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MISSING

THE MUNICIPAL WORLD

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

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Calendar for February and March, 1900.

Legal, Educational, Municipal and Other Appointments.

- FEB. 1. Last day for Railway Companies to transmit to Clerks of Municipalities statement of Railway Property.—Assessment Act, Section 31.
Last day for Collectors to return their Roll and pay over proceeds.—Assessment Act, Section 144 (1).
Last day for County Treasurer to furnish Clerks of Local Municipalities with List of Lands in arrears for taxes for three years.—Assessment Act, Section 152.
5. Make return of deaths by contagious diseases registered during January.—R. S. O., Chap. 44, Section 11.
7. First meeting of Board of Education at 7 p. m., or such other hour as may have been fixed by resolution of former Board at the usual place of meeting of such Board.—High Schools Act, Section 14 (1).
15. Last day for Assessors to begin to make their rolls.—Assessment Act, section 55.
28. Last day for Councils to pass by-laws for imposing a larger duty for tavern and shop licenses.—Liquor License Act, section 42.
Last day for City and Town Councils to pass By-laws to prescribe further requirement in taverns.—Liquor License Act, section 29.
- MAR. 1. Auditors, reports on the accounts of High School Boards, and the Boards of cities, towns and villages should be mailed to Education Department. Separate School supporters to notify municipal clerk.—Separate School Act, Section 42.

NOTICE.

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

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The Municipal World

PUBLISHED MONTHLY

In the interests of every department of the Municipal Institutions of Ontario.

K. W. McKAY, EDITOR,

A. W. CAMPBELL, C. E.	} Associate Editors
J. M. GLENN, Q. C., LL.B.	

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THE MUNICIPAL WORLD,

Box 1321, St. Thomas, Ont.

ST. THOMAS FEBRUARY 1 1900.

The local option by law in Mono township was defeated by nearly 200 majority.

* * *

Mr. John Hutton, who has been clerk of the township of Metcalf for the past twenty seven years, has resigned, and at the first meeting of the council Mr. Richard Ward, of Glenwillow, was appointed to succeed him.

* * *

In the township of North Dumfries, all the \$13,000 taxes levied for 1899 had been collected before the first meeting of the council except \$1.00 dog tax. The above should be very gratifying to the ratepayers of the municipality.

* * *

The report of the Provincial Board of Health for November shows that the total number of deaths in the province was 1,474 as compared with 1,910 for the same month last year. The deaths from contagious diseases numbered 252.

* * *

Levy a rate that is needed, and then keep inside the appropriations, but don't try to make ten dollars do eleven dollars worth of work. Striking a low rate and then trusting to luck to get through is simply obtaining a reputation under false pretences.

* * *

The reeve and councillors, of the township of St. Vincent, at a recent meeting, presented their township clerk, Mr. G. G. Albery, with a fine gold watch, chain and locket, also a beautiful gold pen, as a token of the appreciation of his services to the municipality. The reeve, Mr. Read in making the presentation, spoke very kindly of the clerk's good services during his term of office, and closed his address with some very pleasant and humorous remarks.

In a recent report, of the proceedings of the meeting of the council of a certain Ontario township, we noticed the following resolution, duly moved, seconded and carried: "Moved by ———, seconded by ———, that the council advertise for the following officers: Clerk and treasurer, tenders to be either separate or combined; also for assessor and collector, either separate or together. Marked tenders to be addressed to the reeve, not later than February 8th, 1900. The lowest or any tender not necessarily accepted." We have repeatedly, in these columns called attention to the illegality of this method of appointing municipal officers. Sub-section 2, of section 320, of the Municipal Act provides as follows: "No municipal council shall assume to make any appointment to office or any arrangement for the discharge of the duties thereof, by tender, or to applicants at the lowest remuneration." The council should select persons to fill the respective offices, who are competent to do the work, and pay each of them a fair salary or remuneration for the work they are respectively required to do.

* * *

On the 1st January last, the ratepayers of Paris voted on a by-law to raise \$30,000 for the erection of new school buildings in that town. The by-law was defeated, and as a consequence seven of the members of the Board of Education have resigned.

* * *

At the last municipal election there was not a single contest for municipal honors in North Wentworth, every district electing its representatives by acclamation. Such a thing has not taken place for years. While this is not a particularly interesting condition of affairs to the politician, the printer, or the fellow who is looking for favors, liquid and solid, it means a saving of hundreds of dollars to the municipalities affected.

* * *

The *Beeton World* says that at the Innisfil nominations E. A. Little, M. P. P., thought the county council did wrong in levying the amount necessary to complete the House of Refuge in one year, instead of spreading it over a term of years, as was done with the estimated cost. He also objected to the county council paying back to the various municipalities of West Gwillimbury, Vespra, Barrie, Essa, Tecumseth, Beeton, Tottenham and Adjala the amount of over-levy for the Hamilton and the Northwestern railway sinking fund, and which had been stolen by S. J. Sanford, as the municipal councils in those municipalities should have known when their debentures were paid, and if they went on paying they should pay for their neglect. He had been informed that the amount paid to West Gwillimbury enabled that township to make either no levy or a very small one last year.

Another Case for Damages.

Mr. Valentine Flood recently entered an action against the city of Hamilton, in the Ninth Division Court, of the county of Wentworth, for damages for injury done to his raspberry and currant crop through the smothering of the bushes with clouds of dust from the roadway. The top dressing of the highway was largely composed of cinders secured from foundries, and in his evidence the plaintiff alleged that it contained particles of a chemical nature especially blighting to fruit. This was corroborated by the evidence of a chemist. The jury awarded Mr. Flood the full amount of his claim, namely, \$60, and full costs of suit.

Police Magistrate Moffat, of Pembroke, after trying his persuasive powers on the town authorities in an endeavor to procure from them the things necessary to enable him to perform his magisterial functions properly,—such as fuel, light, stationery and furniture, and the like—decided to take another way, and brought suit before Chancellor Boyd to compel the town to furnish his office. The chancellor gave judgment for \$36, the cost of stationery to April last, disallowing the balance of the demand. The magistrate does not even get costs.

* * *

At a recent meeting of the Nottawasaga council there were claims put in for over \$1,600 for sheep killed by dogs. The dog-tax paid 41c. on the dollar of this amount which was all the claimants got. In cases of this kind, the council should ascertain whether amounts collected and placed to the credit of the dog fund in previous years had been expended. Balances to the credit of this fund for previous years are available to claimants, as well as the amount of the dog-tax collected in the year in which the claims are made.

Complimentary.

Toronto, Jan 6, 1900.

The Editor, MUNICIPAL WORLD,

Dear Sir,—I have just received the January number of the MUNICIPAL WORLD and beg to compliment you upon its "policy of expansion," neatness of form, superior quality of paper, style and general make-up. It is certainly very encouraging to note the gradual improvement in this journal which has grown to be an indispensable municipal authority, and at this particular season of the year, it must be quite in order to congratulate you upon its present commanding position and dignity.

This large volume full of the most valuable articles on all the leading questions pertaining to municipal work and management rendered in the simplest and most practical language, makes it away and by far the most valuable educator in the municipal arena.

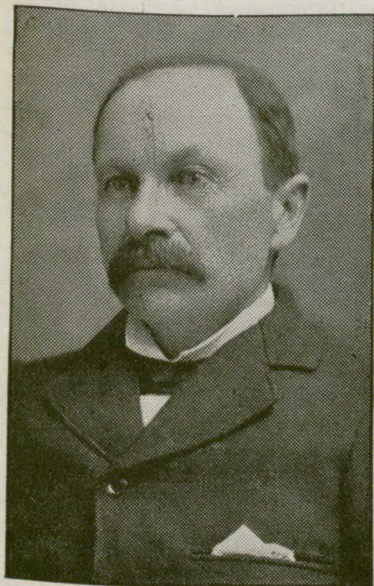
Yours very truly,

SUBSCRIBER.

Municipal Officers of Ontario.

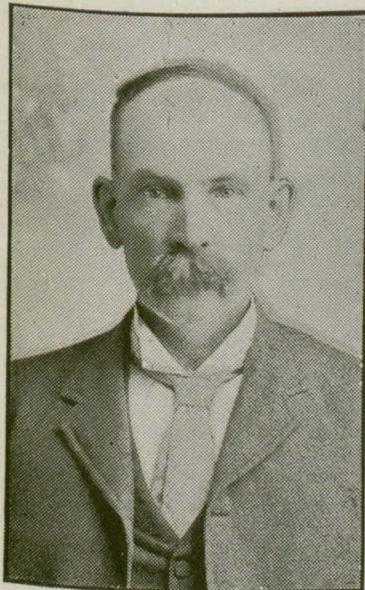
Clerk of the Township of North Plantaganet.

Mr. Joseph Belanger was born in 1847, in St. Eustache, County of Two Mountains, Que. In 1855, Mr. Belanger's family removed to the township of Alfred,



MR. JOSEPH BELANGER.

where the subject of this sketch attended school. In 1869 he began teaching and followed that occupation for 21 years. He was appointed clerk of the township in 1890, and he is also clerk of the 4th Division Court of the united counties of Prescott and Russell.



MR. W. J. BELLAMY.

Clerk of the Township of Artemesia.

Mr. W. J. Bellamy was born in the township of Brock, Ontario County in

1853. thence he moved with his parents to the township or Artemesia in 1868. He was educated in the common schools of the latter township. He was appointed clerk of the township in April 1880, and is also secretary of a number of friendly societies in his neighborhood. He carries on a general conveyancing, insurance and loaning business in addition to the performance of the duties of the above offices.

Clerk of the Village of Glencoe.

Mr. G. M. Harrison was born in London township in the year 1844, and received his education at the public schools in the neighborhood of London. He obtained a first-class certificate in 1863, and taught school for 4 years. He removed to the village of Glencoe in 1867, embarking in the mercantile



MR. G. M. HARRISON.

business. He continued at this for ten years, when he became a partner in the firm of Harrison & Rathburn, bankers. Mr. Harrison was appointed clerk of the village on its incorporation in 1875.

Clerk of the Municipality of Salter, May, Etc.

Mr. Benjamin Sweezy was born in New Brunswick, in the year 1853, of U. E. Loyalist stock. He was educated in the public schools there and in Pembroke, Ontario. In his earlier years he was a valued clerk in the employ of the Hudson Bay Company at Lake Temiscamingue. In this capacity he travelled over the greater part of what is now New Ontario. Since leaving the employ of the Hudson Bay Company, Mr. Sweezy has filled numerous positions of trust and respon-

sibility, and is still clerk of the above united municipalities.

Clerk of the Township of Verulam.

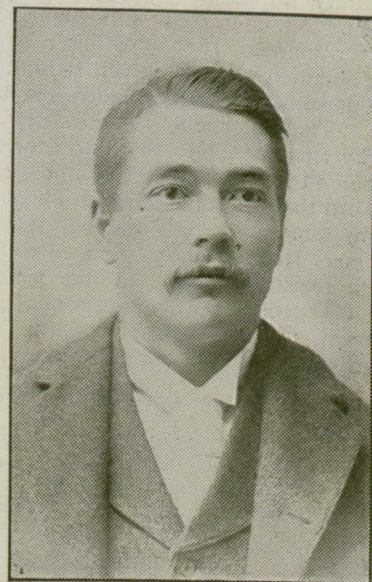
Mr. G. W. Taylor was born on the 6th of July 1868, in the township of Verulam. He was educated at the public school of Bobcaygeon, Port Perry High School, Peterborough Business College and Guelph Dairy School. He was appointed



MR. BENJAMIN SWEETZ.

clerk of the township of Verulam on March 1st, 1897, and is also secretary of the Verulam Agricultural Society and the Bobcaygeon Cheese Factory.

Mr. E. Cody has been clerk and treasurer of the village of Embro for



MR. GEO. W. TAYLOR.

twenty-one years, and during all that time has missed attending but one council meeting.

How the Paris Municipality Assist the Unemployed.

By Edward Conner.

(CONCLUDED)

The State declining to settle the next to insolvable problem, the municipality of Paris stepped in, and pluckily took the matter in hand. It proposed to organize institutions capable of abstracting or removing thousands of work people of both sexes from the operations of the *Bureaux de Placement*. The council has twenty *arrondissements* or mayoralties throughout Paris, and in each of these it opened a registry office of its own, wherein to *gratuitously* record all offers of work, as well as applications for work. It has further granted a subvention of 35,000 francs a year to aid the development of the municipal scheme, by way of an experiment, which is still but in its infant stage, though doing well; the latest reports to hand of its working are full of bright promises. The subject it is true had been "nibbled at" already since some years, but strictly speaking, it is only now it may be said, that the project in question has been taken up boldly. So perfect and satisfactory is the municipal scheme that the scope of the arrangements excludes all fees; therein lies the commanding power of the council, as compared with the *Bureaux de Placement*.

In the year 1896, the latest official statistics published, there were received at the twenty Paris mayoralties, 52,955 applications for work; 32,603 of these were from females. There were 45,107 offers of work; of which 31,026 were for women. The number of offers accepted was 34,236; of these, 18,290 represented permanent situations, and 7,401 were of a temporary kind; or 25,691 in all for women. As compared with the global total for the year 1895, 374 fewer applicants obtained work, while in 1896, 409 more persons secured permanent employment. The latter was, on the side of the men by 1,044, while there was a decrease of women by 635. It is indeed interesting to record that the total demands for occupation, represent nearly the half of the customers that formerly belonged to the private registry offices. In the general table of twenty-six different professions, there were included either for permanent or temporary employment the following:

PROFESSION.	DEMANDS.	OFFERS.
Valets,	200	75
Houseporters,	1,413	379
Waiters,	725	430
General Servants,	11,457	10,852
Cooks,	1,680	949
Charwomen,	4,843	3,234
Laborers,	3,046	988
Errand men,	4,034	4,756
Seamstress,	3,662	3,636
Artificial Flower-makers,	845	1,214
Milliners,	398	395
Apprentices,	2,068	3,030
Jack-of-all-trades(women)	5,972	7,360

It is satisfactory to add that the number of employers offering work also increased in proportion. The selections made from the general table of the twenty-six different classes of operatives of unemployed of both sexes, attest the real services rendered to a crowd of corporations, whose members have had more or less to depend upon the ordinary *Bureaux* and the private offices. In the municipal scheme it will be seen that there is neither intermediary, nor any fees exacted; the applicant is at once placed in communication with the employer of labor. In the global results of the divers men and women, namely, 9,406, that was above the one-sixth of the total demands—52,955—for work; while the offers for employment were 9,378. The section "divers" will, however, require further explanation, as the idea moves onwards. Under the heading of "Divers," or "Jack-of-all trades," are included persons belonging to no fixed profession, who are reduced to work for their living; the *non valeurs*, in a word; the applications will also require to be better sifted and classed, considering they comprise many useful and educated persons. The twenty mayoralties are not uniformly patronized in any case. For instance, only one had more offers for work than applicants in search of employment, while some of the offices were fortunate enough to secure a larger percentage of work for the unemployed than did others. These indications point to the necessity of effecting interchanges between the twenty mayoralties—the more so as there can be no rivalry, since the elements of success are practically the same, to procure as much as possible, though the distribution of labor must be better methodized than it is actually. More, the offices should all be connected by means of the telephone; this is essential, in addition to having relatively uniform but different office hours devoted to attendance of employers and applicants for work. The hours for attendance of women are actually in the morning, while that for men is in the evening. It would also be well to have the Municipal Labor Office situated inside the mayoralty building itself, and not as, in some cases, in an outside tenement. Further, a registered list of the applicants ought to be carefully posted up for reference and control, while the accounts should be systematically kept and officially inspected. The cost of managing the bureau is at present very unequal, and requires reforming, though their work is dissimilar. The lowest annual expenditure per office was 1,200 francs in the fourth, and the highest, 3,300 francs in the fifteenth *arrondissement*, or ward. The third mayoralty expended 5,504 francs, and only received 2,500 francs by way of subvention. Assistance is contributed from other sources of course, but no general conclusion as to expense can be formulated until both receipts and expenditure be methodically conducted hence the difference and fluctuations. Some of the offices, on the contrary mani-

fest the wish to save, which is an excellent check upon extravagance, provided it is sagaciously managed. The average cost of an "application," relative to work is 43 Centimes (100 centimes equal 1 franc) in the first, while it is six francs in the twelfth *arrondissement*! On a year's transaction, the first ward had a balance of 662 francs, while it was as high as 3,913 francs in the ninth—all a question of economy, combined with efficient good management. Some of the offices have also private resources. The average cost of "obtaining a situation" was one franc to 1 franc, 70 centimes.

The municipal *free* registry offices in Paris have indeed proved to be a grateful and necessary help to thousands who were too poor to fee intermediary agents who secured their employment. The municipal plan places or enables unemployed individuals to come into immediate contact with those in search and in need of some of the twenty-six classes of labor, previously alluded to, leaving both sides to independently arrange their terms.

The official free registry offices accept no responsibility; they simply bring two interested parties together *free* of all cost. There is no doubt that there is plenty of room for that excellent idea to be further developed. There are several journals representing the working classes in France, and that insert demands for, and offers of work gratuitously; all the *kiosques* along the leading thoroughfares in Paris, exhibit each morning fresh lithographed sheets of labor vacancies, as well as the name of the *Bureau de Placement*, where further information is to be obtained. In the densely populated quarters of industry, such as the Rues and Faubourgs de Saint-Denis, du Temple, St. Antoine, etc., certain public places have their walls positively carpeted as it were with manuscript advertisements emanating from persons of both sexes in want of occupation, as well as from employers also in need of hands. These accessories, apart from the relatively few paying newspaper advertisements, and the private and paying *Bureaux* have not prevented the municipal council of Paris from successfully conducting *free* registry offices; on the contrary, the latter are patronized more than ever. In 1896, there were 52,955 applicants receiving 45,107 offers of work, of which 34,236 were accepted by both sexes; who might have been otherwise more or less thrown upon the city's asylums in order to be alleviated and to say that these municipal *free* registry offices are but in their embryonic stage of formation. Judge then what the results will be when they are in full working order.

The Need of the Hour.

"What I want," remarked the autumn bride, who was arranging for a \$500 trousseau on a \$50 father, "is a going-away gown that isn't a giving-away gown."

Engineering Department

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

Street Improvement.

The inaugural addresses of the various Mayors of towns and cities throughout the province, at the first session of the year, have proven of unusual interest, and outline, in a great many cases, vigorous policies of improvement. The installation and ownership of electric street lighting plants are among the most prominent matters for consideration, while waterworks and sewerage systems are dealt with in large numbers of instances. Almost universally, however, street improvement is commented upon, and always with a strong upward trend. The people of Ontario, in town and township alike, are a unit in their desire for better streets and roads. It is impossible to quote from the many addresses, but the two following references, one from Eastern, and the other from Western Ontario, indicate the feeling that universally exists.

Mayor Minnes, of Kingston, said :

"As regards our streets I feel sure the majority of citizens would like to see a commencement made in paving our business streets. It of course would have to be done under the local improvement plan, but I have made it a point to ascertain the views of many of our business men in connection with street paving and every one whom I have seen is in favor of it. Our city engineer submitted a report on the cost of same some two years ago, but nothing has yet been done. There is nothing tends so much to beautify our city and give it a business-like appearance as having paved streets more particularly in the business section, to start with. I trust the Board of Works will take the matter as one of chief importance in their deliberations and that progress will be made in this respect.

Mayor Keating, of St. Catharines referred to street improvement as follows :

"Perhaps the most important matter to be dealt with by this and succeeding councils, is the improvement of our roadways.

"It has been frequently said by persons driving in from the country, that they found the roads good outside but very bad in the city. And we are compelled to admit that during a considerable portion of the year, our streets are in a disgraceful condition. Some very good work has been done on some of the streets during the last three years, since the introduction of good roads machinery, but as the amount that can be spared each year for this purpose, from current revenue is very small, the improvements that can be made from this source must continue to be very limited.

"Besides the business and residential streets, there are about ten avenues leading into the city, which should be thor-

oughly drained and permanently macadamized.

"We have heretofore incurred heavy indebtedness for purposes which we have very little to show for now, and while I would hesitate to increase our bonded debt for other purposes, I am so convinced that good roads would contribute so largely to the prosperity of the city, that I think it would be wise to adopt some plan by which they could be secured more speedily, even at the cost of increased indebtedness. It would be a permanent investment and form an asset that would not vanish as some of our other assets have."

The Road Tax.

How often councils are heard to proclaim condemnation of the statute labor system, but refuse to make any attempt to have it reformed or removed. They satisfy themselves by denouncing the system as a farce and a humbug, but say we can do nothing because our people do not share in this belief, or are not educated to the importance of a change. Councillors who talk this way make a very poor governing body. They simply mark time, they are servants, not legislators.

The chief function of a municipal council is to administer the affairs of the municipality in the most judicious and economical manner, to see that the tax levied against the people is equitable, fully collected and honestly expended. It matters not whether this tax be one of money or labor.

The statute labor system imposes a tax in labor for a particular class of work, building and maintaining public roads. For every other public work and service a money tax is levied and every cent must be paid regardless of consequences. A council that would allow the citizens to pay this tax in such a manner and in such proportions as they saw fit could not stand. Why then should not the payment of the road tax be looked after with the same fidelity?

Many ratepayers, true to their best interests, faithful to their obligations, and loyal to their municipal institutions, do discharge this tax to its fullest measure. Others do it in a half spirited way, while often the great majority absolutely ignore it. That such weakness should exist is a reflection upon our municipal administration and cannot be considered creditable to our system of municipal government. The township council of to-day that is not considering methods of road reform is shirking its responsibility and neglecting the interests of its people.

The municipal councillors being representative of the best minds of the township

should know what methods are best suited to their requirements, and if these do not prevail then it should be their duty to see to it that the people are educated to their adoption.

The average farmer is a busy man at all seasons of the year, looking after his private affairs. While he is interested in public matters yet he gives them but little study. He leaves them to the men anxious for public distinction. He casts his vote for the men whom he thinks will best serve the interests of his township, who will do all the thinking, study, acting and planning so to provide the best and most economical management and produce the greatest returns for the limited expenditure.

Where a council is of the opinion that a change of system or management is advisable in the interests of the people, but do not care to act upon their own responsibility, it should call the people together in a public meeting, discuss the whole matter with them, point out the defects of the old plan and explain the merits of the new, and it will be upheld in making the change. There is nothing to be lost by taking the ratepayers into your confidence, they like to be consulted and it is only fair that they should be. If they are not then prepared to support your measure, they will praise you for your interest and thank you for your sincerity.

The work of roadmaking is the greatest public work now going on in the province, upon it the greatest expenditure is being made and from it the greatest benefits should flow. Why then should not much interest be created? Call public meetings, urge better methods, let us have better roads.

Commutation in Orillia Township.

A by-law for the commutation of statute labor was passed by the township council of Orillia in November last and submitted to the ratepayers for approval at the municipal election. The usual discussion was created and soon a strong opposition was offered. The council very wisely convened a number of meetings for a public discussion of the question. These meetings were largely attended and much interest was taken. A. W. Campbell, Provincial Road Commissioner, upon the invitation of the council, was present and every phase of the question was discussed and considered. Every feature of the new plan was explained and every objection fully considered in a fair and friendly manner with the result that the by-law was endorsed by a substantial majority. The new council are unanimously in accord with the change. They are anxious for the experiment, and will, no doubt, soon convince the people that they made no mistake by their vote.

Too much is usually expected the first year. The people must be reasonable and give the new method a fair and honest trial. Much of an improvement cannot at once be made on all the roads, as the

main object is to concentrate as far as possible the expenditure in doing work of such a nature as will provide for a substantial improvement along a regular plan, this work to be extended from year to year until the whole is complete. Roads generally will command some attention and a certain amount will necessarily have to be expended to keep them safe and in a reasonable state for travel. Culverts and bridges must be rebuilt and repaired as required.

Therefore it must be apparent to all reasonable citizens that, with the limited amount of expenditure at the disposal of the council, composed of the statute labor fund at 50 cents per day and the usual appropriation from the general funds, no very striking transformation in the condition of the roads can be expected the first year.

If the by-law provided for the raising and expenditure of a large special amount of money for road purposes, the council could, by letting contracts and engaging large forces of men, make a rapid showing, but even then, with the long road mileage of the township, a general improvement could not, in a short time, be effected. Much time is unavoidably absorbed in introducing new methods, the season for doing this work is short, and at the best the new system cannot be more than properly introduced the first year.

The by-law does not provide for creating any special fund for this work, but simply for changing the nature of the present tax which, in the minds of many, reduces rather than increases the amount of road expenditure. So that in passing upon the new system, if a comparison must be made, the work of last year should be contrasted with that of next; the work of one year under the old with that of one year under the new system. But above all this, a little judgment must be used, and not so much the amount of road treated as the character of the work should influence opinion, as one of the chief objects of the change is to secure a more substantial class of work.

In this as in all other work of the kind, proper organization is necessary and even at best some little time is required to complete the plans, but in townships where means are restricted, where the outlay is not sufficient to justify salaried officials with experience to carry out the work, but where on the other hand, untrained and inexperienced men must be chosen, what is more natural than that errors will be committed and the best and cheapest results not always obtained. This has been the experience of every municipal council that has made the change, but after a fair trial and a perfecting of the plans, the expected is realized and the only complaint is that the change had not been made years before.

It too often is made to appear that the council are aggressors in making a change and that criticism and opposition rather than sympathy and friendly support should be offered. Any system of roadmaking

suggested to take the place of methods that have held for years is usually treated as a stranger in a strange land and must be able to produce the strongest possible testimonials as to character and ability before receiving even the commonest courtesy and treatment. If these cannot be furnished, then sheer merit and persistent ability alone will in time secure confidence and respect.

It does not require much genius or study to convince us that the statute labor system is not adapted to present requirements, in fact this opinion is shared by all progressive farmers. The new system proposed does not impose extra tax or responsibility, and if after a fair trial it proves no better, a return to the old system can be made by the same way as it was left; but the spirit of the age would suggest that we do not retreat, but that we amend and improve the new until the ideal is reached.

It is to be hoped, wherever the change is made by a majority vote of the people, that all will unite with the council in giving it friendly support until fairly tested before it is condemned.

Reform in Ameliasburg.

The people of the township of Ameliasburg are thoroughly aroused to the importance of changed methods in the procuring of good roads. During the past couple of years a campaign of education has been carried on by the council with the result that last year a complete outfit of road-making machinery was purchased and a commencement made.

In many municipalities where, when any change is made by the council with a view to improved methods, the reward of the people is an enforced retirement to private life. In this township, however, the ratepayers, realizing that the council were taking up this important matter in a business-like and progressive way, had taken the people into their confidence, the treatment was entirely different, the reeve and all members of the council being re-elected by acclamation at the last nomination. The reason for this seems plain. The council was convinced that the change of methods was not only necessary to the building of good roads; but that by such methods a great economy in the present expenditure would result, and the work be handled in a much more satisfactory manner. They took the ratepayers into their confidence, called them together in public meetings, clearly pointed out the defects and unsuitableness of the present system and explained clearly what could be substituted therefor with the result that before any move was made the people and council were practically agreed upon the change.

The township is exceedingly fortunate in having as its energetic reeve, W. E. Anderson, who believes in employing the same business methods in municipal affairs as he does in his own successful business. To him the credit is due, and the policy of educating the people before moving is

a striking evidence of the wisdom of councils collecting the people together for the purpose of discussing any movement which should be launched in their interest. It will not be long until the people of Ameliasburg see, in the condition of their roads, the wisdom of this investment, and, following the example of other advanced townships will complete the reform by abolishing statute labor.

Indeed reports of the first session of the council shows that statute labor of one division has already been commuted for this year, and this is doubtless but the first step in the right direction.

The Sewerage System.

A system for the removal of sewage is demanded by a populous community on two grounds: the higher one, of the public health, and the more popular one, of convenience; and in designing a system each of these purposes must be kept constantly in mind, the first being ever given pre-dominance over the second if they conflict in any way. The proper meeting of these demands, determines the principles of designing.

There are two imperative essentials to sanitary sewerage:

1. That the sewerage, and all the sewage, be removed without any delay to a point where it may be properly disposed of.

2. That it be so disposed of as to lose permanently its power for evil.

Convenience requires that the sewage be collected and disposed of with the least trouble to the householder and in the least obtrusive and offensive way.

In taking up the study of sewerage for any particular place or community the first question arising is the general system to be adopted. In many cases financial limitations will be forced upon the engineer as an unfortunate but imperative argument in the choice not only of the details of the system but even of the system itself. He must perforce recognize these limitations in addition to the requirements of sanitation and convenience but should not carelessly assume that since there is but little money to spend upon the work the care given to the design will need to be only proportionately great. He should realize that the highest talent is needed to obtain the best results with limited resources.

The solution of the difficulty when a complete water carriage system is rendered out of the question by reason of its cost, may lie in the construction of only the most necessary portion of the system, or in the adoption of the dry-sewerage system.

Andrew Henry, who held the position of clerk of Mono for nearly half a century, resigned at the meeting of the council, on the 15th of December last. Mr. George H. Harshaw, Orangeville was appointed to fill the vacancy thus created.

Our Old Gravel Roads.

The importance of using the most serviceable material available at reasonable cost, is a question occupying the attention of all progressive councils. The careless expression that gravel, regardless of quality, is good enough for country roads, is not being looked upon as a principle of business conducive to economic road improvement. The improvement of country roads was commenced with gravel, and so long as stones or pebbles, to any considerable extent, were found in bluffs, hills or on the flats, pits were opened up and the material carted to different parts of the township. This may have been a cheap means of making a temporary improvement, but certainly is now proving itself to have been a very inefficient and expensive experiment.

Wherever such material has been used the traffic of fall and spring would so destroy it as to oblige expensive annual repairs. This not only made the work very expensive, but has drawn so heavily on the supply as to have, in many townships, completely exhausted it, and now the councils find themselves face to face with a difficult proposition and are obliged to resort to means for importing material.

Past councils have persistently argued in favor of the local supply of inferior material on the ground of least first cost, and they have refused to consider the economy of better material at greater cost. A combination of the two, broken stone imported, for the foundation, and local material for surfacing, would have left the work easy of removal to a finished work.

The difficulty of the problem, where gravel has been exhausted, is that the inferior material is now in the bottom of the road, and good material cannot be used without resorting to proper implements. In the township of Ekfrid there are more miles of gravel road than in the average township of Ontario, and possibly the people are entitled to more credit for the improvement made than in any township in the province, inasmuch as the material was of poor quality and had to be hauled long distances. The township is of rich soil, thoroughly drained, highly cultivated and the people extremely progressive, so that the roads are an important part of their industrial machinery, are much travelled, and are subjected to severe use.

Good roads must be maintained in this township and no degeneration in their condition will be allowed. Unfortunately their supply of material is about exhausted and Reeve McDougall at the last municipal nomination drew the attention of the ratepayers to this important condition of affairs, and suggested that measures be at once considered for procuring the supply necessary for extending the work of construction and maintaining those already built.

This is a condition which we meet in many townships where an improvement

of the roads in keeping with other improvements had been carried on some years ago, but owing to the depletion of the local supply of gravel no provision was attempted for new material, not even for crushing the stone often to be found in abundance in the same township, with the result that the criticism often made to-day, that many of our roads are worse than ten years ago, is true and fair. This is a matter which councils should keep before them, and where a first class quality of material is now being used, provision should be made for supplying it.

Where roads have been built of gravel by repeated applications, thoroughly consolidated by years of traffic, although now worn and rutted, sufficient depth of material remains to make a first class foundation for resurfacing at moderate cost, if proper methods are pursued.

To place a shallow quantity, (all that is necessary on such a surface) but expecting traffic to compact it, is the greatest carelessness, and absence of workmanship. It is almost impossible to expect the new material to unite with the old, and a large portion of it, during the process, is knocked off by the horses' feet, or is worked out by vibration of wheels; and consolidation, leaving a smooth and uniform surface, is impossible. The only practical method is to cut off the sides of the road where they are too high, with a grading machine, thus raising the centre and giving a proper round to shed the water. Then by passing a steam roller provided with spikes, over the road, break up the surface. When levelled with a harrow, the ruts and depressions are filled, leaving a proper bed for receiving the new surface of broken stone. This, generally speaking, need only be a few inches in depth, but should be thoroughly rolled in by the same roller with the spikes removed.

It is surprising how perfectly, and at what small cost, old gravel roads can be made ideal in this way. Not until the methods of a century, applied to present conditions, are discarded, and modern ideas adopted to suit modern requirements taking full advantage of the work already done, will we be able to realize how cheaply, easily and perfectly first class roads can be obtained.

North Monaghan and Others.

A by-law to commute statute labor at fifty cents a day was submitted to the ratepayers of Orillia township at the last municipal elections, a majority favoring commutation. In discussing the proposed reform the Orillia Packet, prior to the day of voting, published a number of letters from the clerks of various townships, Barton, Toronto Gore, North Grimsby, Clinton, Stamford, Binbrook, Malden, North Monaghan and front of Yonge and Escott, in which statute labor has been already either abolished or commuted. In commenting on these letters, the *Packet* says:

"It will be noticed that while the de-

tails differ widely, the verdict is unanimous that commutation gives much better results than the old statute labor system. This unanimity of opinion where the commutation has been given a trial should be proof enough to the ratepayers of Orillia township that they will make no mistake in voting for the change. The question has been asked, how it is possible that fifty cents in cash should build more road than a day's statute labor, which represents \$1. Whatever the reason, it is perfectly plain that such is the case, as is exemplified in the case of every municipality heard from. The most plausible explanation would seem to be that the performance of statute labor is, as has often been said, a farce, and that there is truth in the statement that much of the labor is never performed. The farmer who believes in good roads and works hard to get them is made to suffer in passing over beats where the call to statute labor is not looked on seriously, but rather as an invitation to a picnic. It is, however, of little use discussing the cause. The fact is plain that commutation at fifty cents a day does produce better results than the statute labor system."

Among the letters, all of which are most instructive, that from Geo. W. Bennett, of North Monaghan, will probably be the most interesting in view of the letter from that township previously published in THE MUNICIPAL WORLD. Mr. Bennett says:

"Yours of Dec. 18th reached me at a very busy time for township clerks. I can scarcely do justice in general terms to this question (*i. e.*) good roads, as we have found it in North Monaghan, other than the plan outlined in the letter of 1898, to which you refer, and which is still, in the main, the principle upon which we work. I may say that any alteration to this plan adopted since has only been of such a nature as to widen the breach between our present system and the hydra-headed statute labor.

"In the beginning of the year 1899 our council increased the commutation rate to seventy-five cents per day, reduced the road districts by one, purchased another gravel pit at so much per acre, and also supplied each commissioner with a number of shovels for filling gravel. Those changes, together with a few minor ones in the matter of detail, were adopted after practical experience, and after favorable comment throughout our township. Our system seems complete in every detail, and at present is working excellently. Of course, varying conditions will necessitate corresponding changes from time to time.

"What is of vast importance, our commissioners are, through experience and the progressive literature supplied from time to time, becoming expert and more self-reliant. I mean by the latter that they are becoming independent of the patronage that is frequently bestowed by councillors in view of a coming election, and which in no case can be applied beneficially to the roads. At our nomination meeting to-day, our reeve and treasurer

presented a financial statement, which differs from its predecessors in this township, inasmuch as it shows all our taxes for the year paid on December 15th, all our debts paid, and a substantial balance on hand to be in next year. This is largely due to the fact that the people are recognizing the benefits of well directed efforts and well spent money upon the roads, and signify their approval by their readiness to pay their taxes for these purposes. If there is any specific information or detail that I can furnish you with I will be pleased to do so; but as I said before I cannot cover the ground in this general way to the extent I would like, and I do not know the circumstances under which you are working.

"In 1896 we voted on the question of statute labor. This was carried again by two to one. In closing I might say that the object in reform of this kind is success. One or two live men can carry the thing through with a little push, and very soon you will hear the last of road beats and pathmasters. By all means procure a road grader, and when procured do not overdo the amount of grading. Make haste slowly. Crown and thoroughly build the work for the first year so as to avoid adverse criticism, and enlist sympathy in the beginning. See that your pay lists are kept accurately, and publish them with your auditors' statements, for no doubt you understand the peculiar desire some of your ratepayers may have to know 'where the money goes,' and 'who gets it.' I strongly advocate, and advisedly so, the abolition of statute labor. There can be no doubt about the result. Any of the methods open to you by the Act are better and more businesslike, and as such encourage better men to come forward as councillors; I wish you every success."

The Filtration of the Public Water Supplies.

Continuous sand filtration as practiced in Europe has gone through an experience of nearly fifty years, and one would suppose that this length of time should be sufficient to remove the matter from the domain of doubt. Still, curiously enough, there are some who discuss sand filtration as practised abroad very much as they do the subject of air navigation and perpetual motion—things very interesting in themselves, but quite impossible of any practical results. This indifference to the wonderful performance of sand filtration in European cities is a bar to the development of works of water purification in this country, and is the cause of a large continuous loss of valuable lives and much physical suffering, eighty to ninety per cent. of which might be averted if artificial works of water purification were as largely used in this country as they are abroad.

Some writers in their enthusiasm have declared that sand filters properly constructed and operated will furnish pure

water. This is a mistake. No filter operated upon a practical basis has ever furnished pure water; but the so-called purified water is so much superior to the unfiltered water that it will meet the practical requirements of cities and communities to-day, and when the time is reached that people demand absolutely pure water, methods for furnishing it will doubtless be forthcoming. For the present, and as a practical method of water purification, filtration may be regarded as entitled to full credit at the hands of waterworks managers.

Filtration, as the term is defined and generally understood, consists of an interception or straining out from a fluid such suspended matter as is larger in some dimension than the pores of the filtering medium. The action is supposed to be purely mechanical, and the efficiency of a filter will be measured by the fineness or coarseness of the filtering material. The filtration of water, however, demonstrates that the fineness of the filtering material (sand) is not exactly a measure of the efficiency, and the finest or smallest grain of sand does not always give the best results.

This fact, then, would naturally suggest that the straining action is only a part of the work accomplished by the filter; and in addition to the interception of certain suspended matters at the surface of the sand-bed, some other forces are at work to reduce the suspended matter, including the bacteria, in the water. One of these forces is now known to be the action of the bacteria on the organic matter. This is called the biologic action of the filter.

Inequality in Voting on By-Laws.

The question of voting by ratepayers on money by-laws is one that, under the provisions of the Municipal Act, will bear considerable discussion. If a by-law is passed by the city council to raise money by the issue of debentures, or to grant tax exemption to any manufactory, it has to be submitted to the ratepayers for their assent. Under the Municipal Act, a man owning property in several wards has a vote in every one. This may work unfairly in two different ways. Let us suppose the case of a large wholesale establishment in one ward paying taxes on, say, \$50,000 worth of property. The owner has just one vote. Now, another ratepayer owning, say, five houses assessed at \$1,000 each, but lying in different wards, would have five votes, though his total assessment is only \$5,000. The owner of the wholesale business has to pay ten times as much taxes as the owner of the houses, and yet he has only one vote to the other man's five. On the other hand it might easily happen that one man would own \$10,000 worth of property and another \$500 worth in each of five wards, yet the former would have no more votes than the latter.

In both these cases there is manifest injustice, yet it is hard to see how any improvement can be made on the present

system. If the theory of "one man, one vote," were to govern, then it would be unfair to the man who had a large amount of property in each of several wards, because he could only vote as often as the man who had a small house in one ward. The ward system would seem to work less injustice than the "one man, one vote" system; and yet it is not fair. The Legislature may be able to devise a scheme that will meet the objections to the present system.—*Kingston News*.

Municipal Doubts.

The following is from the *Stratford Beacon*: Mr. H. W. Sinclair, of Owen Sound, is taking steps to upset the election of the town councillors on the ground that as the ward system has been abolished ratepayers were illegally allowed to vote in more than one ward. The result of the action, if it materializes, will be interesting to Stratford people.

Apropos of the above, the *Galt Reporter* has the following: In Galt the ruling of the returning officer was, that a voter could only cast his ballot at one booth, and his instructions were carried out to the letter, although considerable doubt even now exists as to the law of the question. In Guelph the view was taken that the new system gave the qualified citizen the right to vote for aldermen in every ward in which he held property, and, therefore, the council for 1899 refused to give the by-law abolishing the wards its third reading. Apparently Stratford acted as Galt did in January, 1899, and allowed the citizen all the votes he was entitled to under the ward system.

It would seem, in view of the abolition of wards under the new act, that the one-man-one vote principle should apply, and that in the case of money by-laws no difference should be made, property irrespective of wards being adjusted to meet the conditions of the vote for aldermen.

The ratepayers of Orillia township gave a majority of 90 votes in favor of the by-law to commute the statute labor tax. In other words, the township has given up the notion of trying to maintain and keep its roads in repair under the system of statute labor, and will this year try the experiment that has worked successfully in other townships of handing the work over to a paid commissioner, who will superintend all road work, repairs and improvements, for which the ratepayers will be taxed at the rate of 50 cents per day for every day's labor which heretofore they have personally expended on the roads.

Arnprior voted for the waterworks and sewerage works on Jan. 1st, and the work will at once be pushed forward.

The by-law granting a loan of \$50,000 to the McLaughlin Carriage Company was carried in Oshawa.

Question Drawer.

Subscribers are entitled to answers to all Questions submitted, if they pertain to Municipal Matters. It is particularly 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 stamp addressed envelope. All Questions answered will be published unless \$1 is enclosed with request for private reply.

Expenses of School Board Election.

41.—J. C. G.—Our council were all elected by acclamation, but we have an election for school board. Who pays the expenses of this election? There are portions of two townships and the village in the section and the board have notice to have the trustees elected in the town hall at the same time as the councillors.

The Public Schools Act does not appear to make any provision for payment of the expenses of an election of trustees under the circumstances you mention. Sub-sec. 3 of section 58 of the act makes provision for the mode of holding such elections, and names the officers who are to preside.

Where a board of trustees gives the notice required by section 58, it then becomes the duty of the council to conduct the elections at the time and in the manner in that section provided and as the School Act does not provide that the expenses incurred, shall be borne by the school section; they must be borne by the municipality. Section 67 makes it the duty of the council of the municipality to raise such sums as may be required by the trustees, but the trustees cannot require the council to provide under this section moneys which they have not paid.

Marking Ballot—Qualification of Councillor.

42.—M. C.—I. At our municipal election for the council, one voter marked his ballot for two of the councillors only. He put two crosses opposite each name. Should his ballot be counted spoiled or good?

2. Is a public school trustee qualified to run as a councillor?

1. It has been judicially held that the ballot marked with two crosses opposite the name of the candidate for whom the voter wishes to vote is a valid ballot. The ballot you refer to would therefore be a good ballot, and would mean one vote each for the candidates opposite whose names the double crosses were made.

2. Yes, if he has the qualification required by section 76 of the Municipal Act. Section 80 of the Municipal Act disqualifies a high school trustee, but a public school trustee is not mentioned in that section and is therefore qualified.

Wrong Election Day.

43.—CLERK.—As nomination day this year came on the Friday before Christmas we held our election on the following Friday the 29th.

We now think that Monday the 1st January is the proper polling day, but as all the requirements of the law was complied with and the election duly advertised will the members so elected be entitled to hold office if election is not protested within the proper time?

Monday the first day of January, 1900, was the proper day for holding the municipal elections this year, (see sec. 95

of the Municipal Act) and Friday the 22nd December, 1899, the proper day for receiving nominations. See sec. 124 of the act. If your election was conducted in all other respects in accordance with the provisions of the act and the mistake or irregularity did not effect the results, the election would be held valid under section 204 of the act.

Bonus to Grist Mill—Proceedings at Elections.

44.—P. S.—The owner of the only grist mill we have in this municipality (which is only a stone mill) intends to add a roller plant to his mill if the municipality will either grant him a bonus of \$600, or make, or guarantee him a loan, to assist him in raising the means required to effect the much desired improvement in his mill.

The addition of a roller mill would be a great benefit not only to the farming community of the surrounding country but also to the tradesmen and mechanics in the vicinity and a large part of the ratepayers as well as a majority of the municipal council are in favor of granting pecuniary assistance in some way, if it can be done legally, while some of the ratepayers are opposed to any assistance being granted by the municipality, and claim that neither a loan nor a bonus can legally be made or given.

1. Has the township council the power to grant a bonus under the circumstances described, and if so, what steps will have to be taken and what conditions complied with?

2. Can the council make or guarantee a loan to the proprietor of the mill, and if so what preliminaries are required?

3. Can you suggest any other legal way for the council to assist and encourage the enterprise?

At our last nomination meeting only one candidate was nominated for councillor. On the day following one of the councillors for 1899, who was not present at the nomination meeting, forwarded to me a written conditional resignation, in which he stated that in order to save cost and trouble of an election he would resign his seat in favor of the newly nominated candidate, unless the latter should resign or not be able to qualify, in which case he (the councillor for 1899) would retain his office as councillor for 1900. The newly nominated candidate, however, is one of our present tax collector's sureties, and as such is disqualified from accepting the office of a member of the municipal council for this year, and therefore the reeve and councillors for 1899, including the councillor who had resigned as stated to-day at the ordinary first meeting of the council again subscribed and took the oath of qualification and office and constituted themselves as the municipal council for 1900.

4. Was this strictly legal or could any ratepayer object to or protest against any action of the council on account of the resignation referred to?

5. If it is not the most legal and correct proceeding what should have been done under the circumstances?

6. Was it necessary for the members of last year's council to again take the oath of qualification and of office, or could they legally have continued to hold office without doing so?

1. No. 2. No.

3. Your council may, by by-law, passed in the manner provided by section 25, of the Municipal Amendment Act, 1899,

exempt the grist mill from the payment of all taxes, except school taxes, for a period of not more than ten years.

4. The councillors for 1899, or a majority of them, have the right to appoint members of the council for 1900; and if they have not done so they should do so under the authority of section 218, of the Municipal Act. The candidate who was nominated is entitled to his seat as having been elected by acclamation. Unless he resigns his seat, and such resignation is accepted by the council as provided in the Municipal Act, or is unseated, as a result of proceedings taken against him for the purpose, under the Act.

5. What we have said in answer to question No. 4 is a sufficient reply to this question.

6. After the members of the council are appointed pursuant to section 218, they should then take the usual oaths of office.

Hiring Municipal Officers by Tender.

45.—F. D. N.—We have several tenders in hand for municipal officers' positions. We understand the council are not held by any bids they have not asked for. Can you refer us to any Act relating to the matter?

Sub-sec. 2, of sec. 320, of the Municipal Act, provides "No municipal council shall assume to make any appointment to office, or any arrangement for the discharge of the duties thereof by tender, or to applicants at the lowest remuneration." The council should appoint to each office a competent person at what they consider a reasonable and fair remuneration for the duties to be performed.

Clerk's Duty.

46.—SUBSCRIBER WISHES TO KNOW.—Whose duty is it to write the orders as they are passed by the council? As there is a dispute between our reeve and clerk as to whose duty it is.

It is the clerk's duty.

Constitution of Board of Health.

47.—In your December number of THE WORLD, in answer to an enquiry on page 199, "Can a member of the local health board qualify for a member of the township council? You answer, no. If he should desire to be a member or a candidate for membership of the township council his resignation as a member of the board of health should be delivered to and accepted by the council before nomination day." Will you please tell me where you got that law? Section 48, of the Public Health Act, provides that a township board of health shall be "composed of the reeve, clerk and three members." Your early reply will very much oblige a constant subscriber to THE MUNICIPAL WORLD.

You draw an erroneous inference from our answer to the question you quote. Although we have come to the conclusion that a council may appoint one of themselves to the position of a member of the board of health, yet the point is not one free from doubt, and that is the reason only as a matter of precaution we advised a resignation. See question 28, in the January number of THE WORLD.

Senior Member has Casting Vote.

48.—A. S.—In case of a tie vote for school trustee in recent elections—same having

been held in connection with municipal election—who has the casting vote?

Sub-section 9, of section 57, of the Public Schools Act, provides that "In case two or more candidates have an equal number of votes, the member of the board present at the first meeting thereof after such election, and before the organization of the board, who is assessed highest as a ratepayer on the last revised assessment roll shall give a vote for one or more such candidates, so as to decide the election." This provision has not been altered by the provisions of section 58 of the Act, and therefore we are of the opinion that sub-section 9, of section 57, applies.

Commutation of Statute Labor.

49.—J. S.—1. Has the council the power to commute statute labor in the township without consulting the ratepayers, supposing a large majority opposed it? 2. Also state how it is carried out.

1. Yes.

2. By by-law passed by the council under the authority of section 561, of the Municipal Act, and section 103, of the Assessment Act.

Contract of Councillor.

50.—E. F. W.—Is it right for a councillor to be paid for work ordered to be done by the council and material necessary to do this work—there being no contract given. The council simply authorized the member to do the work?

Section 83, of the Municipal Act provides that "In case a member of the council of any municipality, either in his own name or in the name of another, and either alone, or jointly with another, enters into a contract of any kind, or makes a purchase or sale in which the municipality is a person interested, the contract, purchase or sale shall be held void in any action thereon against the municipality." The only authority for paying a member of a council for service is that contained in sub-section 1, (a) of section 537, of the Municipal Act, which empowers the council to pay for services rendered by a councillor as superintendent or overseer of work which is being done for the council.

Vacancy in Council by Resignation.

51.—P. B. R.—At our annual nomination two men were nominated for reeve. The same two men were also nominated for councillor. Three other men were nominated for councillor. The two men who were nominated for reeve ran for the office. The three councillors were elected by acclamation. There being only three men nominated for councillor alone does not section 218 of the act in regard to council appointing the fourth man cover our case. One of the candidates for reeve declined the nomination for councillor on the platform, while the other candidate declined neither on platform and this in the manner in which the clerk posted up the notice of the candidates for election.

For Reeve,	}	A.
		B.
For Councillor,		B.
For Councillors	}	C.
by acclamation,		D.
		E.

How shall we elect the fourth man?

Section 130 of the Municipal Act (R. S. O., 1897, c. 223, provides, that in case

at an annual or other municipal election, the candidates, or any of them who are nominated, retire, and by reason of such retirement the requisite number of persons is not elected, then the members elected if they equal or exceed the half of the council when complete, or a majority of such members shall order a new election to be held in the manner provided by this act to fill the vacancies so caused. As to who should issue the warrant for the new election, see section 213 of the act, and as to the general provisions for holding the election, see sec. 212 and following sections of the act, in so far as they are applicable to your municipality and the circumstances of the case.

Resignation of Councillor—Refusal of Reeve to Sign Cheque.

52.—G. M. B.—1. Can a councillor after being elected resign his position?

2. What redress has a council if the reeve refuses to sign check which the council has ordered paid?

(The reason I asked No. 2, a reeve, that is now nominated, found fault because we paid for the MUNICIPAL WORLD out of the general funds, and if he got there none of that would be done. I want to know if he can help himself if the council orders it paid.)

1. Section 319 of the Municipal Act provides that "every qualified person duly elected or appointed to be a councilman in any municipality, who refuses such office, or does not, within twenty days, after knowing of his election or appointment, make the declaration of office and qualification, shall, on summary conviction thereof before two or more Justices of the Peace, forfeit not more than \$50 nor less than \$8 at the discretion of the Justices, to the use of the municipality together with the costs of prosecution." A councillor, after having made the above declaration or before doing so, may resign his seat in the council with the consent of the majority of the members present to be entered upon the minutes of council.

2. If any member of the council moves a resolution directing that the account be paid and the majority of the council vote for it the treasurer may then pay it on the authority of that resolution. See section 290 of the Municipal Act.

Naturalization of Alien.

53.—TOWNSHIP CLERK.—A British born subject goes to the United States and gets property there. Swears his allegiance to the American Commonwealth, disposes of property there, comes back to Canada, purchases property here again. Can said party legally vote, or would he be required to revoke this allegiance to the United States and take out papers of naturalization here again?

(In explanation, beg leave to say that the point of argument rests on the words in the oath "By birth or naturalization." Some claim that by being a British subject "by birth" holds good after disposing of American property and again becoming a Canadian citizen.)

Before the person you mention can legally vote in Canada, he must obtain a certificate of naturalization under the Naturalization Act.

Dog Tags.

54.—H. R. D.—1. Are they numbered consecutively?

2. Has the assessor to make a note of the number he gives each person owning a dog?

3. Do these tags have to be given each year?

1. Not necessarily, but consecutive numbering would be the most convenient.

2. The assessor should be provided with a book for this purpose, and should enter therein the name of the owner or harbinger of the dog, his place of residence, and the number of the tag delivered to him.

3. Yes.

Auditor's Qualification.

55.—W. D. Mc.—In our township the council have passed a by-law permitting any section of the township to purchase a road machine, and by paying for the same by commuting a portion of their statute labor at the rate of 75 cents per day and payable in four equal annual instalments. The road machine company sold their machine taking four notes therefor, which were signed by a number of the ratepayers in said section. One of these men whose name was on the notes bought the notes from the company, three of which have become due and have been paid by the treasurer of the township from the statute labor fund. This man has been appointed auditor at last meeting of council. Can he legally act?

The person you refer to seems to have a share or interest in a contract with the corporation within the meaning of section 299 of the Municipal Act; and therefore is ineligible to fill the position as auditor in your municipality. We do not regard the contract as a binding one upon the corporation, but its invalidity cannot be set up by the auditor.

Railway Crossing.

56.—A. K.—Does the law allow the railway company to take out all but the centre planks at the crossings in the winter time leaving a gap of about 14 inches between each rail and the centre planks, which makes it very dangerous for the public especially on slanting crossings of which there are a great many throughout this country?

The Railway Act provides that "No part of the railway which crosses any highway, without being carried over it by a bridge, or under it by a tunnel, shall rise above or sink below the level of the highway more than one inch." If in removing the planks the railway company leaves the crossings in a condition not warranted by the above provisions, it is not acting within its legal rights.

Resignation of Reeve or Councillor.

57.—Z. R.—1. After a reeve or councillor has been elected can he during his term of office resign if the rest of the members of the council will not accept said resignation?

2. If so how can they do so?

1. No. Section 210 of the Municipal Act governs the matter.

2. He cannot resign without the consent of the council, but he may forfeit his seat in the council by absenting himself from the council meetings in the manner stated in section 207 of the Municipal Act.

Vacancy in Council by Resignation.

58.—C. T.—At the regular nomination held Friday, Dec. 29, 1899, there were five nomina-

tion received for councillors, two of these were nominated for reeve as well. These two resigned from the councillorship and ran for reeve thus leaving three councillors elected by acclamation. The reeve and three councillors took the oath of office. This council passed a resolution instructing the clerk to post notices for nomination to be held to fill vacancy on the 16th inst. On the 15th the council called a special meeting and passed a resolution rescinding motion passed on the 6th for holding nomination. They then passed a resolution appointing a man to fill the vacancy. The council claim that section 218 covers our case while I claim 130 as I did before and after receiving your reply sent me recently. Were the steps of the council legal? If not wherein were they illegal?

Section 130 of the act governs your case. See question number 31 in the issue of this paper in January and number 51 in the issue for February 1900.

Dog Tax in Village.

59.—E. S.—What is the best procedure to have the dogs taxed, that is in a village, that come in during the year in order to do it legally?

A by-law may be passed under section 540 sub-section 3, of the Municipal Act imposing a tax, of the same amount as that which the assessor is authorized to enter upon the assessment roll (stating the amount), upon the owners, possessors or harborers of dogs, who are not assessed upon the assessment roll and fixing a penalty to the extent of the tax and for the non-payment thereof under section 702 of the Municipal Act.

Councillors' Oath of Office.

60.—J. B. B.—Is it necessary for the council, when re-elected by acclamation, to take the oath of office again? There is a difference of opinion here about councillors having to qualify when elected by acclamation for the second term.

The Municipal Act provides that elections shall be held annually in each municipality, in the manner provided in the Act. See section 118 and following sections of the Act. The members of the new council must take the oath or declaration of office and qualification mentioned in the Act.

Vote of Mayor.

61.—J. B.—When has a mayor a right to vote twice?

A mayor has no such right. Section 274, of the Municipal Act, provides that "The head of the council, or the presiding officer or chairman of any meeting of any council, may vote with the other members on all questions, and any question on which there is an equality of votes shall be deemed to be negatived."

Medical Health Officers—Vote of Mayor—Town Auditor.

62.—SUBSCRIBER.—1. Can a member of the town council who is a physician act also as medical health officer of the town at a salary? (I think not).

2. Can the mayor vote on all motions coming up at the council meetings, or has he only a vote when the council has resolved itself into a committee of the whole? (I think he has a vote on all occasions, see R. S. O. 1897, chap. 223, section 279).

3. Does the fact of a town auditor being the book keeper only (but who has no pecuniary interest in the firm whatever beyond his salary)

of a firm that supplies goods to the town, render his appointment invalid within the provisions of R. S. O., 1897, chap. 223, section 229? (I do not think so)

1. No. See section 83 of the Municipal Act.

2. Yes, the mayor can vote on all motions submitted to the council, at any of its meetings, under the authority of the section you quote.

3. No. ———

Requisites of By-law Creating Debt.

63.—W. V.—Is the enclosed by-law invalid because the by-law contains no notices of a time or place when the clerk will attend and sum up the result of the voting for and against as required by the latter part of section 341 of the Municipal Act?

In this case the voting was by wards and the vote on the by-law was taken at the same time as the vote for councillors, consequently persons interested in the by-law, have had no opportunity to personally witness the final summing up of the votes. The clerk now says he went to the town hall and declared the result to empty benches.

The debenture debt as stated in by-law (69,260) is as per audit of 1898 accounts but is considerably more at time of publication of this by-law.

Section 341 of the Municipal Act, provides that, "The council shall by the by-law, fix a time when and a place where, the clerk of the council which proposed the by-law is to sum up the number of votes given for and against the by-law, and a time and place for the appointment of persons to attend at the various polling places and at the final summing up of the votes by the clerk respectively, on behalf of the persons interested in and promoting or opposing the passing of the by-law respectively. Section 342 requires the head of the council to appoint agents to represent those promoting and those opposing the passage of the by-law, and section 343 requires such agents to make declarations in form provided by this act. The requirements of these sections do not appear to have been complied with, but if satisfactory evidence should be given that the election was conducted honestly it is doubtful if the court would quash the by-law. The quashing of a by-law is very often discretionary, and if the election was conducted honestly the objection that the above sections were not complied with would be so technical that we do not think the court would quash the by-law.

Section 384, sub-section 10, clause (d) provides that the by-law shall recite "the amount of the existing debenture debt of the municipality and how much (if any) of the principal or interest is in arrear." This means the actual existing debenture debt of the municipality at the time the by-law was taken into consideration by the council; an erroneous statement of the amount is fatal to the by-law. The reason for this is that section 384 declares "no such by-law shall be valid which is not in accordance with the following restrictions and provisions" and one of the restrictions referred to is that contained in sub-sec. 10 of the same section.

A by-law passed by the council of the city of St. Thomas last year, granting a bonus of

\$20,000 to the L. E. & D. R. Ry. Co., was quashed by the courts on this ground.

Formation of New School Section.

64.—J. R.—There is a small settlement of seven families, with about ten pupils of school age, lying between two large school sections, but distant seven miles from either school.

One of these sections was organized about twenty years ago, and at that time the settlement was included in the school section, but latterly the section formed a union with another section, and the school-house was built seven miles from this settlement, and no school taxes have even been collected by direct levy from the settlement. About two years ago the settlement made application to the municipal council to be formed into a public school section, but the council refused on the ground that it still formed part of the adjacent school section. Now this settlement has procured a building suitable for a school-house, and posted notices preliminary to holding a meeting on the regular annual meeting date of the election of trustees.

1. Can the settlement compel the municipal council to form it into a separate public school section, and what would be the proper steps for the settlement to take to secure the school?

Section 38 of the Public Schools Act empowers a township to pass by-laws to alter the boundaries of a school section or divide an existing section into two or more sections and section 39 as amended by section 42, chapter 36 of the act of 1899, gives a right of appeal to a majority of the trustees or any five of the ratepayers to the county council against the neglect or refusal of the township council, on application being made to it by the trustees or any five ratepayers concerned, to form, unite, divide or alter the boundaries of a school section or school sections within the township. Under these sections we think you may obtain relief, though the amendment of the law is not very artistic. It reads, in effect, "to form the boundaries," "to unite the boundaries," "to divide the boundaries," "or to alter the boundaries, etc." It ought to have been worded in this way, "to alter the boundaries of, or to form, unite or divide a school section or school sections within the township." We are of the opinion, however, that the courts would construe the latter part of this section in the same way as if it was worded as we suggest, because the amendment was made in consequence of a decision of the Chancellor on the section before its amendment, in the case of *in re School Section No. 16, township of Hamilton, 29 Ont. R., p. 390*, in which he held that there was no longer any appeal to the county council from the refusal of a township council to "divide" a school section. If the settlement is in a township in a district without county organization, there appears to be no provision for an appeal from the decision of the township council.

Duties of Treasurer.

65.—A. D. C.—1. Can a municipal council legally pass a by-law making taxes payable to treasurer?

2. Could treasurer serve tax bills and make first demand?

3. Would treasurer have power to issue warrants for seizure?

1. Section 4 of the Assessment Amendment Act, 1899, authorizes the councils of

cities, towns, townships or villages, to pass such a by-law.

2. No.

3. That duty must be performed by the collector. The treasurer has no right, by virtue of his office, to perform that duty.

Dam in Creek.

66.—T. M.—1. A man has a farm in this township made up of lots 18 and 19 in same concession. There is a small lake—part of it in lot 19 and part in lot 20 in same range. A small creek runs out of said lake across said lots 18 and 19 and thence through lots 17, 16 and 15 all in same range. Said man wants to put a small dam on said creek on lot 18 to hold water for summer for his cattle as the creek flows between lake and buildings. Man on lot 15 objects to dam. Can man on lot 15 hinder said man from putting dam on said creek. Creek runs dry after spring flood on all mentioned lots and if dam is placed thereon it holds water for said farmer?

2. What proceedings should man on lot 15 take before he could make man on lots 18 and 19 take away said dam when it is placed thereon?

1. In the course of a natural watercourse each proprietor of land through which such watercourse runs has the right to use the water for domestic purposes, the watering of cattle and the like, though such water may diminish the volume of the stream, to the detriment of lower proprietors. (It has been held by one of the American courts that he can do this even though in such case he consumes the entire stream.) Applying this authority to the case in hand we do not think the owner of lot 15 can compel the owner of lot 18 to remove the dam. It has also been held by one of the American courts that a man has the right to draw water in a natural watercourse for the purpose of making a fish pond.

2. If the owner of lot 15 thinks that the owner of lot 18 is making an unreasonable use of the water his remedy is by action in the courts to compel him to remove the dam, but we do not think he would succeed.

Good Ballot—Water Rates.

67.—SUBSCRIBER.—1. A municipal candidate had one ballot marked for him with two crosses instead of one. The deputy-returning officer held the ballot spoiled. Was he right?

2. What is the proper way to commence in making vacant town lots pay a half water rate? What part of Municipal Act covers it?

1. No.

2. In order to enable us to answer this question intelligently you will please let us know what you mean by "water-rate," is it a rate being levied to pay for constructing or acquiring water works, to pay for water consumed or the expense of watering the streets of your municipality or otherwise?

Appointment of Assessor—By-law Directing Mode of Assessment.

68.—G. T. W.—1. Would a by-law appointing an assessor containing directions as to amounts at which property should be assessed be legal?

2. Would an assessment made under these circumstances be legal? What would you advise a municipality to do circumstanced this way? Values are almost impossible to deter-

mine and any attempt to do so would likely result in a large number of appeals to Court of Revision?

1. Your council has no authority to pass such a by-law as the one which it has passed. See sub-section 1 of section 40 of chapter 225, R. S. O., 1897, and section 28 of the Assessment Act.

2. The assessor should assess lands without regard to the by-law, but the mere fact that adopted the rule laid down in the by-law in making his assessment, would not make it illegal, and in the absence of appeal the assessment would stand good. See also section 1 of the affidavit required to be made by the assessor, schedule E.

Notice Under the Separate Schools' Act.

69.—F. B.—Would a Roman Catholic, after giving notice to the municipal clerk, that he wishes to withdraw his support from the R. C. Separate School and support a public school, be obliged to renew his notice to the clerk from year to year if he wishes to remain a public school supporter?

We are of the opinion that it is not necessary to renew the notice from year to year. Section 47 of the Separate Schools Act enables a Roman Catholic to withdraw his support from a separate school, and once he has given such notice in the manner and within the time fixed by the section the assessor shall assess him as a public school supporter until he has given a notice as required by section 42 of the same act, that he is a Roman Catholic and a separate school supporter. See section 48 as to the duty of the clerk to keep an index-book of supporters of separate schools and the duty of the assessor to be guided by the entries which he finds in that book.

A Collector in Default.

70.—J. M.—The township collector, in 1894, returned a lot of land to the treasurer, and the treasurer returned same to county. The owner of said lot has now got a receipt from same collector. This lot would have been sold before this, but the county treasurer returned said amount to me to place again on collector's roll, as lot was occupied, but owner would not pay same, so it was returned the second time. Now, should council pay same to county treasurer, and collect from the collector, or should council let lot be sold. This lot on collector's roll was not paid for when the collector gave up roll, and collector had this lot in his returns to the treasurer, so council never got the taxes in any way, and we believe this receipt was given two years ago after the lot was returned.

How should council act in such matter?

Unless the council can show that the receipt given by the collector to the owner of the land, and now held by the latter, is not a genuine one, or was obtained fraudulently, and by collusion between the parties, they cannot collect the amount of the taxes from the owner. Their only remedy is an action or suit in court against the collector and his sureties. The land could not be legally offered for sale, as it appears on the face of the facts furnished us that it should never have been returned to either the local or county treasurer as in arrears for taxes. The council does not require, and ought not to pay, the amount of the tax to the treasurer.

A Negligent Collector.

71.—W. K. W.—A collector does not return his roll for 1897. By his not returning his roll legally, and not returning it against land that he could not find anything to distrain, can the taxes be collected and how will we have to proceed?

Section 144 of the Assessment Act fixes the time for the return of his roll by the collector in each year. Section 145 provides that "In case the collector fails or omits to collect the taxes or any portion thereof by the day appointed as in the last preceding section (144) 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."

Your council should endeavor to collect the unpaid taxes in the manner mentioned in section 145. This reply is given upon the assumption that the roll has not yet been returned. If it has been returned the authority of section 145 cannot be invoked.

Railway Company's Liability for Crossings—Assessment of Railway Company's Lands—Telegraph Poles and Watch Tower.

72.—R. M.—1. Is a railway company liable to maintain the railway crossings on the public roads in the same condition as the rest of the road on each side of the railway crossing?

2. If the railway company finds the road gravelled, and in constructing their road-bed they destroy the gravel, can they not be compelled to gravel it as it was before they got it, the company claiming that the township has nothing to do with the road-bed on their property?

3. Can railway lands be assessed as high as the adjoining lands?

4. Can not the telegraph poles be assessed and made to pay their proportion of taxes like other property?

5. The railway has a watch-tower at a crossing of another railway. Is said tower liable to be assessed like other buildings?

1 and 2. Section 12, of the Dominion Railway Act, (Rev. statutes of Canada, 1886, chap 109.) and section 29, of the Ontario Railway Act (R. S. O., 1897,) provide as follows: "The railway shall not be carried along an existing highway, but shall merely cross the same on the line of the railway, unless leave has been obtained from the proper municipal or local authority therefor; and no obstruction of such highway with the works shall be made without turning the highway so as to leave an open and good passage for carriages, and, on completion of the work, replacing the highway; and every company which violates the provisions of this section shall incur a penalty of not less than \$40 for each such violation; but in either case the rail itself, if it does not rise above or sink below the surface of the road more than one inch, shall be deemed an obstruction.

2. No part of the railway which crosses any highway without being carried over it by a bridge, or under it by a tunnel, shall rise above or sink below the level of the highway more than one inch, and the rail-

way may be carried across the highway within such limits."

3. Yes. They should be assessed in the same way as any other lands. See section 28, of the Assessment Act, and sub-section 1, of section 31.

4. Yes. But they can only be assessed as so much dead material, and not as part of a going concern.

5. Yes.

Collection of Statute Labor Commutation.

73.—J. R.—In this township the commutation tax for default in performing statute labor in 1899 was placed on the roll for 1899 and collected, but section 110, cap. 224 (and cap. 27 Assessment Amendment Act of 1899, sec. 9) would seem to imply that in the case of resident owners such tax should not be collected until the following year. Kindly give your opinion on that section.

(In this municipality the commutation tax has been collected in the year the returns were made, but the words in sec. 110, "the following year" seems to imply that we collected a year too soon.)

Your view of the section is correct—that is, commutation for statute labor unperformed in 1899 should not be entered on the collector's roll until the year 1900.

Separate School Assessment.

74.—TOWNSHIP CLERK.—During the assessment of 1899, a Catholic family's property, which was in the section of a R. C. Separate School, was rated as such on the roll. During the summer after Court of Revision they sold the property to a protestant and now this man objects to paying his taxes into the section into which the property was placed when assessed. Can he legally do so as he never filed any objections up to the present time?

The lands having been regularly assessed for the support of a Separate School, the tax must be accounted for to the Separate School trustees. The collector should endeavor to collect the tax, and if he cannot do so it will have to be returned against the land, and if the purchaser neglects to pay it, the land, or a sufficient part thereof, will be liable to be sold to satisfy such tax. The purchaser cannot dictate how the tax shall be applied. See section 58 of the Separate School Act.

Tax Sale—Authority of Chairman of Committee—Fire Brigade.

75.—SUBSCRIBER.—1. A lot is sold for taxes at a land sale. There is a year for redemption. In the meantime the owner of the land mortgages the place. At the end of the year, if he does not redeem his land from the tax sale, what position will the man be in who bought at tax sale in regard to the mortgage?

2. Can a chairman of a committee order supplies, thus putting the town in debt and liability?

3. Has the town council control of a fire brigade?

4. What steps should we take to organize?

1. As against the mortgagor and the mortgagee, the purchaser at the tax sale, will be entitled to the land purchased, free from any interest therein of the mortgagor as owner, or of the mortgagee under his mortgage.

2. Unless authorized by statute, by-law or resolution of the council, no chairman of committee or member of a council can impose any liability upon the municipality.

3. Yes.

4. By passing a by-law pursuant to sub-section 6 of section 537 of the Municipal Act.

December Statement—Payments to Reeve.

76.—AN INTERESTED PARTY.—I herewith enclose statement of receipts and expenditures for the past year. In doing so it is not my wish to cast any reflections upon either the reeve or the clerk and treasurer but for my own guidance and that of our council. Would be greatly obliged if you would answer a few questions, bearing upon the statement enclosed through the columns of your valuable paper which we have subscribed for.

1. As I understand the law requires that the expenditure shall be given in detail. I would like to know if the items of expenditure under the head Roads and Bridges as indicated with an x opposite would be a compliance with either the letter or intention of the law?

2. If not, what would be the duty of the council, and was the treasurer justified in paying the reeve checks issued in payment of such items as indicated, or would the auditors be clearly within the law to refuse to accept any such payments until the details were furnished?

1. The items you refer to appear to have been given in sufficient detail to meet the requirements of the statute.

2. You do not explain how the amount of the cheques came to be paid to the reeve by the treasurer; in other words, the authority the latter had for making the payments to the former. If the cheques or orders were made in favor of the parties named, and endorsed by them to the reeve, or generally, or if they were drawn in his favor, pursuant to resolution of the council, specifying for what purpose, the method adopted would not be illegal, but the proper way is to have the person who does work or furnishes material to present his account and then to have the council order that it be paid, and the treasurer should then pay the money to the party himself on the authority of the order.

Erection of Village into Town—Election. Etc.

77.—C. T.—This municipality (an incorporated village,) is about to be raised into a town on or about the 1st of February, by proclamation of the Lieutenant-Governor.

1. Will the council, consisting of a reeve and four councillors, elected at our annual municipal election, on the first Monday in January, 1900, hold their office until the next annual election 1901; if not

2. Should there be an election for a mayor and six councillors called on as soon as said proclamation is issued?

3. The date fixed for the return of arrears of taxes to the sheriff being after the date of said proclamation, will the municipal treasurer be required to handle said arrears in 1900, as the sheriff has done heretofore?

4. If so, can the council or the municipal treasurer enforce a final settlement and complete transfer of everything pertaining to the said arrears from the sheriff?

1. Yes, see section 96 of The Municipal Act.

2. No, not until the first Monday in January, 1901.

3. We are of the opinion that the return of arrears of taxes must be made to the sheriff as heretofore, during the present year, until the council of the town is organized. By this we mean the council to be elected to represent the town as distinct from the rest of the

municipality, out of which it has been carved. See section 62 of The Municipal Act.

4. No, not until the new council is elected to represent the new municipality.

Corporate Seal—Reading of By-laws.

78.—B. B.—As our clerk never brings the seal to meetings of the council please state:

1. How are municipal documents (such as orders on the treasurer) authenticated? are the signatures of the reeve and clerk sufficient, or ought they to have the seal attached?

2. Is a by-law read a third time and signed finally passed, or must it have the seal affixed?

3. Please state what classes of documents require the seal, and should it be attached at meetings of council?

1. The signatures of the reeve and clerk are a sufficient authentication of orders on the treasurer of a municipality. All contracts of an official nature to be binding on the corporation must be signed by the reeve and the corporate seal should be affixed thereto.

2. To make a complete and valid by-law, it must be read the number of times required by the rules of order of your council, and must be signed by the reeve and clerk and have the corporate seal affixed.

3. It is a principle applicable to all corporations, that they must contract under seal, but there are exceptions. A corporation is liable for the price of goods furnished or labor done at its request and accepted by it because it would be unjust to permit it to set up the want of a seal as a defence where it has received the benefit of the contract. A contract to build a bridge so long as it is existing cannot be enforced in the absence of a seal, but if the bridge were built pursuant to the contract the corporation could not set up the want of a seal as a defence. Every by-law of a municipal corporation must be under seal and signed by the head of the corporation, or the presiding officer, and also by the clerk. See section 333 of the Municipal Act. A copy of a by-law in order to be used as evidence must have the seal of the corporation affixed to it. See section 334. Debentures must have the corporate seal affixed to them, unless otherwise specially authorized or provided. See section 429. The appointment of arbitrators must be in writing, and under the corporate seal. See section 449. As a general rule, it may be further stated that, except in small matters of daily occurrence, the council should act by by-law, under seal, unless where the Municipal Act makes a resolution sufficient.

Opening, Stopping up, Leasing, Selling, Etc., Roads.

79.—G. G. A.—Under section 637 of the Municipal Act "the council of every" township may pass by-laws for leasing, selling or stopping up roads, or other public communications; and under section 660 (2) of the Act "the council of every township may pass by-laws" for the stopping up, leasing or sale of any original allowance for "road or any part thereof" subject to the provisions of section 632 and to the approval of the county council. The foregoing sections seem to be in some respects inconsistent with each other, inasmuch as under section 637 the approval of the county council

of the township by-law is not required while it is under section 660. Do you think the distinction in their application is that an original allowance for road "is regarded as essentially different from a highway not being an original allowance such as a road laid out by the municipal council or dedicated in some other manner, or that the "original allowance for road" is not intended to mean a travelled or established highway?

Sections 637 confers general powers upon the councils of all municipalities, and if it stood alone there is no doubt but that the word "roads" would include the original road allowance, and that a township council could pass a by-law stopping up such a road within its jurisdiction, observing the formalities provided by section 632. The Legislature has, for some reason, considered it proper, in the case of an original allowance for road, that a by-law for that purpose should be confirmed by the county council, in order to give it validity. In a sense there is an inconsistency, as you state, but the inconsistency does not occasion any difficulty, because the law is clear enough that, in the case of an original allowance for road, the township cannot, without the consent of the county council, stop up, lease or sell, such a road. The county council represents the county at large, and it may be that the legislature thought that township councils should not have the right to close original allowances, in which other people in the county are interested, without the consent of the corporation which represents the county at large.

Tenant Voters—Reeve's Vote—Powers of Local Boards of Health.

80.—T. S.—There are a number of tenants in this municipality who are marked as such on the assessment roll, but the houses in which they live, and the land or lots which they rent are assessed to the owners thereof, so therefore these tenants are not assessed at all. I put their names on part one of the voters' list, as has been the custom heretofore, which entitles them to vote at both municipal elections and elections to the Legislative Assembly.

1. Are they entitled to vote at municipal elections for reeve and councillors?

2. Has the reeve power to vote for or against a motion? If his vote makes a tie has he authority to cast another vote on the same motion so as to break the tie? Has he two votes on the same question?

3. Has the local board of health of townships power to say when a corpse shall be buried who has died with diphtheria or any other contagious disease? Some claim they can keep the remains as long as they wish.

1. If the parties are entered as tenants on the assessment roll of the municipality and in part No. 1 of the voters' list, as finally revised, they are entitled to vote at municipal election, because sec. 89 of the Act provides that, "no person shall be entitled to vote at any election, unless he is one of the persons named or intended to be named in the proper list of voters," and no question of qualification shall be raised at any election, except to ascertain whether the person tendering his vote is the person intended to be designated in the list of voters.

2. Sec. 274 of The Municipal Act, provides that "The head of the council, or the presiding officer, or chairman of

any meeting of any council, may vote with the other members on all questions, and any question on which there is an equality of votes, shall be deemed to be negatived.

3. There is no provision in The Public Health Act relating to the burial of persons who have died from contagious diseases, but we think the act is broad enough to enable the health officers to give such direction in regard to the burial of a corpse as are reasonable for the better preservation of the public's health.

Road—Closing Old and Opening New—Bridge.

81.—About thirty years ago the council bought a roadway and built a bridge across the river to give two farms an outlet; at the rear end of these farms the concession line was sold.

1. Is it legal for the present council to do away with the bridge (it being old) and buy the concession line back and open the same as an outlet for said farmers—said farmers being opposed? Their school-house is across the river. The council does not propose to close the road leading across the river. The river is low the greater part of the year, so much so that it can be easily travelled.

2. Would it do to build a foot bridge over the river so that children could get to school?

3. Has the council power to force a road on old concession line or otherwise to give said farmers an outlet if owners refuse to sell?



1. The council may close up that part of the road upon which the bridge stands, and may open up the old concession stands, but it cannot do away with the bridge without closing the road in the manner provided by the Municipal Act. See sections 628 and 632, of the Municipal Act.

2. So long as the road remains open it must be kept in a reasonable state of repair for ordinary travel, and we do not think that the erection of a foot bridge would be a compliance with that duty, and moreover, we may say, that so long as the road remains open the corporation will be liable for all damages occasioned by neglect to repair.

3. Yes.

Road Washed Away.

82.—G. M. E.—When a river has washed away the original road allowance on its banks does the municipality have to buy a new road?

No. If, however, the council is of the opinion that the convenience of the public in the locality requires it, they can take steps to buy land for and open up a new road in the place of that washed away.

Resignation of Candidates.

83.—W. D.—I see by your issue for December you state nomination resignations must be in by 9 p. m. the following day—heretofore it has been the following day, no hour being stated. Kindly inform me what section and year this amendment was made.

This amendment was made to sub-section 2 of section 129 of The Municipal Act in 1899 by section 10 of The Municipal Amendment Act, passed in that year. (Ont. Stats., 62 Vic., chap 26.)

Clerk and Treasurer—Hiring of Assessor.

84.—C. F.—1. Can one man fill the office of clerk and treasurer?

2. Can the council engage an assessor by tender?

1. Yes. At one time we expressed the opinion that these two offices could not be held by the same person, but the legislature, in 1897, amended the law in such a manner that these two offices can now be held by the same person. If you will compare the declaration of office provided by section 312, of the Municipal Act, with the form provided by section 281, of the Con. Municipal Act, 1892, you will notice the change made. The following section was also added, namely, "(2) any person who has been elected or appointed to two or more municipal offices which he may hold at the same time, may make one declaration of office as to all the offices to which he has been elected or appointed, but the same shall be made and subscribed before he enters upon the duties of any of the said offices. See question 85, (February issue,) and 123, (March issue,) 1899.

2. No. Sub-section 2, of section 320, of the Municipal Act, provides that "No municipal council shall assume to make any appointment to office, or any arrangement for the discharge of the duties thereof by tender, or to applicants at the lowest remuneration.

Municipal Expenditure.

85.—B. S. D.—Can a municipal council legally grant a rebate of taxes in case a ratepayer having the misfortune of having his barn burnt or can they hand out the funds of the township for anything and everything that comes along that would be sanctioned by a majority of the council?

A municipal council can pay out the funds of the municipality, only as authorized by law. The council has no legal right to make the grant you mention, unless they can justify their so doing, by sub-section 2 of section 588, of The Municipal Act, authorizing councils of townships, etc., to pass by-laws for granting aid to any charitable institution or out of door relief to the resident poor.

Bonus for Trees Planted—Property in.

86.—R. B. W.—1. If trees are planted fifteen feet apart, have councils a right to bonus every alternate tree?

2. Trees left for protection or ornament on public highways, are such trees the property of the owner of land adjacent to them? Have municipal councils a right to sell same?

1. Yes. The latter part of section 4, of the Ontario Tree Planting Act, (R. S. O., cap. 243,) provides that, "in no case shall the council be liable to pay a larger sum in respect of trees planted under this Act than would be payable if the same had been planted at a distance of thirty feet apart, and in no case shall a bonus be granted where the trees are less than fifteen feet apart.

2. The owner has a special property in such trees, but they can be cut down, removed or sold under the provisions of a by-law passed by the council pursuant to the provisions of section 574, of the Municipal Act, if and when such removal is deemed necessary for public improvement.

Ice and Snow on Streets and Sidewalks—Liability for Accidents.

87.—R. M.—Our streets are all glare ice. If any person gets hurt can they come upon the corporation for damages?

What is the law respecting this case?

Sub-section 2, of section 606, of the Municipal Act, provides that "No municipal corporation shall be liable for accidents arising from persons falling, owing to snow or ice upon the sidewalks, unless in case of gross negligence on the part of the corporation." This legislation was passed in 1894, (57 Vic., c. 50, s. 13, Ont. Act.) Since then the question has, on several occasions, been judicially considered. It will be necessary to cite only one case to indicate the present position of the subject. The circumstances resulting in the recent case of O'Brien vs. the city of Toronto, were similar to those you suggest. The plaintiff, while walking along a sidewalk in Toronto, slipped and fell violently, seriously injuring herself. It appeared that the sidewalk in question was a granolithic pavement, and had been in a slippery condition since the inception of the winter; that at the time of the accident it was covered with thin, slippery ice, and that the walk had been so covered for five days prior to the accident. County Judge Morgan, (County York,) before whom the case was tried, held that a municipal corporation has a right to select such material for sidewalks as in its discretion, it may think best, so long as it is a material which is generally used or adaptable for the purposes required, and the corporation is not liable for damages which may result, merely because such pavement becomes at any time so affected by natural causes, OVER WHICH THE CORPORATION HAS NO CONTROL; that more than ordinary caution is required by the public using such sidewalks to prevent accidents. In the result the action was dismissed. The case will be found more fully reported on page 61, of THE MUNICIPAL WORLD for 1898, (Vol. 8.) The section above referred to is confined to

sidewalks, so that if an accident happened upon some other part of the road, or street, it would not apply. To answer your question, we cannot do better than to give you the language of the late Mr. Justice Wilson, who delivered the judgment of the court in the case of Carswell vs. St. Mary's Road Co., 28 U. C. Q. B., 247, at page 251, he says: "It is by no means an easy matter to lay down any general rule on the subject, but it is clear that the company cannot be required to clear the snow off the ground whenever it falls, or even to remove the ice which may form there. It would frequently be an impossible work to attempt it, and it would be mischievous, and a nuisance in some cases to effect it. Snow is looked for in this country, and provided for as forming the best and most suitable means of travelling during the winter; and even when it falls to a great and unusual depth, it is not the duty of any person, or body of persons, to remove it from the roads. Those who use them at such a time must use them as best they can while this natural and unavoidable impediment lasts. Nor can any one be required to remove the mud and mire from the road, caused by rain or by melting of the snow, for this, too, is an obstruction, caused by a usual natural process. There are, however, cases where snow and ice, and mud, may and must be removed from the road. If a particular part of it for two or three rods in length happens to be in a very dangerous condition, exceptionally and particularly dangerous, as distinct from the rest of the road, and it can be put in a safe state, and at a reasonable expense, there is no reason why it should not be made safe for travel, although it was caused by rain, snow or ice, or what might be called natural means.

Bonus to Telephone Company.

88.—A. C. W.—Can a village council legally grant money to the Bell Telephone Company as an inducement to come to the village, out of the village treasury by resolution or by-law? No.

Farm Crossing over Road Ditch.

89.—C. B.—Re crossway over road ditch or drain. If the said crossway over the drain becomes an obstruction and causes the drain to overflow is the municipality obliged to put a new crossway if they cause the old structure to be removed for the purpose of deepening and widening the drain, or can they compel the occupant of the premises to build the same? The structure as it is was built years ago by one of the councillors and recently repaired (by recovering with new plank) by the occupant.

In the recent case of re Lindsay and township of Albion an award was made by arbitrators respecting injury caused to a farm by a ditch constructed on behalf of the municipality along the wayside opposite the farm and a motion to set aside the award was refused by Mr. Chief Justice Armour following. In re Youmans and the corporation of the county of Wellington 43 U. C. Q. B. 522, where an award granting compensation to the owners of property abutting upon a

public highway for injury sustained by reason of the municipality having, for the public convenience, raised the highway in such a manner as to cut off the ingress and regress to and from their property abutting upon the highway, which they had formerly enjoyed, and to make a new approach necessary, was upheld. Assuming that the construction of the drain in question in the first instance would have affected the land, of the owner, injuriously so as to have entitled him to compensation, it seems to us that the removal of the bridge, if necessary for an approach to his lands would entitle him to compensation for the injury sustained by reason of its removal. In the case of McCarthy vs. Oshawa 19 U. C. Q. B., p. 245, Robinson C. J. at p. 247 says: "Then as to the other ground of action introduced by the amendment, namely, the neglect of the defendants of an alleged duty to provide a bridge or crossing from the street to the plaintiff's land and house. No authority has been shown for asserting that to be a duty incumbent on the corporation, and we do not think it is. The public crossings or bridges over the side ditch at the intersections of streets is all that we see the corporations of cities, town and villages do in fact provide, and we do not think that the duty could reasonably be entered further. If the plaintiff in this case had walked a few yards further along the street he would have had the advantage of the public crossing over the ditch into the other street which intersected it and from there could have got conveniently upon his own land." In view of this decision it is not incumbent upon a municipality to provide an approach just where a landowner wants it when it appears that he can reach the highway at some other point though such point may not be so convenient.

Members of Local Board of Health.

90.—M. R.—How many new, and which officers are appointed on Board of Health every year?

The local Board of Health in townships and villages is composed of the reeve and clerk, and three ratepayers to be appointed by the municipal council in the following manner: one member to be appointed for three years, one for two years and one for one year, each member retiring to be replaced by a member appointed for three years after the date of his appointment. See section 48, sub-section 1, of The Public Health Act (R. S. O., 1897, chap. 248.) Each year therefore after the original formation of the local board of health, but one appointment to membership is necessary, that is one ratepayer for a term of three years.

Poll-Tax Liability.

91.—E. S.—1. Is a volunteer exempt from poll-tax on account of his being a volunteer?

2. Is a person living in a village exempt because he has land in a township and does road work there?

1. Sec. 96 of The Assessment Act provides as follows: "No person in Her Majesty's naval or military service on full pay, or on actual service shall be liable to perform statute labor or to commute therefor, nor shall any non-commissioned officer or private of the volunteer force, certified by the officer commanding the company to which such volunteer belongs or is attached as being an efficient volunteer, and this last exemption shall not apply to any volunteer who is assessed for property."

2. Yes, upon the production of a certificate that he has performed statute labor, or paid the tax elsewhere. See sections 97 and 99 of The Assessment Act.

Voter's Qualification.

92.—A person born in the United States of British parents comes over to Canada to live. Is he eligible to vote at parliamentary and municipal elections, or must he be naturalized?

The person referred to is eligible to vote as stated, if at the time of his birth his parents were still British subjects, and he, previous to coming to Canada, had not taken the oath of allegiance to the United States or any other foreign power. It has been judicially held that where a voter in support of his own vote swore that he was born in the U. S., but that his parents were British subjects, and that he derived the knowledge of both facts from his parents; that his whole statement must be taken together and vote good. Re Mulvennan's vote, Lincoln (2) 1. H. E. C. 500; also the evidence of a voter that he understood from his parents that he was born in the U. S. but that his father was born in Canada, and that he (the voter) had lived in Canada from infancy, was received, and vote held good. Wright's case, Brockville 1. H. E. C.

Company Road—Abandonment of.

93.—E. D.—The Proof Line Road Company are about to abandon $1\frac{1}{2}$ miles on the north end and about $\frac{3}{4}$ of a mile on the south end of their road, in the township of London. In the $\frac{3}{4}$ of a mile about to be abandoned a bridge known as Brough's Bridge is included. The rebuilding of this bridge will cost from \$12,000 to \$15,000.

The notice calling a special general meeting of the stockholders declared that the object of the meeting was to decide whether they would rebuild the bridge or abandon a portion or portions of the road.

The company had previously, some years ago, abandoned at both ends of the road.

The Road Companies Act provides that they cannot abandon an intermediate portion without the consent of the county council.

1. Can they abandon with the declared object of avoiding the expense of rebuilding the bridge?

2. Can the portions now abandoned be considered intermediate portions on account of the previous abandonments?

3. One definition of the word "intermediate" is, "in the middle between two extremes." Would this definition stand good in law?

4. What would be considered the extremes or extremities, at the end, or actual termination, or elsewhere, say a rod, sixty rods, one half a mile, or where?

5. Can the portion abandoned be considered intermediate portions on any grounds?

6. Was it the intention of the Act to consider all portions other than the whole "intermediate portions," as there is, I think, no provisions in the Act as to what is to be done in case of an abandonment other than of an intermediate portion or the whole?

7. Has the township any grounds on which to base a suit in order to avoid the expense of rebuilding the bridge?

Sub-section (1) of section 50 of the General Road Companies Act gives a road company the right to abandon the whole or any portion of the road. It does not matter what the object of the company may be. The right does not depend upon any condition. It is absolute. We think that the intention of the legislature in enacting sub-section 4 was to prevent a road company from dividing a road into two parts. It therefore follows that the company in this case is not prevented from abandoning further portions because it some time ago abandoned a part of the road at each end. If we are right it follows that the township has no ground for a suit to avoid the expense of rebuilding the bridge. We do not consider it necessary to express any opinion upon questions 3, 4, 5, and 6 for the simple reason that the law permits the company to abandon such portions of the road at each end, as it sees fit.

School Arbitrator—Surplus—Gravel By-Law.

94.—J. Mc —1. In appointing an arbitrator to form a new school section or alter school section, is it necessary to appoint by by-law or is it sufficient to appoint by a motion at council board?

2. How much, if any, of a balance of funds is a council allowed to have on hand at end of year after paying liabilities?

3. If municipal council desire to open up gravel pits in different parts of township, what form of by-law is it necessary to have, to empower commissioners to enter, open up and take gravel off property in opposition to owner of said property?

1. Section 38 of the Public Schools Act authorizes township councils to pass by-laws for forming a new school section, if they deem it advisable to do so. Section 39 of the act, as amended by section 4 of chapter 36 of the Ontario Statutes, 1899, (62 Vic.) makes provision for an appeal against any such by-law, or against the neglect or refusal of the council to pass any such by-law, to the council of the county in which the local municipality is situated. In the latter case the county council is empowered by sub-section 3 of the last mentioned section to appoint arbitrators as therein mentioned, to settle the matter complained of. These appointments must be made by by-law of the county council. The Public Schools Act makes no provision for the appointment of an arbitrator in a case of this kind by the township council.

2. The council of every municipality should, when striking the rate of taxation each year, provide for the raising of sufficient money to meet and pay the current expenditure of the year. There should be no surplus after necessary expenditure has been met, except such as may result from the total amount raised, being only an estimate of the amount

that would be required for necessary municipal purposes.

3. The council should pass a by-law under the authority of sub-section 10 of section 640 of The Municipal Act. If the council and the owner of the land on which the gravel is located cannot agree as to the right of entry upon such lands, or the price of damage to be paid for such gravel; clauses (a) and (b) of the sub-section quoted, provide for settlement of the matter by arbitration, as set forth in The Municipal Act.

LEGAL DECISIONS.

Trustees of Union School Section Three of the Townships of Nicol and West Garfraxa vs. Maitland.

Judgment on appeal by defendants from judgment of Street, J., who tried the action without a jury at Guelph in favor of plaintiffs, setting work on award of arbitrators appointed under the public schools act by the County Council of Wellington, forming Union School Section "G." of the Township of Nicol and Pilkington. Appeal dismissed with costs.

Verdict Against the Railway.

Mr. Justice Rose recently gave judgment in the case of the Canada Atlantic Railway against the village of Rockland. The action was brought against the village and its reeve and treasurer for a declaration that the plaintiffs are entitled to the bonus benefit granted them by defendants, and are entitled to the issue of \$6,000 worth of debentures thereunder, and for a mandamus. It was held on the evidence that the railway was not built and completed to the village of Rockland within the two years required by the by-law. The action was dismissed with costs.

Village of Hintonburg v. Ottawa Electric R. W. Co.

Judgment on appeal by plaintiffs from judgment of MacMahon, J., who tried the action without a jury at Ottawa, dismissing it with costs. Action to recover \$723.32 which the plaintiffs were obliged to pay to the George Matthews Company, pork packers, for injury to the property of that company by reason of the raising of the grade of a street in the village, and for costs of an award made against the plaintiffs, and for their own costs paid by plaintiffs of the arbitration between them and the George Matthews Company, which sum they sought to recover by reason of an agreement of indemnity entered into by defendants with plaintiffs. The trial judge held that it was not by reason of the exercise by defendants of any of its powers, or by improper conduct of defendants, that the injury was caused to the lands of the George Matthews Company. Held, that the company were exercising powers under the Street Railway Act, and not as agent, and must indemnify the corporation. Appeal allowed with costs.

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