have been an arbitration in this case, as provided by section 43 of the Act (formerly section 40 of The Revised Statute), and even if there had been, we do not think the arbitrators would have had any authority to insert any such provision as that under review, therein.

Proceedings to Expropriate Gravel Pit.

323—R. A. W.—There is a gravel pit on my farm, and the township council wants to buy it for the roads.

Can they compel me to sell, and if they can and we cannot agree on the price, how is the matter settled?

Sub-section 10 of section 640 of The Consolidated Municipal Act, 1903, empowers councils of townships to pass by-laws "for searching for and TAKING such timber, GRAVEL, etc., as may be necessary for keeping in repair any road or highway in the municipality." Clause (a) of sub-section 10 provides that "the right of entry upon such lands, as well as the price or damage to be paid to any person for such timber or materials, shall, if not agreed upon by the parties concerned, be *settled by arbitration under the provisions of this Act.*"

Powers of Court of Revision—Abolishing Dog Tax—Fees of Surveyor.

324—A. J.—Can the council at the Court of Revision raise the value of a man's property above what it is assessed, or will we have to lower an assessment to equalize two farms?

2. Is it necessary to get a petition every year not to collect the dog tax?

3. If a surveyor runs a line and cannot prove it is right, can he collect pay for the same?

1. A Court of Revision should value lands in respect to which appeals have been made "at their actual cash value, as they would be appraised in payment of a just debt from a solvent debtor," as required by section 28 of The Assessment Act. If the farm upon which the highest valuation has been placed by the assessor is, in the opinion of the court, valued on the basis prescribed by section 28, and the other farm is of equal value, the assessment of the latter should be raised accordingly, and vice versa. Of course we are assuming that appeals in respect of the assessment of both farms have been regularly filed and are properly before the court, because the Court of Revision has no power to consider cases in which no notice of appeal has been given.

2. If a by-law has been passed in accordance with section 2 of chapter 271, R. S. O., 1897, pursuant to a petition filed under that section, providing that neither the dog tax, nor any part of it, shall thereafter be levied in the municipality this by-law will remain in force until it has been repealed by the council.

3. If a surveyor, acting in good faith, and according to instructions, runs a line which, according to his judgment, is in the proper place, he is entitled to collect his fee for doing the work.

Exemption of Farm Lands in Village from Local Improvement Tax.

325—R. N. H.—I. If a farmer owns a large farm with a small part of it in an incorporated village, is it compulsory for him to have to pay taxes for electric lights, sidewalks and waterworks when he receives no benefit by them?

2. Can he be excluded from any of these three, or all three? If so, what steps can he take, or is there any?

1 and 2. Sub-section 2 of section 8 of The Assessment Act provides that "where such lands (that is the farm lands mentioned in sub-section 1) are not benefited to as great an extent by the expenditure of moneys for and on account of public improvements of the character hereinafter mentioned in the municipality as other lands therein generally, the council of such town or village shall annually, at least two months before striking the rate of taxation for the year, pass a by-law declaring what part of the said lands so held and used as farm lands only, shall be exempt, or partly exempt, from taxation for the expenditure of the municipality incurred for WATERWORKS, whether for domestic use or for fire protection, or both, the making of SIDEWALKS, the construction of sewers or the LIGHTING and watering of streets, regard being had in determining such exemption to any advantage, direct or indirect, to such lands arising from such improvements, or any of them." Sub-sections 3, 4 and 5 make provision for appeals from the provisions of a by-law of this kind by any person who complains that it does not sufficiently exempt him or his farm lands from taxation.

Town Should Strengthen Bridges.

326—H. E.—A. is a town and is building an electric plant on a river several miles away from the town. The machinery will have to be hauled through Township B. along a road on which there are several bridges, some pieces weighing six tons. The council of A. notified the council of B. to strengthen these bridges in order that they may get in the machinery. Is the council of the township compelled to do so, or be liable for any damage?

If the bridges on this township road are sufficient and in a safe condition for the ordinary traffic over them, the council of the township is not required to strengthen them so that they will sustain the weight of the extraordinarily heavy loads to be carried over them by the town or its employees. Nor will the township municipality be

responsible in damages in case any of these loads should break through a bridge. On the contrary, the town should take care that the township bridges are not injured by reason of the carrying of these loads over them. If the bridges, or any of them, are broken down or injured the town municipality can be compelled to make good the damage to the township municipality.

Powers of Drainage Court of Revision.

327—D. D.—1. At a Court of Revision for hearing appeals against assessment in drainage by law has the court authority to receive appeals which are entered on the date of sitting of the court?

2. If one-third of all the ratepayers assessed in drainage by-law enter appeals and have their assessments materially reduced by Court of Revision and distributed among the other two-thirds who did not appeal, can these (two-thirds) appeal to the Judge against having their assessment so increased?

3. When the court directs that the amount of reduction be distributed among the other ratepayers, is it necessary for the clerk to notify these parties that their assessment has been increased?

1. Yes. The latter part of section 33 of chapter 226, R. S. O., 1897, provides that "the court may, though such notice of appeal be not given, by resolution passed at its first sitting, allow an appeal to be heard on such conditions as to giving notice to all persons interested or otherwise as may be just."

2. The Court of Revision cannot distribute pro rata amongst the other parties assessed for a drainage work the amount of the reduction in an assessment until the parties to be affected have been given the notice mentioned in section 39 of the Act. Any party served with this notice may appear at the adjourned sittings of the Court of Revision, and if he is dissatisfied with the decision of the court, in his case, he may appeal therefrom to the County Judge, as provided in section 41 of the Act.

3. The only notice the clerk is required to give these parties is that mentioned in section 39, and that mentioned in section 40, in case they appear at the adjourned Court of Revision.

Title to Township Land by Possession—Signatories to Municipal Conveyance—Grant Towards Building Township Hall—Duties of Clerk and Council as to Preparation of Voters' List.

328—J. F. C.—A township council bought a piece of land about thirty years ago and erected a township hall on the same and afterwards put a fence around the hall, enclosing only a portion of the land bought for same. The man who owns the farm on which said hall is built has fenced in and is working for over twenty years a portion of the land which was originally bought for said hall.

1. Now, can the farmer who has had possession of this land for such a length of time keep it, or can the council still claim it and sell it with the Town Hall if they were selling the same at any time?

2. If the council can claim said land outside of Town Hall fence described in the original deed to them, and were to sell Town Hall and land included in said deed. Which is it, the council or the purchaser of hall that would have to take proceedings and to pay expenses of same to secure possession of land in original deed outside of fence now enclosing said township hall?

3. What officer of a municipality should sign a conveyance by deed of municipal property when the same is being disposed of?

4. Can a township council build or assist in building a hall erected on land that does not belong to the municipality?

5. Has a clerk any discretion in placing names on or taking them off a voters' list when he knows the parties do not possess the necessary qualifications according to The Voters' List Act, and if he has, to what extent can he exercise the same?

6. Has a council power to order names to be added to the assessment roll at the Court of Revision when the clerk has not received a lawful or any appeal to have said names placed on roll, or has a council anything to do with the preparation of a voters' list or ordering names to be placed on same?

1. If the owner of the adjoining farm has had possession of that portion of the land purchased by the council of the municipality, outside of the fence, for ten years or over,

he can now claim a possessory title to it and hold it against the council. (See section 4 of chapter 133, R. S. O., 1897, and clause 13 of section 8 of chapter 1, R. S. O., 1897).

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

3. The council should by its by-law authorizing the disposal of the property, designate the officer or officers by whom the necessary conveyance is to be signed. Those usually given this authority are the reeve and clerk. Of course, the corporate seal of the municipality should also be affixed to the document.

4. No. Section 534 of The Consolidated Municipal Act, 1903, empowers councils of townships to pass by-laws "for obtaining such real and personal property as may be required for the use of the corporation, and for erecting, improving and maintaining a hall, and any other houses and buildings required by and BEING UPON the land of the corporation."

5. The clerk has no such discretion. Sub-section 1 of section 6 of chapter 7, R. S. O., 1897, provides that "the clerk of the municipality shall, immediately after the final revision and correction of the assessment roll in every year make a correct alphabetical list in three parts of all persons being of the full age of twenty-one years, and subjects of His Majesty by birth or naturalization, and appearing by the assessment roll to be entitled to be voters in the municipality, etc."

6. A township Court of Revision has power to entertain appeals, to add names wrongfully omitted from, or strike off names wrongfully inserted in, the assessment roll of the municipality, provided that notices of appeal to that effect have been filed with the clerk at the time and in the manner required by sub-section 2 of section 71 of The Assessment Act, but the latter part of sub-section 4 provides that "no alteration shall be made in the roll unless under a complaint formally made according to the above provisions." A municipal council has no authority to interfere in the preparation of a voters' list or give any directions as to what names shall be placed thereon.

Liability for Removal of Obstruction from Creek.

329—D. W. W.—A. owns a farm alongside road. A creek crosses side road and A.'s farm. A. in building a fence across a creek along side road set a post on each bank and wired a heavy pole to the posts. He then fastened other poles to the first pole with wire forming a gate or fence across the creek. At the time of the freshet in the winter the pathmaster cut the posts off, and when the ice went down the stream the posts went also. The pathmaster claims he did it in order to save the bridge across the creek above the fence being damaged by ice. The poles being fast to the ice, they were unable to get them out of the creek. A. came to the council and demanded damage for loss of poles, claiming there was no danger of the ice damaging the bridge, and if the pathmaster had notified him he would have removed the poles.

1. Is the council liable to A. for damages?

2. Is the pathmaster liable to A. for damages, he having cut posts without authority from the council?

1. The council does not appear to have passed a by-law pursuant to sub-sections 12 and 13 of section 562 or the Con. Mun. Act, 1903, nor to have given the pathmaster any instructions to remove these posts; therefore, we do not consider that the council is in any way liable for any injury that A. may have sustained by their removal.

2. The action of the pathmaster, was, under the circumstances, unauthorized, and if A. has suffered any damages, he can look to the pathmaster for re-imbursment.

Liability for Loss of Horse.

330—G. W. T.—A ratepayer of the township, while out trying to break a road last winter so as to make it passable, lost one of his horses. He was not on his own road division, was not the pathmaster, and did this, as he said, as an act of kindness for a neighbor who had gone to procure veterinary skill for a sick horse. It might also be stated that the road at this place is very narrow, being about $2\frac{1}{2}$ rods wide. One man's fence being out on the highway and causing a greater accumulation of snow than would have been had it been in its proper place. He had promised the council to remove it, but had not done so. The party losing the horse has asked the council for remuneration. Do you think the council would be justified in settling this claim?

We do not consider the municipality in any way liable to the owners of this horse, and the council should not pay his claim.

Collection of Taxes.

331—THUNDER BAY—Our collector failed or omitted to collect a considerable amount of the taxes by the first day of February, and the council authorized the collector to continue the levy and collection of the unpaid taxes but he would not distraint unless the council would be responsible for any loss to him by so doing, but the reeve held that the council could not extend the collector's time beyond the first day of February, and that there is no authority for distraint after that date, consequently the taxes are still uncollected and we are going to lose them unless pressure is brought to bear somehow.

1. Can a municipal council authorize a collector to continue to levy and collect taxes after the first day of February under section 145, with the same power and authority to distraint as they had before that date. If not, what does it mean "with the same powers provided by law for the general levy and collection of taxes?"

2. How long can they continue to collect?

1. Yes. Sub-section one of section 145 of The Assessment Act provides that "in case the collector fails or omits to collect the taxes or any portion thereof by the day appointed or to be appointed as in the last preceding section mentioned, the council of the town, village, or township may, by resolution, authorize the collector or some other person in his stead, to continue the levy and collection of the unpaid taxes, in the manner and with the powers provided by law for the general levy and collection of taxes."

2. So long as the collector has the roll in his hands, and until he has returned it to the treasurer of the municipality with the account mentioned in section 147 of the Act, he has authority to collect, and enforce by distress or otherwise the payment of the taxes on the roll. This does not, however, absolve the collector from the duty to collect the taxes and return his roll by the date mentioned in the Act.

Grants to Public Libraries.

332—A. McT.—An answer appears in the last number of your valuable paper respecting the power of township councils, and the trustees of police villages to levy taxes for the support of libraries. The answer, however, does not seem quite to remove our doubt. Our library is a public library but not a free library. In this case can grants be made by the above named corporations without a vote of ratepayers?

If the above library was established under the provisions of the Act respecting public free libraries, the municipal or school corporation may contribute to its maintenance under section 31 of the Act. If the library was not established under the above Act no grant can be made to it by either corporation, and there is no authority given to the ratepayers to authorize the council to make the grant. See sub-section 4 of section 591, and sub-section 1 of section 746b of The Municipal Act, 1903.

Law as to Clubs—Drainage on Highway.

333—D. E. M.—A person applied to the council for a license for a billiard and pool room and the council refused the request. Shortly after the place was opened up as a club, a charter having been granted by the Judge. It was not long before a second place was opened up also as a club. It is a well known fact that neither place conforms to the law for clubs, in regard to only members playing, but anyone can go in and pay the ten and fifteen cents fee, and be given a ticket and play.

1. Whose duty is it to see that the law is complied with, is it the judge who gave the charter?

2. Is there any inspection made of such places, and if so, by whom?

3. Can a judge give a charter for a club that is to be started in a county adjoining the one that he is judge of?

In our town we have not a general drainage system just a few drains on the main streets.

4. Some years ago a drain was put down a street—those living on the street paying one-half the cost, and the council one-half, the property owners draining into it. It has now become blocked up and requires opening and cleaning. Is the council compelled to pay the cost or should the property owners pay all or one-half the amount for putting it in proper repair?

1 and 2. We assume that this club has been incorporated pursuant to the provisions of chapter 211, R. S. O., 1897. If this is so, any person may lay a complaint before the Lieutenant-Governor in Council, if the club is using its powers for any fraudulent or unlawful purpose, under sub-section 1 of section 22 of the Act, to suspend for a limited period or to revoke the corporate powers of the club.

3. Sub-section 3 of section 3 of the Act provides that the declaration for incorporation may be produced to a judge of the high court, or to a judge, or to a junior or deputy judge of a county court, etc. Reading this sub-section in the light of sections 18a and 20, we do not think a county court judge can grant a certificate in any county except "in his own county."

4. This drain does not appear to have been originally constructed under the local improvement clauses of The Municipal Act, or under the provisions of The Municipal Drainage Act, or The Ditches and Watercourses Act, and we are of opinion that the council is not bound to take any steps towards cleaning it. We may observe that a council has no power to construct drains for the purpose of draining the lands of private parties, and pay for them out of the general funds of the municipality.

Collection of Fees From Non-Resident Pupils.

334—J. Mc.—A Grand Trunk Railway Co.'s station and agent's residence are in the township of H, and taxes of which are collected for that township, also pay taxes on land in township of S. The agent sends his children to the school in S. without paying non-resident fees on the strength that G. T. R. Co. pays taxes in township of S, but not on his residence.

1. Is he not a non-resident?

2. Can he be compelled to pay fees to the school in S.? The schools are the same distance from his residence.

1. Yes.

2. Yes. See section 95 of The Public Schools Act, 1901.

Delimitation of Highway.

335—W. LEC.—Forty years ago our council laid out a road across A's lot in lieu of sideline, and deeded sideline to A, as all was standing timber the council opened a narrow road. In course of time A. cleared on east side removing all timber. Put up a straight fence a safe distance from travelled track. Our council assuming with A's consent, that the fence was on the line on east side, sold timber remaining on the 66 feet, (also removed a large quantity of gravel), some of the timber has been removed and some still remains, as there was no specified time for removing it. In the meantime A. sold to B., and he, the present owner, claims timber. His contention is that the fence put up by A. is not in the right place, as it should be thirty-three feet from the centre of travelled road. Can he compel the council to accept thirty-three feet each side of the centre of travelled road and by so doing claim the timber or can the council hold the road as it now is, having improved it they are very anxious to retain it?

The council is not bound to accept B's contention. If it is satisfied that the fence erected by A is on the correct line, it should remain passive in the matter. If B is not satisfied he will have to institute proceedings against the municipality, and in this event the onus will be upon him to prove that some other line is the correct one. If the council is uncertain as to the exact location of the road it should employ a surveyor to locate it.

Proceedings at Tax Sales.

336—J. K. L. M.—Owing to an oversight our clerk last year omitted to place on the Collector's Roll, in the column for arrears, the taxes on properties which were three years in arrears, but which had become occupied and from the tenants of which the arrears might possibly have been collected.

1. In the face of this omission can the lands be legally sold this year?

2. When a sale for taxes is held must it necessarily include every property three years in arrears, or can any be held back for the reason say that the description is somewhat vague, or owing to subsequent surveys is different to what it was originally, as our experience has been owing to mortgages or property changing hands the taxes usually get paid in time and thus straighten out what might result in a complication should the property be sold for taxes?

3. Supposing that through error or negligence of previous assessors or collectors properties appear as liable to be sold for taxes, when there is a doubt as to whether such is really the case, would the treasurer be personally liable for the consequences provided he sold these properties, and it should appear that the sale has been illegal, or would the responsibility rest with the council which issues the warrant for the sale?

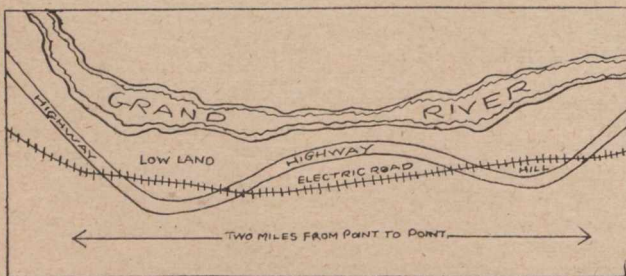
1. No.

2. To comply with the provisions of The Assessment Act in this regard the list of lands liable to be sold for taxes submitted by the treasurer to the mayor, should contain ALL the land in the municipality so liable. (See sections 173 and 224 of The Assessment Act.)

3. The treasurer in selling lands for arrears of taxes derives his authority from the Legislature under The Assessment Act, and in offering lands for sale he is not acting as an officer of the county council. It therefore follows that no responsibility is incurred by the council, but if the treasurer takes steps to sell lands for arrears of taxes which are not liable to be sold the owner can bring an action against him and ask the court to restrain him.

Council's Power to Regulate Crossing of Highway by Railway Company.

337—A. A. D.—We have a street railway survey coming up alongside and across one of our leading highways in the township four times in about two miles, and there is really no engineering difficulties in the way of keeping on the west side of the said road, only that it will be a cheaper made road the way they are winding across. Have the council the power to stop them under the circumstances?



It is necessary that we should know the name of the company on whose behalf the survey is being made before we can express any opinion upon this question. The Dominion Parliament and the Legislature have both passed special Acts authorizing companies to construct electric railways, and until we are in a position to examine the special Act under which the company is professing to act you can see that it is impossible for us to say whether it is within its rights or not.

Changing Time for Making Assessment in Towns.

338—D. E. M.—1. What are the necessary steps for our council to take in order to collect our taxes earlier in the year. We now have our assessing done in March and April and taxes collected in September, October, November and December, four payments, and some of the taxes are not paid until the end of March when collector returns the roll? We would like to have our taxes all in earlier in the year.

2. Will we require to make another assessment this year?

1. This municipality being a town, its council may pass a by-law pursuant to sub-section 1 of section 58 of The Assessment Act, for taking the assessment between the first day of July and the thirtieth day of September, the roll being returnable in such case to the town clerk on the first day of October.

2. No. Sub-section 4 of the above section provides that "in case the council deem it advisable to adopt the provisions of this section in any year for which there has been an assessment made under the previous sections of this Act, the council instead of making a second assessment in the same year may pass a by-law adopting the assessment roll previously made and revised in such year, and such assessment shall be subject to revision in the manner provided by sub-section 1 of this section, and shall have the same effect as an assessment made under sub-section 1."

Notice of Application for Passing of Railway Act.

339—C. F. S.—I received the following notice from a firm of solicitors: Notice is hereby given that an application will be made to the Parliament of Canada at its present session, for an Act to incorporate a company under the name of B. & B. R. Company, to construct and operate by steam or electricity a railway from a point on the line of the Central Ontario Railway at or near L station in a northerly direction to a point on the C. P. R. no further west than M, with power to construct and operate branch lines, also with power to carry on business as a mining, reduction and smelting company, also with power to construct, acquire and operate saw mills, pulp-mills, steamboats, and vessels, wharves, water-powers, and electric plants, and to acquire and operate timber limits, also with power to amalgamate with any other company or companies and for other purposes, and for Declaration that the works of the said company are for the general advantage of Canada. This letter was registered and dated April 5th, 1904. Is there any clause in the Statutes of Ontario, and does our council have to act on any matter? I can find nothing in the Statutes.

The application for the passing of this Act is apparently to be made to the Dominion Parliament at its present session. The notice is given to the municipality to enable it to appear by counsel or otherwise, and oppose the passing of the bill, in case it has any objection to the construction of this railway through its lands. If the council has no objection to urge against the passing of the Act, it is not necessary to take any action in the matter.

Height of County Bridges—Submission of a Bonus By-Law to Part of Township.

340—W. L.—1. Must a county bridge surmount high water mark of a river during freshets in spring and fall so as to give safe travel to pedestrians and others?

2. The river at W. overflows the road on each side of the county bridge, rendering passage unsafe. The county have fenced each side, are they responsible?

3. Does section 696, Municipal Act, give a portion of a township the right to submit a by-law on the petition of fifty freeholders, and then it becomes obligatory on the council to submit it?

4. Does not sub-section two provide the conditions? And if these are complied with the council must submit as part of the machinery of the law. If not then the portion of a township may not aid a R. W. without the consent of the council and no additional powers would be conferred by section 696.

5. Must the county council provide for conveyance during the expansion of a river in spring that covers the boundary road two or three feet deep for six or eight rods on each side of the county bridge?

1 and 2. The Statute requires county councils to construct bridges under their jurisdiction in a good and substantial manner, (See the latter part of sub-section one of section 616 of The Consolidated Municipal Act, 1903). The material of which they are to be built, their height and location, are matters for the judgment of the council or committee thereof and engineer having charge of the work, under the circumstances of each particular case. We do not think a county council is bound to erect a

bridge to such a height that it would be above the highest point the water might reach in times of flood. This would in most cases be an impossibility, and often attended with a vast amount of expense. Under the provisions of section 605 of the Act the counties interested are responsible for the maintenance of the approaches to county bridges, only to the extent of 100 feet at each end. In the case of *Traversy vs. Township of Gloucester*, (15 O. R. 214) it was held that the word "approach" in this section means all such artificial structures as may be reasonably necessary and convenient for enabling the public to pass from the road on to the bridge, and from the bridge on to the road, and does not include the HIGHWAY to the distance of 100 feet from each end of the bridge, at all events unless the artificial structure extends so far.

3 and 4. Sub-section 1 of section 696 provides that a portion of a municipality MAY AID a railway, etc. If this aid is granted it must be by-law passed by the council of the municipality after all the formalities required by this section have been observed. We think, however, that on the presentation of the petition mentioned in sub-section 2, the council is not compelled to submit the necessary by-law. It can exercise its option in the matter as to whether it does so or not.

5. No.

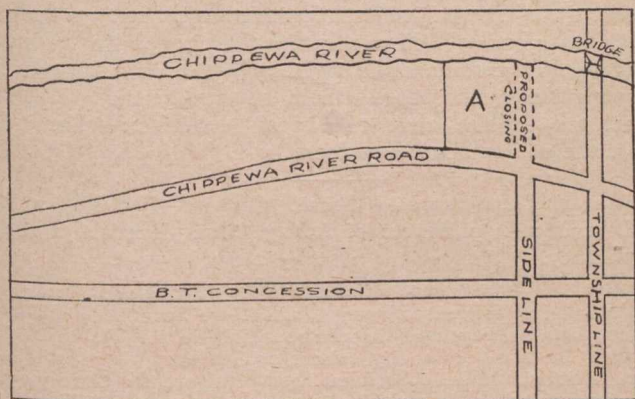
Closing and Sale of Road to Navigable Stream.

341—H. L. P.—M. A., as shown by accompanying map, proposes to buy from the municipality a portion of an opened side road running from Chippewa river road north to Chippewa river, a navigable stream. A bridge crosses the river on the township line about half a mile east, and the road is of no use to the municipality, and it is willing to sell the same.

1. Will it be necessary to obtain the sanction of Lieutenant-Governor in council, as shown under section 640, sub-section 11 (a), as the road leads to the river?

2. Will it be necessary to give the adjoining property owner the option of purchasing one-half of said road?

3. Could the municipality give a deed that would allow the purchaser to sell the road the same as his farm?



1. Yes, if this is a road allowance reserved under an original survey.

2. Yes, if the circumstances bring the case within sub-section 11 of Sec. 640 of The Consolidated Municipal Act, 1903.

3. Yes. The deed should describe the portion of road sold by metes and bounds, and there must be a compliance with sub-sections 2 (a) and (b) of section 660.

Payment of Cost of Necessaries for Parties Quarantined.

342—E. A. W.—The Municipal Board of Health appointed A. to look after and provide for parties who were quarantined in the fall of 1903. A. had no order to get provisions at any certain place and bought a few necessary articles from B. B., presented his account in 1904 to the Board of Health, and payment was refused on the ground that said Board of Health had not given an order to buy from B. Can B. collect from the Board of Health and how will he have to proceed?

Since the Board of Health in appointing A to do this work did not specify the particular person or persons from whom he was to purchase these necessaries, but simply gave him general authority to obtain and furnish them to the parties under quarantine, if the articles supplied by B. were necessaries under the circumstances, the Board of Health should, and can be compelled by ordinary action at law to pay B's account. We would suggest that the action, if any, should be brought against both the Board of Health and the man who ordered the goods.

Collection of Rates in Union School Sections.

343—L. S. T.—In a rural union school section there is a difference of opinion in regard to the notice of estimates for school moneys. Trustees are required to submit to the council of each of the townships of portions of which a union school section is composed.

1. The notice on margin of blank form of estimate supplied by you states it is the duty of the trustees to send full amount required to each of the councils interested. Is there any clause other than sub-section 9 of section 65 in support of the above?

2. Others contend that it is only necessary for union school trustees to submit their estimates to the clerk in whose township the school is situated, and that he is to notify the other council interested of the amount they are called upon to contribute. Is there a clause in the School Act in support of the above contention, as it is the custom of many township clerks who have union schools to deal with?

3. Would sub-section 3 of section 71 Public Schools Act apply either where a municipality fails to pay rural school board the full amount of their estimate?

Or in a rural union school section, part of which is situated in different townships, through some mistake one pays more and the other less than their just portion of the school tax as per assessor's award.

4. In townships where the above irregularities occur are the auditors justified in passing them by and stating in their report that they find everything in connection with the township business correct?

1. Yes. Section 49 of the Act bears out the contention that each municipality interested should attend to the levy and collection of its part of the moneys required by the union school section, independently of the other, in accordance with the last equalized assessment of the union school section.

2. We know of no such clause in The Public Schools Act, 1901, nor do we consider the course outlined a proper one.

3. The provisions of this sub-section can be invoked and the excess or deficiency in the levy (as the case may be) in one year may be deducted or added to the amount required the following year.

4. It is the duty of the township auditors to call attention to this as well as to any other irregularities in the accounts of the municipality.

Liability of Municipality for Accident.

344—P. K.—In our township we have a shallow pond, about three feet below the general level, at a point where a concession and side road cross each other.

The roadbeds have been graded right across this pond both ways, gravelled and travelled for many years.

Two years ago the council had a guard placed around this pond along the grade both sides of both roads built as follows: Good cedar posts were put down about 8 or 10 feet apart, sawed off, about 4 or 4½ feet high, along which were securely fastened two strands of smooth wire about 18 inches apart on side posts.

This last winter, at a time when all side roads were icy, a resident of the township while driving up the concession and before he reached the said corners a bolt came out of one whiffletree, traces of the other horse became detached, tongue dropped down, which frightened the horses and caused them to try to run. The driver pluckily held on and when about half way across the said pond and a little past the corners, one of the team ran into the wire guard, fell down, and the other horse fell over it and both became so fast in the wire that the driver had to get an axe from a neighbor to cut them out, and found when he had, that each horse had broken a leg and had to be shot.

He is now asking damages from the municipality to the amount of the value of the team, claiming that the wire guard is not a proper guard, under the circumstances, is the municipality liable?

We are of opinion that the municipality is not liable to the owner for the loss of these horses. This is not a case where the council neglected to protect a dangerous place. On the contrary the council appears to have carefully erected a guard to prevent accidents. The only point which the owner of the horses relies on is that a wire guard is not a proper guard. What does he suggest? Suppose the council had used a stringer of wood, we do not think that would have prevented the horses from injury.

Maintenance of Sidewalks on County Roads.

345—J. F. S.—In the April number of THE WORLD, in answer to X. Y. Z. No. 233 you say that a township council cannot build sidewalks on a county road. I would infer from that answer that you mean without consent of the county council. In our village (not incorporated) the main street is a county road. Sidewalks were built years ago when this road was owned by a company and was a toll road. I have no means of knowing if permission was asked of toll company or not, and they might possibly have been built before the company owned it. The county now owning the road who has the right to maintain the sidewalks?

So long as these sidewalks are allowed to remain on this county road, the county must maintain and keep them in repair, and the county will be liable for any accident that may happen in consequence of their unsafe condition. It makes no difference, when, or by whom the sidewalks were originally constructed. The county council is not, however, bound to maintain this sidewalk. If it finds that by reason of decay it has become dangerous it may tear up and remove it.

Conduct of Business at Council Meetings.

346—V. W.—1. Where no rules of order exist where does the rule of entering a non-seconded resolution have its origin?

2. What are the parliamentary rules in Britain and Canada for non-seconded resolutions?

3. What course would you advise against flooding the minutes with non-seconded resolutions?

4. Where no provisions are made by Statute for passing a by-law for any purpose, would the advice of a lawyer be of any account as a point of law if he counselled that a resolution would do?

5. Is not the resolution a mere "dodger" in a case like this, and if it works, all right, if not, stop the performance?

1. If the council has not passed a by-law embodying a provision that a motion or resolution should be seconded before being put from the chair and entered in the minutes, the law does not require a seconder to constitute a legal resolution. Any member may introduce a resolution, and is entitled to have it put from the chair and entered in the minutes.

2. Sir Jno. G. Bourinot, in his work on "Procedure of Public Meetings," thus states this rule: "Every question submitted to a meeting must come before it in the form of a motion which is moved by one member of an assembly and seconded by another."

3. The passing by the council of a by-law pursuant to section 326 of The Consolidated Municipal Act, 1903, embodying a provision that no resolution shall be put from the chair or entered in the minutes until it has received a seconder. The procedure by-law of the City of Toronto (No. 3,523) contains the following provision: "All motions shall be in writing and seconded before being debated or put from the chair, etc."

4. Assuming that reference is made to the statutes governing the procedure of municipal bodies, the latter part of section 325 of The Municipal Act, 1903, provides that "the powers of the council shall be exercised by by-law, when not otherwise authorized or provided for." And if a solicitor is asked to advise a council as to whether it may act by by-law or resolution, he will do so, in the light of the provision of this section.

5. We are at a loss to understand this question, but think our replies to previous enquiries contain all the information desired.

Liabilities of R. C. Separate School Supporters.

347—A. J. M.—Several R. C. supporters of separate school (union) gave notice of withdrawal under section 47, chapter 294, before the second Wednesday in January, and asked to be attached to public school No. 12, near by. Now, some of these parties finding that they cannot accomplish the object which caused them to withdraw, asked to be assessed as supporters of the separate school they withdrew from.

1. Can they be assessed as such now?

Public school No. 12 built a new school house two years ago and debentures were issued in payment.

2. Would these new supporters be liable in common with the old supporters for the levy for these?

3. Assuming that they withdraw at the end of the current year would they still be liable to be rated for these debentures?

1. If the assessor, guided by the notices of withdrawal, has assessed these ratepayers as public school supporters, they can appeal to the Municipal Court of Revision to have themselves assessed as separate school supporters, as provided by sub-section 3 of section 49 of The Separate Schools Act (R. S. O. 1897, chapter 294).

2. Yes. So long as their property is taxable as that of public school supporters in the school section.

3. No.

Composition of Committees of Council.

348—W. S.—Where there are six councillors and a mayor in a town, is it legal and right for three councillors to be on the financial committee and on the board of works. I mean the same three councillors as they inspect and pass their work, and then they are on the finance committee and order payment of same, would it not be better to appoint three on the finance committee and appoint next three on the board of works?

This is a matter as to which the council must exercise its own judgment. Not knowing the men appointed nor the circumstances attending their appointment on these two committees, we will not presume to express an opinion as to whether the council has exercised its judgment wisely or not. If the ratepayers generally do not think the council has done right in appointing members of committees, as stated, their only redress is to elect councillors at the next municipal elections, who will follow the course that they deem best.

Division of Township into School Sections—Qualification of Councillor—Appointment of Acting Clerk—Election to Fill Vacancy.

349—J. B.—The Township of W., in the District of N., has not been formed into school sections yet, and there have been several petitions from ratepayers asking the council to do so. As there is a number that are not in any school section, and they have no school to go to, and the council has been petitioned for three years in succession to do so. At the last meeting of our council, April the 9th, our clerk was to have a by-law written out in proper form, and as he was quarantined with scarlet fever no by-law was there, and the reeve got another man to act as clerk. The meeting went on in order, and the clerk did not want to draw a by-law out as he thought he might make a mistake, so it was moved by J. B., seconded by J. C., that this council adjourn to meet on April 12th, at 1 o'clock, to settle the school question, and some other business was carried, and J. B. wrote out a by-law in proper form and took it with him to place of meeting. He was one and one-half hours late; two councillors had been there and reeve had gone to the newly appointed clerk in the forenoon, and gave him a notice to put up on the door adjourning the meeting until May the 7th. Calling a meeting May the 7th does not give the people twenty clear days to enter their case into court, as court is on the 17th of May, and the three councillors went home and the reeve was not at the hall at all, but passed it going out and going home. All the schools have been more than five years formed in the township.

1. Does it give any hold on Reeve when it was agreed in the minutes of the meeting on April the 9th, to meet on April 12th at 1 p. m., to vote on the school by-law and other affairs of business and the reeve getting this notice put up the way he did?

2. Can those ratepayers force the council to form the township into school sections by law, and what steps should they take as the two petitions contained about forty ratepayers, names of heads of the family?

3. Does it disqualify a councillor when he cannot write out his own motion?

4. Has the reeve power to appoint an acting clerk without the council putting it through by proper motion?

5. If a councillor resigned his seat has there to be an election to fill his place or can the reeve and three councillors carry on business just the same the balance of the year?

1. The conduct of the Reeve appears to have been irregular, but we do not see that he has rendered himself liable to any legal prosecution.

2. Sub-section 1 of section 12 of The Public Schools Act, 1901, provides that "The municipal council of EVERY township (except where township boards have been established) SHALL sub-divide the township into school sections, so that every part of the township shall be included in some section, and shall distinguish each section by a number, etc." If the council neglects or refuses to perform the duty imposed upon it by this sub-section, it may be compelled to do so by mandamus.

3. No.

4. No. Section 283 of The Consolidated Municipal Act, 1903, provides that "the COUNCIL may by RESOLUTION provide that, in case the clerk is absent or incapable through illness of performing the duties of clerk, some other person, to be named in the resolution, or to be appointed under the hand and seal of such clerk, shall act in his stead, and the person so appointed shall, while he so acts, have all the powers of the clerk."

5. An election must be held to fill the vacancy. See section 212 of The Consolidated Municipal Act, 1903.

Rebate of Taxes — Assessment of Vacant Land—Collection of Interest.

350—J. P.—1. A. got his leg broken three years ago last fall and the council made a resolution to relieve him of his taxes, and told him of it, but afterwards they found out that they could not legally do so, but did not notify A. of that fact. Now he is three years in arrears for that one year's taxes. He never was notified for taxes during the three years, and has paid taxes for recent years. Can he be compelled to pay said taxes or has the present council power to relieve him of them?

2. A. has a farm and the assessor comes around and assesses it year after year with forty acres of it as waste land which he does not pay taxes for. Does this forty acres go to the municipality through time. If it does, how long before the council can claim it?

3. The municipal treasurer sent checks sufficient to pay demands to a school secretary-treasurer, which were as good as the cash at the time he received them, but he carried them in his pocket for several days, then the party on whom they were drawn met with financial difficulties, and then the secretary-treasurer could not get them cashed, so he returned them to the municipal treasurer and has since put in a bill for two months' interest. Can he legally collect said interest?

1. A. cannot now be compelled to pay these taxes, which should have been collected three years ago. The council has no power to do anything in the matter.

2. The council cannot acquire a title to this land in this way.

3. No.

Time for Equalizing Union School Assessments.

351—G. A. T.—Would you kindly advise me whether in your opinion under the amendment to The Municipal Act, respecting the equalization of union school sections (Edward 7th, chapter 32, page 559) where the equalization under the old Act should take place this year, should we equalize now, or wait until the five years have expired?

If three years from the last equalization expires this year, the assessors of the several municipalities interested should meet prior to the 1st day of June next, and equalize the union school assessments. This equalization

will then remain in force for five years in accordance with the amendment last year to section 54 of The Public Schools Act, 1901.

Accident Caused by Accumulation of Snow and Ice.

352—J. M. C. Any information you can give me as regards a broken limb by falling on a sidewalk during such a winter as we are passing through, when sand and sawdust has been supplied would be greatly appreciated.

There is no liability on the part of the municipality unless it can be shown that the council was guilty of gross negligence in allowing the sidewalk to become unsafe and dangerous for the travelling public. See sub-section 2 of section 606 of The Consolidated Municipal Act, 1903. See also sub-section 3 of the same section as to the notice to be given and sub-section 1 as to the time within which the action is to be brought.

Collection of Drainage Levy—Misappropriation of Drainage Moneys.

353—A. W. V.—I notice in your question drawer of the March issue, No. 145, the question is asked: Is the council disqualified by voting large sums of drain money for current account? You refer in answer to sub-section 3 of section 418.

1. If the facts in the case were that a council was constructing a number of drains under the provisions of The Special Drainage Act. All the proceedings were gone through according to law up to the final passing of the by-law, at which time the works were duly advertised and sold to the best contractors the council could secure, at which time the council issued the debentures and raised the funds to make payments as provided by the various contracts. Eighty per cent. of the contract price was to be paid monthly and the twenty per cent. when the work was completed, also to pay back to the general fund the advances that were made to each drain up to the issuing of debentures. The debentures were issued in good faith that the work would be completed by the time specified in the contract, which was months before the first debenture was due, but it turns out that after this has been done wet weather sets in and for the whole summer the drain to be improved is full of water such as they have been in this flat country for the last two years. The contractors could not do their work or complete it within the time specified, and the first debenture falls due. Under such circumstances, do you think the law would prevent the council from collecting the first assessment to meet the first debenture? In every case work has been done in these drains.

2. As a result of the work not being completed the council has on hand a considerable amount of money, which is the proceeds of debentures, and along about the first of December the taxes are not coming in as is required, and the council draws on the funds to meet their obligations for a few weeks till the collector returns enough of the proceeds of his roll to meet all demands and pay back to the above mentioned account the amount which has been so used. No attempt has been made to divert money that was levied and collected, as is referred to in sub-section 2 of section 418. Do you think the using of such would be sufficient to disqualify a whole council or those who vote for it?

1. The council appears to have acted in good faith in this matter, and to have done nothing but what they considered reasonably necessary to construct the drainage works as expeditiously as possible, and to provide, by sale of the debentures, the necessary funds to pay for the work as and when completed. Since the work has been proceeded with, and as much of it completed as the weather and the condition of the ground would permit, and it is the intention to carry the work to completion as and when conditions are such as to enable the contractors to do so, we are of opinion that the council may levy the first assessment under the by-law.

2. We are of opinion that the council had no legal authority to use these funds in the manner mentioned. The money should not be used, even temporarily, for any other purpose than that for which it was borrowed. In the case of Smith v. Township of Raleigh (3 O. R. 405) moneys raised by local assessment for the construction of a drain, had, under a resolution of the council, passed in accordance with a promise made to certain of the petitioners for the work, been applied towards the construction of another drain not mentioned in the petition. It

was held that a petitioning ratepayer was entitled to an order compelling the corporation to complete the first drain according to the by-law, and to an account, *the by-law having created a trust that had been violated*; also that the facts above mentioned constituted no justification of the breach of trust committed by the defendants. As to what effect the diversion of the funds in the case under review will have on the qualification of the members of the council who sanctioned it, is a matter for the decision of the court by which the matter is heard. In our opinion, however, we do not think that the facts of this case bring it within sub-section 3 of section 418 so as to work a disqualification.

Assessment and Police Commissioners in Towns.

354—M. L.—(a) What town in Ontario has commissioners of police in accordance with Section 481, Consolidated Municipal Act, 1903?

(b) Also towns having assessment commissioners as per section 286, Consolidated Statutes, 1903?

(c) Are there advantages of these commissioners over appointment by council direct?

A. Towns having commissioners of police are Galt, Brockville, Peterboro', and possibly Lindsay. All cities are required to have a police commission, but very few towns, so far as we can learn, have removed the control of the police from the council. The number of towns having a police "force," apart from one or two watchmen, is limited.

B. A number of the larger cities, Toronto, London, Hamilton, Ottawa, have assessment commissions, but we are unable to learn of any town. No returns covering either of these matters—police or assessment commissions—are received by any Department of the Government.

C. This is a matter as to which the council should exercise its judgment in accordance with the circumstances and conditions of each particular case. We cannot give an opinion that would apply to cities and towns generally.

Assessment of Occupants—School Levy Cannot be Paid Out of Poll-Tax.

355—D. D.—We have several proprietors of lots here who have a house built and occupied by themselves and families fronting on street. They have other small houses built in rear of same property. These owners pay all taxes on these houses, school taxes included, and refuse to allow these tenements to be assessed in the names of the occupants. Not being assessed individually and being all R. C. separate school supporters they are charged school subscription rates, which is very unsatisfactory.

1. Can the assessor assess these individual occupants of houses without the consent of the owner, so that they would appear on the roll as ratepayers, the owner paying the taxes if he desires, and thus avoid collecting school rates by subscription from their occupants?

2. The Department of Education states that these individuals who now pay poll tax are exempt from subscription rates. Is there any means of apportioning poll taxes to paying a portion of levy for school purposes?

The Hawkesbury Lumber Company here have 100 houses on their property occupied by employes, who are assessed individually. The company pays all the taxes apportioning the school taxes to public and R. C. Separate schools as the parties are assessed. If this could be carried out with other property owners it would save a great deal of trouble.

1. It is the duty of the assessor to assess these parties as tenants of the premises they respectively occupy. Section 20 of The Assessment Act provides that "land not occupied by the owner, but of which the owner is known, and, at the time of the assessment being made, resides or has a legal domicile or place of business in the municipality, or has given the notice mentioned in section 3, shall be assessed against the owner alone, if the land is unoccupied, or against the owner and occupant, if the

occupant is any person other than the owner." See also sub-section 1 of section 24 and sub-section 1 of section 25 of the Act.

2. No.

An Illegal Assessment and Tax Sale.

356—C. A. W.—In the year 1900 the Assessor did not comply with section 21 of The Assessment Act, Chap. 224, R. S. O., but assessed non-resident property to A., the former owner of the property, who was living in another corporation within the same county. The Assessor received no notice from A. to assess him with this property. After the assessment and before the rates were levied for that year, the property was sold to B. The collector found nothing on the property, upon which he could recover the taxes, and they were returned against the property. In 1903 the lands were sold for taxes, as would have been the case, no doubt, if the land had been assessed properly, viz.: non-resident.

1. Who was liable for the taxes, A. or B.?

2. Was it correct to return them against the property or should the collector have followed A, he still being within the county?

3. Do you consider the township in any way liable to B. for the taxes?

1, 2 and 3. A. being a non-resident and not having given any notice requesting that he should be assessed, the assessor had no right to assess him as if he were a resident, and it therefore follows that the assessment was wholly invalid, and it also follows that the collector is not liable for the loss because he had no legal right to enforce the payment of these taxes by distress, nor do we think that the township is liable to anybody. We consider the tax sale invalid.

By-Law Fixing Assessment—Assessment of Telephone Companies, Etc., on Town Line.

357—S. Mc.—1. There is a company building a stove factory in our municipality. They asked to have partial exemption by having a fixed assessment for a period of five or ten years. Has the council power to pass a by-law granting them what they ask, or will they have to submit it to a vote of the electors?

2. Where telegraph or telephone poles are placed on a town line between two municipalities should they be assessed by the municipality alongside of which they are placed, or if not please let me know?

1. Under the provisions of clause (g) of section 591a of The Consolidated Municipal Act, 1903, the word "bonus" means and includes "a total or partial exemption from municipal taxation or the **FIXING** of the *assessment of any property for a term of years.*" By sub-section 12 of section 591 of the Act all by-laws of a township council for granting aid by way of bonus for the promotion of manufactures must receive the assent of the electors of the municipality before they can be finally passed. The by-law mentioned cannot therefore be legally passed by the council until it has received the assent of the electors.

2. The town line is a strip of land lying between the two adjoining municipalities, located in neither one nor the other. The law at present contains no provision for the assessment of the poles and wires of telegraph or telephone companies erected on a boundary line between two townships, in either of the adjoining municipalities.

Bad roads have a moral and religious, or rather an immoral and irreligious aspect. They are productive of profanity and ill-temper. They keep farmers and their families from going to church. It is said that a bad road, if extended far enough, will lead to the infernal regions. Many a man could do a religious act by filling the ruts and holes in front of his farm. One bad pitch hole will cause the destruction of many a good intention. It is said that the life of the average citizen is becoming too complex—that we are travelling at too great a speed. Let us lessen the discomforts of life's rough and rapid journey by making good roads.

Municipal Organization in Ontario

Township Councils. The system of township municipal government is direct and effective. Candidates for the offices of councillor and reeve are nominated at a meeting of ratepayers held on the last Monday in December. The poll, if one is necessary, takes place on the first Monday in January. The first council meeting is held on the second Monday in January at the township hall or other place fixed by by-law of the corporation. In most townships regular sessions of one day each are held monthly. The principal duty of township councils is the construction and maintenance of roads and bridges. Their other duties are largely statutory, and include: (1) levying and collecting school and county rates and general taxes for township purposes, such as maintenance of roads and bridges, salaries, etc.; (2) the construction of drainage and other works at the expense of the properties benefited. Other minor duties are attended to by officers appointed by the council.

Assessors. These are appointed annually, to enroll and value taxable real and personal property. The "roll" must include the names of all persons entitled to vote at municipal or other elections. Assessors assist in the selection of jurors, and, in union school sections, determine the proportion of the school tax to be levied for each section.

Township Treasurer. The township treasurer receives and disburses corporation moneys, as directed by the council or provincial statute. In the districts without county organization, he is required to perform additional duties connected with the collection of arrears of taxes.

Township Clerk. The chief executive officer, however is the township clerk. He holds office during the pleasure of the council, but is generally looked upon as a permanent official whose experience is most valuable to a council. His duties include the preparation of collectors' rolls and statute labor and voters' lists; the registration of births, deaths and marriages and other statutory duties connected with the Acts respecting pounds, line fences, drainage, assessment of taxable property, public schools, jurors, public health, etc.

Other officers are: collectors of taxes, local Boards of Health, pound-keepers, fence-viewers, auditors, valuers of sheep killed by dogs, fruit-tree and noxious weed inspectors, and commissioners for various purposes connected with the public works of the township.

Township Officers' Salaries. Special inquiries regarding the remuneration of the officers of seventy-one townships—situated in the Counties of Lambton, Lincoln, Grey, Ontario, Hastings, Frontenac, Carleton, and Waterloo—show that the salaries are not excessive and that the amounts vary with the population and size of the township.

Clerks' Salaries.

Lowest, \$30 00	Highest, \$600 00
Under \$100... 13	\$100 to \$200... 38
\$200 to \$300... 14	\$300 to \$600... 6

Clerks' Fees.

In addition to salary the clerk usually receives extra fees for special services. The practice in this respect is not uniform. Sixty-five received fees for registration of births, deaths and marriages. Forty-two are paid for administration of Ditches and Watercourses and Drainage Acts, and sixty receive fees for services Board of Health, revision of voters' list and selection of jurors and a few are allowed a special fee for services as returning officer for municipal elections.

Treasurers' Salaries and Security.

Lowest, \$23 00	Highest, \$200 00
Under \$100... 34	\$100 to \$200... 36
Security—	
Lowest... \$1,000 00	Highest... \$30,000 00

Eight treasurers are secured by guarantee bond, and in seven townships the cost is paid by the council.

Assessors' Salaries. Sixty-two townships reported but one assessor; others had as high as six. The salaries paid vary from \$16.00 to \$175.00.

Collectors. In fifty-seven townships but one collector is appointed; in others the number varies from 2 to 6. The salaries paid are from \$5.00 to \$200.00.

Auditors. Two auditors are appointed in all but one township, which has three. The salaries vary from \$2.00 to \$30.00. In one township the auditors receive \$6.00 per day.

Police Villages. When a portion of a township becomes thickly populated, there is need for some means of undertaking local improvements to roads and sidewalks and of applying certain sanitary and other regulations that cannot be extended over the whole township. Where the population does not justify its being formed into a separate corporation, The Municipal Act provides for the setting apart of unincorporated villages and hamlets. This offers simply a means of commuting statute labor and of securing local improvement works within the village. A better and more advanced step is the police village, which may be set apart by the county council on petition of the ratepayers interested and placed under the administration of three police trustees. The township council continues, however, to collect the annual taxes, though the village rate is struck in accordance with the money required by the trustees.

Town and Village Councils. The government of town and village municipalities is similar to that of townships. The Legislature has, however, extended the powers of the councils to enable them to cope with conditions incident to the concentration of population within a limited area. The nomination of candidates and election of members of town and village councils are held in the same manner and on the same day as in other municipalities. Council meetings are held monthly in the town hall.

The duties of council multiply with increasing population. In the larger towns, control of the lighting, waterworks and parks is usually in the hands of boards of commissioners elected by the people, the mayor being *ex officio* a member of the various boards. In other municipalities, committees of the council attend to these special duties, with the exception of public library administration. Under The Provincial Public Library Act a public library is placed in charge of a board composed of the reeve or mayor and three persons appointed by the council, three by the public school board, and two by the separate (Roman Catholic) school board, if there be any.

Town and village administration resembles closely that of township municipalities. A town treasurer differs, however, in caring for the collection of arrears of taxes and sales of land when taxes are in arrears for three years. The salaries paid municipal officials are modest. A statement prepared by Mr. W. G. Owens, of Forest, in 1902, referring to twenty-seven towns of between 1,300 and 2,900 population, shows that clerks' salaries vary from \$90 to \$575, treasurers' from \$40 to \$400, assessors' from \$35 to \$100, and collectors' from \$20 to \$120. In one town of 1,600 population, the officials supply their own offices and the total salaries paid the four officials

mentioned amount to \$175. Municipal administration in cities as an expansion of town administration.

Boards of Health. One of the most important local authorities is the local Board of Health, first established by The Public Health Act of 1884. A Board of Health will be found now in every municipality. In townships, villages and towns under 4,000 population, it is composed of the reeve, clerk and three ratepayers, who are appointed for three years and retire in rotation. In towns of 4,000 inhabitants, the board consists of the mayor and six ratepayers, appointed for three years, two of whom retire annually. Provision is made for the formation of a health district by a union of municipalities and for the appointment of county or district medical health officers. As yet no advantage has been taken of this. If a municipal council neglects or refuses to nominate a Board of Health, the Provincial Board may make the appointments. Councils are also required to select a medical health officer and a sanitary inspector to act as officers of the Board of Health. No provision is made for payment of any other than these two officials. The medical health officer is the more important. He possesses the same authority as a member of the board or as the sanitary inspector, and is required to perform all duties imposed upon him by regulation of the Provincial or local Board.

When the abatement of a nuisance demands special precautions, it is the duty of the local Board of Health to notify the Provincial Board to investigate and report. Municipal councils may vote such sums as are deemed necessary by local Boards of Health for carrying on this work. All municipal treasurers are required in addition to pay the amount of any order given by the members of a local Board of Health or any two of them for services performed under their direction by virtue of this Act. This provision prevents interference on the part of councils with the expenditures of the board. If any serious epidemic breaks out in a municipality the local board is furnished with expert assistance and advice. All by-laws of municipal councils respecting systems of sewerage or water supply have to be submitted to the Provincial Board for their approval before taking effect. Every local board reports annually to the Provincial Board.

Justices of the Peace. The head of every council and all county councillors are *ex-officio* justices of the peace, for their county or union of counties. Justices have jurisdiction in cases arising under by-laws in municipalities in which there is no police magistrate.

Two actions recently tried at Chatham are instructive as indicative of the extent of the powers of local Boards of Health in quarantining persons afflicted with contagious disease in the municipality for which they have been appointed. These actions were instituted against the defendants as members of the local Board of Health for the Town of Ridgetown, by parties who had been placed under quarantine, for damages for alleged injuries to their persons and businesses by reason of proceedings taken by defendants to prevent the spread of infectious disease. Mr. Chief Justice Falconbridge dismissed both actions, and held that the defendants were bound to use and did use all possible care in preventing the spread of infection; that in so doing they were not influenced by malice or improper motives, but acted to the best of their judgment in the interest of the public safety, and without any intention of injuring the plaintiffs or either of them. He also stated in the course of his judgment that if the plaintiffs had any reasonable causes of complaint these arose from error of judgment on the part of defendants or some of them, and that defendants, acting in good faith and with reasonable precaution, ought not to be held liable for error in judgment.

SOFTENING WATER.

The process of softening water was invented and patented about the year 1844 by Thomas Clarke, Professor of Chemistry in the University of Aberdeen. The process is the only successful one now used and the patent has long since expired. There are patents in force upon certain details and auxiliary appliances, but not upon any essential part of the process. The process is remarkable, in that lime is added to the water to take out the lime already in solution. Lime is held in solution in water by carbonic acid. One part of lime, combined with two parts of carbonic acid, is soluble in water, while combined with only one part it is insoluble or nearly so. Lime water, which is lime without any carbonic acid, is added to the water and takes away the extra carbonic acid from the lime in solution, and the lime added and that originally present in the water are precipitated together. This precipitate is easily removed by sedimentation and filtration. The magnesia usually present, which contributes to the hardness, acts in some measure as the lime, and is removed in the same way, but in less degree. This treatment does not remove the lime or magnesia present as sulphates or chlorides, and when these substances are present a solution of soda-ash must be added to the water in advance of the lime treatment to change them into carbonates, which are then removed in the final precipitation.

As evidence of the slight circumstances which may work the disqualification of a municipal councillor the case of *Rex ex rel, Macnamara v. Hufferman* is worthy of attention. This was an appeal by defendant as a member of the council for the Town of Walkerton. The question involved in the appeal was whether defendant was disqualified by reason of an unsatisfied judgment which the town corporation had obtained against him for taxed costs in an action brought by him against the corporation. The judgment was for \$207.72, and under it an execution was issued on 24th June, 1903, which was unsatisfied. By section 80 of The Municipal Act, no person having an interest in any contract with or on behalf of the corporation shall be qualified to be a member of the council. Held, that "contract" must be construed in its widest sense, so as to include contracts of record as well as simple contracts and contracts under seal. The unsatisfied judgment constituted a claim against defendant which might be enforced either by an execution or by another action. *Kerr v. Smith*, 24 O.R. 475; *Aldrich v. Aldrich*, ib. 124; *Leake on Contracts*, 4th ed., p. 104, and *Anson on Contracts*, 10th ed., p. 62, referred to. The object of the Legislature in passing section 80 was to prevent anyone being elected to a municipal council whose personal interests might clash with those of the municipality; and if defendant were in the council he might use his position there to prevent the enforcement of the judgment against him, to the detriment of the municipality. The appeal was dismissed with costs.

* * *

Owing to his removal from the locality, Mr. Wm. H. Walker has resigned the office of clerk and treasurer of the township of McIrvine, and Rev. Chas. Segsworth has been appointed to succeed him.

* * *

Mr. E. R. Hellemis died last month after a brief illness from heart disease. He had been clerk of the town of Welland for thirty-four years, and police magistrate for twenty-three years.