PAGES

MISSING

THE MUNICIPAL WORLD

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

Vol 9. No. 3. ST. THOMAS, ONTARIO, MARCH, 1899. Whole No. 99

CONTENTS

Calendar for March and April, 1899.

Legal, Educational, Municipal and Other Appointments.

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, Sec 42.
4. Make returns of Deaths by Contagious Diseases registered during February.
31. Last day for Councils of cities, towns, villages and townships to pass by laws limiting number of shop licenses therein for ensuing year.—Liquor License Act, section 32.
Night Schools close (session 1898 9).

APRIL.
1. Clerks of counties, cities and towns, separated from counties, to make return of population to Educational Department.—Public School Act, section 69.
Last day for Free Library Board to report estimates to the council.—Public Libraries Act, section 12.
Last day for petitions for Travern and Shop Licenses to be presented.—Liquor License Act, sections 11 and 31.
Last day for removal of Snow Fences erected by councils of townships, cities, towns or villages.—Snow Fences Act, section 3.
From this date no person compelled to remain on market to sell after 9 a.m.—Municipal Act, section 579 (6) R. S. 1897.
Last day for Boards of Park Management to report their estimates to the council.—Public Parks Act, section 17.
7. Last day for Treasurers of Local Municipalities to furnish County Treasurers with statement of all unpaid taxes and school rates.—Assessment Act, section 157.
8. Last day for Collector to return to Treasurer the names of persons in arrears for water rates in Municipalities.—Municipal Waterworks Act, section 22.

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.

STATUTE LABOR FORMS.

STATUTE LABOR LIST No. 1—containing space for thirty names, with extract from Noxious Weeds Act, duties of Pathmaster and special instructions by the Provincial Instructor in Roadmaking.

STATUTE LABOR LIST No. 2—(Half foolscap, very neat) for eighteen names, with extract from Noxious Weeds Act, duties of Pathmaster and special instructions by the Provincial Instructor in Roadmaking.

STATUTE LABOR BOOKS, in which to keep record of Pathmasters and Statute Labor Lists.

Pathmasters to council—Certificates of gravel drawn

Pathmasters notice re noxious weeds

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
J. M. GLENN, LL.B. } Editors

TERMS.—$1.00 per annum. Single copy, 10c.; Six copies, $5.00, payable in advance.

EXPIRATION OF SUBSCRIPTION.—This paper will be discontinued at *expiration of term paid for*, of which subscribers will receive notice.

CHANGE OF ADDRESS. — Subscribers, who may change their address, should give prompt notice of same, and in doing so, give both old and new address.

COMMUNICATIONS — Contributions of interest to municipal officers are cordially invited.

HOW TO REMIT.—Cash should be sent by registered letter. Draft, express or money orders may be sent at our risk.

OFFICES—28 Elgin Street, St. Thomas. Telephone 101

Address all communications to

THE MUNICIPAL WORLD,

Box 1252, - - St. Thomas, Ont.

ST. THOMAS MARCH 1 1899.

Mr. A. D. Williams, for twenty seven years town clerk of Uxbridge, is dead.

* * *

The county council of Frontenac have appointed a special committee to investigate the defalcation and settlement with the late treasurer. A motion requesting the Government to appoint a Royal Commission for the purpose was defeated.

* * *

A number of township councils have, by resolution, expressed the opinion that deputy reeves should be elected as formerly, by general vote. Ratepayers would then be enabled to classify the nominations, candidates would know their opponents, and voters would know how to distribute their votes.

* * *

The council of the township of Scott, by resolution, disapproved of the present system of electing county councillors, which, in their opinion, has not met the requirements, expectations or approval of those in whose interests it was passed. The election of one representative from each municipality and an additional representative for each 1,000 population, was suggested.

* * *

If all of the proposed municipal amendments introduced in the legislature became law, the portion of the revised statutes referring to elections will be of little use. Among the more important changes suggested are the abolition of the dual vote in county council elections, and the abolition of the ballot in councils electing warden or appointing officers, and the election of all councillors by a general vote for a term of two years.

* * *

A large number of counties have co-operated with the county council of Huron in petitioning the Legislature to make municipal clerks the legal custodians of Voters' Lists. The action of the Dominion authorities in refusing to accept copies of the Voters' Lists from the clerks of municipalities has prompted this. If the Local Government does not take action in the matter the question should be referred to the House of Commons for their consideration.

* * *

The county council of Essex, has petitioned the legislature, asking that townships and villages be put on the same footing as towns and that they be allowed tosell all lands in arrears of taxes instead of having the sale take place at the county treasurer's. That the warden and clerk sign the petition and attach the corporate seal, and request Messrs Auld, and McKee, the county members, to support the same with the government.

* * *

The Barrie council at their first session refused to pass a by-law to abolish ward elections, which had been voted on and carried by the electors. An agreement made with the village of Allandale when it was brought into the town corporation entitled the village ward to elect three members of the council. The Municipal Act of 1898, providing for the abolition of ward elections, was not passed, subject to the provisions of this agreement, and the council proposed to ignore the provisions of the act, requiring them to pass the by-law, on that account. The town solicitors were consulted and at a recent session the by-law was passed.

* * *

W. E. Andison writes,— "We have had a good deal of trouble about arrears of taxes in this township, and it has occured to me if the Municipal Act was amended so that the county treasurer had to publish in the county papers the arrears received from the township treasurers every year in April or May, many of these arrears would be paid. Do you think this would be a desirable change? A tax sale is expensive."

[The publication of the list of arrears of taxes would be more expensive than a tax sale. The officers of other municipalities in which a large number of lots are in arrears may be able to suggest a desirable plan to improve the present method of dealing with arrears. ED.]

* * *

Town Clerk Albery, of Meaford, writes in reference to form used in his municipality for passing accounts and orders on the treasurer, which he suggested some years ago and which has been found quite satisfactory. After filling in the form at the council meeting, he copies it in a large letter book with the copying press, and then hands it to the treasuerer, who proceeds to make the payments therein mentioned.

Hawkers' and Pedlars' License Fees.

An Alvinston solicitor has recently addressed the following letter to county and town clerks :

"I have been requested to write you by Thomas Hungerford, of Toronto, who is intending to visit your county shortly and would like your by law which calls for a fee of $20 amended, if it has not already been done in conformity with R. S. O, 1897 ; Chap. 223 ; S. 583 ; S. S. 16 ; which limits the amount to one dollar. I have already obtained rebates from several councils in this matter so kindly advise Mr. Hungerford that your by-law has been amended."

If any county councils have granted rebates under the clause referred to they have needlessly done so. At the last session of the Legislature, an act to correct certain clerical and typographical errors in the revised Statutes of 1899 was passed. One of the amendments alters clause 16 to read : "for fixing to be paid for licenses required, but, in cities having a population of 100,000 or over, the license fee shall not be more than $50 for a two horse wagon, $30 for a one horse wagon, $15 for a push cart and $1 for one carrying a basket."

Since the clause referred to by the Alvinston lawyer applies to cities only, towns and counties are not bound by it, and the schedule of fees as established by by-law still remain in force. Full particulars of the above amendments and corrections were published in THE MUNICIPAL WORLD for October, 1898, but did not appear in *The Ontario Gazette* until last month.

Prompt Action Necessary.

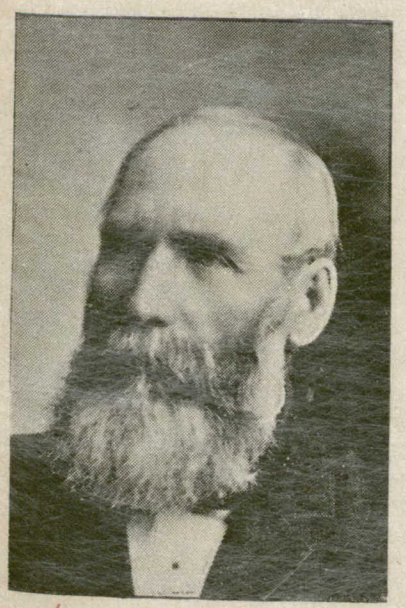
A committee composed of the Mayors of Ontario cities has been formed for the purpose of promoting an amendment to the Assessment Act to meet the decision of the Court of Appeal which held that the property of gas, telephone, telegraph, street railways and other companies possessing valuable public franchises is only assessable as "scrap" material, quite apart from the cost of construction and from its utility as part of a going concern. Circulars have been addressed to every municipal council explaining the proposed legislation with a request that each council bring the matter to the attention of their local representative in the Legislature and appoint deputations to attend at the Legislative Buildings when the proposed amendment is being considered by the House

Every municipality is interested in the question to the extent of an equitable assessment of telegraph and telephone lines, electric railways, gas mains, etc., within their limits, and prompt action should be taken to secure the amendment of the law so that this property may be taxed during the present year.

Municipal Officers of Ontario.

Clerk and Treasurer Township of Glanford.

Mr. Calder was born in Lanarkshire, Scotland, in 1833. He came to Canada in 1842 and shortly afterwards settled in



MR. W. M. CALDER.

the township of Ancaster. He received his primary education at the public school of the township and afterwards completed his studies in the Toronto Grammar School, where he was a pupil of Dr. Howe, with President Louden and other

MR. M. HENDERSON.

distinguished scholars. In 1872 Mr. Calder engaged in farming on his own account in Glanford. He was appointed auditor 1869 and 1870. He was elected a member of the township council in 1871. In 1877 he was elected reeve, which office he held for six years. He was appointed clerk and treasurer of Glanford in 1889.

Clerk Township of Fullarton.

Mr. Wilson was born in London township in 1845 and was educated at the public school. Commencing in 1867 he taught school for three years and in 1870 removed to Russeldale, Fullarton township, and started a general store, where he was afterwards appointed postmaster. He was appointed clerk in 1878 and commissioner in H. C. J. in 1883. In 1890 he removed to Fullarton village, where, in addition to his municipal office he does business as commissioner, insurance agent, issuer of marriage licenses, etc.

MR. J. WILSON.

Clerk Township of Guelph.

Mr. McCorkindale succeeded his father as clerk of Guelph township in November, 1888. He is at present engaged in farming and has been secretary-treasurer of the Guelph Fat Stock Club for several years. He is a Liberal in politics.

Clerk Township of Peel.

Mr. Henderson was born in the Parish of Hlirkik in Caithnesshire, Scotland, in 1833. He came to Ontario in 1857, settled in the village of Newmarket, stayed there two years and then moved into the township of Peel, where he engaged in milling for eight years, and then in farming until five years ago when he retired to the village of Glenallen. He was appointed clerk in 1882. Before that date he was township auditor for several years, and was assessor one year. He is a Justice of Peace, an issuer of marriage licenses, and commissioner in H. C. J., and a life long Reformer.

Clerk Township of East Whitby.

Mr. Purves was born in Scarboro in 1850. He received a good education and taught school for a number of years, after

MR. JNO. M'CORKINDALE.

which he engaged in the mercantile business in the village of Columbus. He received his appointment as township clerk in 1882. When the Maple Leaf Insurance Company was formed he was appointed secretary, which office he still

MR. WM. PURVES.

holds. He is also an issuer of marriage licenses, commissioner, conveyancer, etc., and an active member of the Presbyterian church.

Penalties for Violation of Public School Act.

By W. Atkin, I. P. S., Elgin.

The penalties, to be recovered for neglect or infringement of the provisions of the Public School Act, are very small and their recovery requires simple and inexpensive procedure. Unless otherwise stated this recovery is before a Justice of the Peace, one of whom is usually convenient to every school section in the Province.

The only officer not directly associated with the management of schools, liable to fine, is the municipal clerk, when he refuses or neglects for one month to perform the duties imposed upon him by section 11 (4) and section 68 (1 and 2). These sections require the clerk to prepare a school section map and to furnish the public school inspector with information in refererence to rating of separate school supporters and assessment of sections. Information may be laid by any ratepayer of the municipality and the amount recovered is to be applied to public school purposes in his municipality.

Any person who wilfully makes a false declaration of his right to vote at a public school meeting is liable to a penalty of not less than $5 or more than $10, to be sued for and recovered with costs, for the use of the school, when an information is laid by the trustees.

The revised statutes provide that the chairman of the school meeting shall not allow anyone whose name does not appear on the last revised assessment roll as a supporter of the school or as a farmer's son to make the declaration in section 14 (4).

No provision is made in the School Act for providing the chairman with a copy of the last revised Assessment Roll. Though there appears to be no objection to the trustees making a list of the names of those eligible to vote at a school meeting in their school section. See section 284 of the Municipal Act and In re trustees of Union School Section, Nos. 11 Atonabee, 10 Douro and 11 Asphodel vs Casement, 17 Q. B., 275.

Any public school trustee who refuses to serve after being duly elected, is liable to a fine of $5.

As to acceptance or non-acceptance of office see section 14 (7).

As to qualification of trustee see section 9 (2). Trustees are not required to take the "Declaration of Office."

Any person elected as trustee who attends any meeting of the Trustee Board as such, after being disqualified under the School Act, is liable to a penalty of $20 for every meeting so attended.

As to disqualification of trustees see sections 97 and 98.

Any person, who refuses to serve as trustee, section 14 (7) and who at any time refuses or neglects to perform his duties as such, is liable to a fine of $20.

But a trustee may refuse to sit with another trustee who has become disqualified. (Reg V. Henderson et al C. P. divisional court, Dec 5, 1892.)

Any trustee or school corporation who wilfully neglects or refuses to exercise all the corporate powers vested in them by the School Act for the fulfillment of any contract or agreement made by them, shall be held personally responsible for the fulfillment of the same. But when one trustee indicates his willingness to carry out the obligations of the board, and is unable to do so because of the action of the other members of the board, he has been declared free from responsibility and the other members personally liable. (Reg vs. Trustees, No. 27 Qyendiaga, 20 Q. B., 528

Trustees are personally liable when they wilfully neglect or refuse to exercise their corporate powers. (Kennedy vs Burness, 15 Q. B., 473.) (Kennedy vs. Hall, 7 C. P., 218.) (Ranney vs. Macklem, et al 9 C. P., 192.) Van Buren vs. Bull, et al 19 Q. B., 633.)

But where trustees decline in good faith to exercise their corporate powers on account of any doubt or legal difficulty which they suppose to exist, they are not personally liable. (Van Buren vs. Bull, et al 19 Q. B., 633.)

If any board of trustees neglect or refuse to take proper security from their treasurer, they are held personally liable for school moneys. But when any trustee insists on having proper security given by the treasurer and the other trustees refuse to join him in taking proper security, such trustee is not personally responsible for the moneys but the others are. As to the recovery of school money lost or embezzled when proper security has not been taken, see section 105.

In case any annual or other school meeting has not been held for want of proper notice, every trustee or other person whose duty it was to give the notice, shall forfeit the sum of five dollars when an information is laid by any resident of the section, and the fine becomes a revenue of the section. See sections 13 (2) and 18 (4).

Any board of trustees, or their secretary-treasurer, on their behalf, who refuses to furnish the auditors of the school accounts, or either of them, with any papers, books or information in their power relative to the school accounts are liable to a fine of $20. Section 21 (2).

In case the trustees neglect or refuse to transmit to the county inspector, on or before the 15th day of January, a report of the attendance for the next preceeding twelve months, then the school section shall not be entitled to any apportionment from the Legislative grant for the said twelve months and the trustees are personally liable for the loss to the section.

If the trustees do not transmit the annual report for the preceding year to the inspector, by the 15th day of January, they are personally liable to a penalty of $5 for each week of delay. See sec. 18 (6).

If a trustee knowingly signs a false report or if a teacher keeps a false school register, or makes a false report, with a view of obtaining a larger sum than a just proportion of school money, the trustee or teacher shall, for every offense, forfeit to the public school fund of the municipality the sum of $20, to be sued for by any person whatever, and a conviction may be made on the evidence of one credible witness other than the prosecutor. Section 76 (6).

Any person who wilfully disturbs, interrupts or disquiets, the proceedings of any school meeting authorized by the School Act, or anyone who wilfully disturbs, interrupt or disquiets, any public or other school by rude or indecent behavior or by making a noise either within the place or where such school is kept or held, or so near thereto as to disturb the order or exercises of the school, shall for each offence, on conviction, on the evidence of one credible witness, forfeit, for school purposes of the section where the offence was committed, a sum of $20, together with the costs of the conviction, as the justice may see fit.

Any chairman who neglects to transmit to the inspector a minute of the proceedings of any rural school meeting over which he presided is liable to a fine of $5. The information may be laid by any ratepayer. See section 14 (6).

Any teacher who refuses to give up possession of any school register, key or other school property on the demand or order of the Board of Trustees employing him, shall not be deemed a qualified teacher until restitution is made, and shall also forfeit any claim he may have against the board. Section 76 (3).

Any Secretary-Treasurer or other person who wrongfully witholds or refuses to deliver up or account for any books, papers, chattels or moneys, that may have come into his possession as directed by the board, on application to the county judge by the trustees, or any two ratepayers supported by their affidavit made before Justice of the Peace, may be ordered by the judge to make restitution.

In the event of the accused not complying with the order, the judge shall cause the sheriff to arrest and confine him in the common gaol, without bail until restitution is made, when he shall be discharged.

No such proceedings shall impair any other remedy the trustees may have against any such secretary or his securities or other person.

If the fine or penalty and costs in any of the above cases are not forthwith paid, the same shall, by and under the warrant of the convicting justice, be enforced, levied and collected with costs by distress and sale of goods and chattels of the offender and shall be by the justice paid over to the treasurer of the section or other person entitled thereto.

In default of such distress the justice shall, by his warrant, cause the offender to be imprisoned for any time not exceeding thirty days, unless the fine and costs and the reasonable expenses of endeavoring to collect the same are sooner paid.

A Clerk's Casting Vote.

To the Editor of THE MUNICIPAL WORLD:

DEAR SIR,—Our brother clerk, Mr. Key, of Oakland, has opened up a question respecting the giving of a casting vote in case of a tie between candidates at a municipal election. Why should the municipal clerks be deprived of a vote? The history of the past has shown that votes can be purchased for the price of a song, and yet 745 intelligent ratepayers who are in position to judge somewhat of the fitness of candidates, are disfranchised just because they are municipal clerks.

Mr. Key lays down a rule by which he would be guided I certainly would be governed by the rule he has adopted, so far as it could in justice be applied to a tie between candidates who had been members of a previous council. Experience is valuable, and should, all other circumstances being equal be taken into consideration, but it might occur that by following that rule a clerk might defeat a man who would grasp more in one year than the man actually elected by the casting vote would grasp in three years. Even under these circumstances there should be no written rule. Under existing law I can see but one course open that can be defended and that is to fill the responsibilities and give the casting vote independent of politics, creed, color or social ties.

But I cannot agree with Mr. Keys mode of deciding a tie between candidates who have had no municipal experience. It is not the man who has accumulated a large property who will, as a rule, make the sacrifice necessary to ensure efficient services as a councillor. Again, accepting a large assessment, instead of comparative fitness for the position, appears to me to be a violation of the oath of office, which requires every clerk to execute the duties of his office without fear, favor or partiality.

While admitting that clerks are as competent to decide an election that results in an equal number of votes for two or more candidates as any class of individuals, why force them into such a position? In all cases of a tie why not require the clerk to select in alphabetical order three or four times the number of names from the certified voters' list used at the election in question, of persons who did not vote, and from that number, in the presence of the candidates, on the Wednesday following polling-day, at the hour of 2 o'clock p. m., draw by lot the names of five electors, who shall assemble at the place appointed, at 2 o'colck p. m., on Friday following the day of election, and personally, in the presence of the clerk, and such candidates or their agents as may be present, each deposit in a box provided for the purpose, safely locked and sealed, a ballot for the candidate of their choice, to be opened in the presence of the candidates, or their agents, the ballots counted and the candidate who has received a majority of such votes shall forthwith be declared duly elected.

In the event of a candidate or candidates giving written notice to the clerk in charge and paying the costs of such reference the ballot-box shall be delivered to the judge of the county court, who shall open the box, count the ballots and declare such candidate elected as he deems just.

In case written notice is given, as aforesaid, but the necessary deposit has not been made, the clerk in charge shall, at 5 o'clock on the day the ballots were deposited, proceed to open the box, count the ballots and declare the candidate who received the majority of votes duly elected.

Such a course would avoid dual voting, relieve clerks of all responsibility of deciding who shall and who shall not serve the people, and at the same time be in harmony with secret voting, intelligent voting and an expression from the majority of the electors.

I say without fear of successful contradiction that no class of officers are required to perform such variety of duty as municipal clerks and to every provision imposing a duty there is attached a heavy penalty for either neglect or refusal. Why then leave them open to the censure of a large proportion of the electors who supported the candidate who is left out.

During the 49 years of our present municipal system, every conceivable scheme has been promoted and boomed from platform and press to arouse a general interest in municipal institutions. The advocates of low taxation and primitive modes, have been slowly opening their eyes to the fact that in our municipal concerns our greatest interests lie. Shall we ask, why have we been so slow in learning the value of municipal system. We venture to answer that it is largely due to the fact that until recently no educative agency was sought. To THE MUNICIPAL WORLD belongs the credit of employing the press to assist municipalities in reach- a higher standard of efficiency, and broader conceptions of our privileges.

And to Mr. McFarlane, clerk of South Norwich, we believe, belongs the credit of bringing municipal clerks together once a year to compare notes, exchange opinions and qualify for better work, and to the township of Oakland belongs the Key that will open the public mind and carry inspiration and enthusiasm wherever his motto of making "A long pull, a strong pull and a pull altogether" is made the pass word.

Yours truly,
ALEX. BELL,
Dereham.

Clerks should not forget that section 306 of the Municipal Act requires a copy of the auditor's report to be filed with the clerk of the county council.

Formation of Police Villages.

At the last session of the Wellington County Council Solicitor Guthrie submitted the following opinion:

As to what are the powers and duties of the county council in connection with the erection of the unincorporated village of Moorefield into a police village.

In answer to this question I have to say that in my opinion upon a petition of any of the inhabitants of the unincorporated village of Moorefield to the county council, the county council may by by-law erect the same into a police village, and assign thereto such limits as may seem expedient to the county council. (See sec 714 of Municipal Act.) This section leaves it optional with the county council to say whether they will pass a by-law or not.

Then if the county council does establish a police village, they shall by the by-law establishing the same, name the place in the village for holding the first election of police trustees and also the returning officer therefor. (See sec. 720 of the Municipal Act.

A further question has been put to me as to whether the county council has power to create a police village so that it will take effect at once, or whether it will not take effect until twelve months after the passing of the by-law.

In answer to this question I have to say that I see nothing in the Municipal Act postponing the operation of a by-law for the erection of a police village, for twelve months. Section 723 provides for the nomination of candidates for the office of police trustee, at noon, on the last Monday in December, annually, and other provisions are made very similiar to the provisions in respect to the election of ordinary councillors in townships. The trustees of every police village are to hold their first meeting at noon of the third Monday of the same January in which they are elected. See section 737. So that the result is that if the county council see fit to pass a by-law during the present session, to erect Moorefield into a police village, the trustees can be elected at the same time as is appointed for holding the ensuing municipal elections.

The Canadian Press Association were of the opinion that it is not desirable to tender for municipal printing, owing to the starvation rates at which the smaller offices do the work. The members of councils are indebted to the local press for publication of minutes and recognition in other ways and in return the printing should be divided on an equitable basis. The Printing Committee of the County Council of Wentworth asked for new tenders as an irresponsible rate cutter had put in a ridiculously low rate. The best plan is to instruct the clerk to divide the printing equitably between offices specified by resolution and insist on good work at reasonable prices.

ENGINEERING DEPARTMENT.

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

Permanent Roadwork.

With merely sufficient exceptions to prove the rule, permanency and durability are entirely lacking in road construction throughout the Province. This is characteristic of all new countries where immediate needs are pressing, and where the money and material for substantial work are lacking. This we find exemplified not only in Ontario, but in the whole of Canada, the United States, the entire American continent ; and in Cape Colony of South Africa, where a "Roads Reform Movement" has become necessary. Not only is this temporary character of construction characteristic of roads (and the bridges which are a necessary part of the roads) but it is to be seen in the quality of work placed in all other works, public or private as well.

As a country emerges from the days of pioneer settlement, a different feeling should, and generally does, prevail. Temporary work, while it may be the best investment under the conditions surrounding early settlement, becomes very expensive and unsatisfactory under circumstances attached to a denser population and its attendant commercial and social requirements.

Permanent work, with its fewer repairs, its less interruption to traffic when undergoing needed repairs, the better service rendered at all times, renders durable construction, particularly in highway building, a measure of economy, in spite of the fact that the first cost of such durable work is more than that of temporary construction. Councillors entrusted with the proper disposition of the people's money for the year 1899 will, it is to be hoped, give this aspect of the question the close attention it deserves.

An effort should be made to get away from the spirit which prompts the building of flimsy wooden culverts and bridges that render but poor service at their best, and in a few years are twisted and bent out of all resemblance to a bridge or a culvert. The expenditure for the repair of such structures will generally, at the end of a term of years, make up much more than the cost of a permanent work.

The only really permanent bridge or culvert is the arch of masonry or concrete, which, up to spans of forty feet, can be very cheaply built for ordinary highway traffic. Such arches have been in use in Scotland and Ireland for more than a century, and, with scarcely any repair, are still in good condition. It is common there for a farmer living in the vicinity of the work, to contract for it, supply stone and other material, hiring one or two masons to do the work. In this way the money paid out for the work is all kept in the locality, and the method has proven very popular.

Iron bridges with masonry or concrete abutments or piers come next in order of durability and economy. The iron superstructure with proper repairs should last for fifty years, while the masonry should be good for at least a century if rightly built and attended to when signs of wear appear.

During the life of the superstructure three or more wooden bridges would be needed, even with close attention to repairs, while the service rendered would not be all equal to that of the stronger and more durable work.

For small culvers, which at present are the cause of so much annoyance on our highways, sewer pipe, iron pipe, or concrete work should replace the wooden boxes now so much used. Care should be taken to provide a level roadway at these points so as to avoid the disagreeable bumbing and jolting which so many of these boxes now create.

For the roadway itself, attention should be given first to a permanent system of drainage in all its parts, involving tile under drainage where necessary. The grade of the road should be brought to its permanent level, before gravel or stone are placed on it. Hills should be permanently graded, and low sections permanently filled. Ontario has emerged from the days of temporary work, and the councillor who does his duty should avoid the past policy, which by scattering money and labor in patch-work, has left our roads in a most unsatisfactory condition. In the advocacy of permanent, durable and serviceable work he will win the respect, if not the votes of his constituents.

Good Roads Education.

Several townships at the last municipal elections, submitted to the electors by-laws for the abolition of Statute Labor ; to be replaced by a money tax, expended by the council with the advice and supervision of a commissioner or commissioners. And several of these, as was to be expected, met with defeat.

Where the by-laws suffered this fate, the cause in every instance could be traced to the fact that the issue had not been placed before the people of the township in a proper way. We know that the more progressive citizens in all townships, who have given the question any consideration, are in favor of removing the Statute Labor system. These, knowing the very much better results to be accomplished under more business-like methods, are apt to overlook the fact that the majority of people take little trouble to reason out such questions for themselves, dislike change of any sort, but cling blindly to established forms. The Statute Labor system has existed since the first settlement of the Province, and in spite of its glaring defects, there are many citizens who still resent any attempt to inrerfere with it.

There is but one means of overcoming this unfortunate prejudice — a campaign of education. Public meetings held several times during the year is the best plan of stirring up thought and interest in regard to the matter. The printing and distribution of literature on the subject is another potent means Once the people of the country are induced to seriously consider the importance of good roads, there can be no doubt that they will unanimously endeavor to adopt the most efficient system for their management.

If the people of the townships are taxing themselves sufficiently for road-building, and we believe that in the majority of instances they are, there is but one way of improving the present conditions of the roads—to frame better methods of making, maintaining and controlling them.

Concrete Cement-Pipe.

Excellent culvert pipe of concrete can be manufactured cheaply in any gravel pit under the immediate direction of the municipal council. The pipes are, of course, circular, and three or four inches in thickness according to diameter.

The implements required are of the simplest kind. The most important are two steel spring-cylinders, one to set inside the other leaving a space between the two equal to the thickness of the finished concrete pipe. By "spring-cylinder," it may be explained, is meant such a cylinder as would be formed by rolling an iron plate into a tube without sealing the joint. With the smaller of these cylinders the edges overlap or coil slightly ; but so manufactured that the edges may be forced back and set into a perfect cylinder.

These two cylinders, with joints flush, are set on end, the one centrally inside the other, and on a firm board bottom. The concrete, made of first-class cement and clean, screened gravel, is then tamped firmly, but lightly, into the space or mould between the two cylinders. The tamping-iron used to press the concrete into place is so shaped as to fit closely to the cylinders.

The concrete is allowed to stand in the mould for a few hours, when the cylinders are removed ; the outer and larger cylinder by inserting an iron wedge into the joint and forcing the edges apart ; the inner cylinder by inserting the wedge into joint and turning the edges so as to allow them to again overlap, returning to the shape of a coil. The outer cylinder having thus been made larger, and the inner one smaller, they can readily be taken away, and the concrete pipe is then left until thoroughly hardened.

Just such a number of pipe as are actually required for the season's work need be manufactured ; the implements required are inexpensive ; and the pipe may be made by the council for actual cost, which, after a little experience, can be reduced to a very small amount.

Progress.

The best progress is generally made by a series of steady but certain steps forward. The successful business man is constantly studying and planning to improve his condition. The progressive municipality is that which selects a body of such business men to manage its affairs. A council thus composed does not rest satisfied with congratulating itself upon the work of preceeding years, but strives to make the improvements of the incoming term an advance on that which is past. Like the man in private business or the executive of a company, the council of a municipal corporation should always try to pursue the best possible policy for the advancement of the town and the improvement of the citizenship.

The strongest policy is one which provides for the making of all improvements in keeping with the requirements of the people and in accordance with the most modern practice, embodying as far as possible, durability, serviceability and efficiency, as well as the most just and equitable system of levying the cost of such improvement, always making ample provision for the extension of these works to meet new conditions, created largely by the town's growth and expansion.

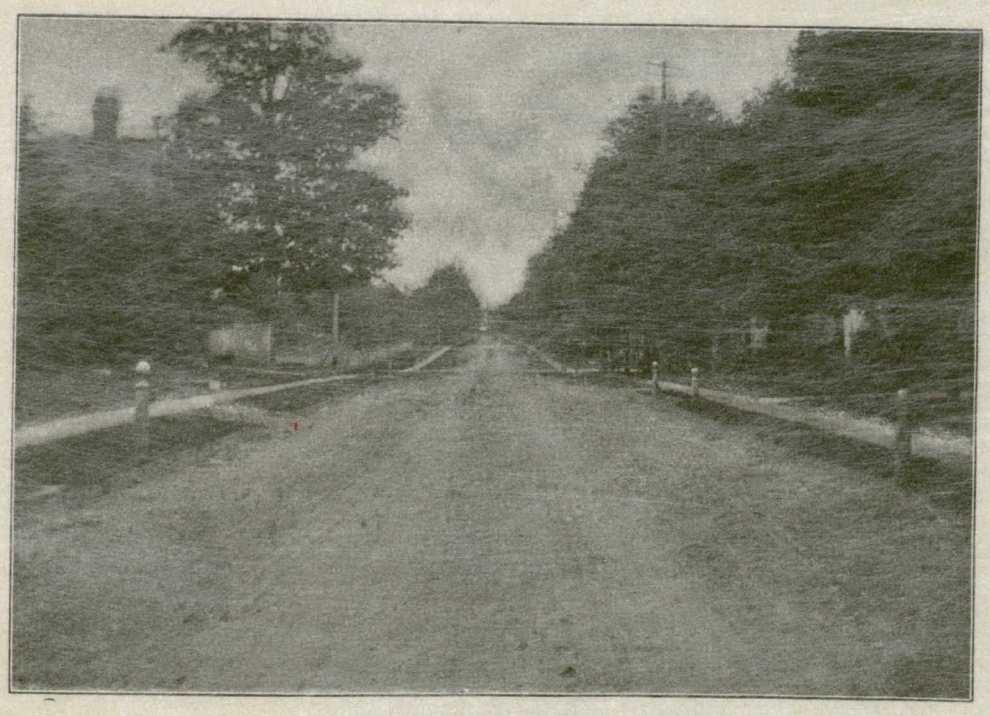
The strongest policy is not one which is allowed to sleep through a long term of years and then to awake when revolution is necessary ; but is one which is constantly being strengthened, bringing about necessary changes in keeping with demands. In order to bring this about it is necessary that councils should look into the future, observe the signs of times and prepare for the changes which are foreshadowed. When a change had been predicted, it takes some little time to best prepare for it, and, generally speaking, a process of education and instruction must be undertaken to secure the consent of the ratepayers.

In nearly every town of the Province of Ontario, the opinion prevails that sufficient attention has not been given to the improvement of our streets and sidewalks in the past, and that therefore their condition now is by no means in keeping with improvements in other respects, nor in fact, compatible with the expenditure which has been made upon them. This fact is equally true with township municipalities as well as with towns.

Now that little or nothing of importance, such as the bonusing of railways, manufactories, etc., is bothering citizens and councils, no greater benefit would be conferred upon the people than that the councils of 1899 in town, township, and county should put forth an earnest effort to advance as much as possible, this very important branch of municipal work. A healthy agitation which is the forerunner of action has been going on throughout the Province for the last three or four years and the people generally are now prepared to consider new plans and methods which will bring about results in keeping with the spirit of the times.

They hesitate and rightly do, to make any change, without thoroughly understanding what the nature of that change will be. They positively refuse to set aside the old system until a new one is proposed which they can see would be an improvement. Too often suggestions are left until near the close of the year and are then proposed at a time when the excitement of municipal elections diverts attention from them, and this, together with other influences, brings about their defeat. Contemplated changes should be carefully considered by municipal councils in the early part of the year and thoroughly discussed with the ratepayers at the slack season when no other question is before them. These plans should then be amended, if necessary, and endorsed by resolutions of such meetings.

It is to be hoped that incoming municipal councils, faithful to the charges placed in their hands, will endeavor to do something for their citizens during the coming year by way of framing plans for the improvement of our system of road and street-making, which is all but decayed, and which is imposing upon the people, through indifference it may be, a most extravagant system.



AS TOWN STREETS SHOULD BE.

Statute Labor.

One of the fundamental weaknesses of the statute labor system is the fact that responsibility is not sufficiently centralized. There is no one directly accountable to the people for the efficient expenditure of money or roadwork, nor for the proper application of statute labor. Responsibility is, in the first instance, distributed over the members of the council, who can readily shift the blame from one to another. From the members of the council it is distributed over from fifty to one hundred pathmasters, who cannot, in any adequate way, be held accountable for the proper discharge of their duties. The result is that, so scattered is money and labor, the people of a township scarcely realize the large amount they are annually spending on their roads, nor would it be of material benefit to them if they were to do so ; for so distributed is all responsibility that efficient management cannot be enforced.

All this is entirely contrary to the best principles of government, which dictate that responsibility shall be centralized. By placing the road expenditure under the supervision of one man who can be held responsible for the proper planning and carrying out of all work, very much better results than are now being obtained would be demanded by the people. The tenure of office should be similar to that of a municipal clerk or treasurer. Such a man would not necessarily be an engineer, but he should be a man of good practical ideas, business-like, and of mechanical ability.

In addition to this lack of responsibility with which road improvement has been conducted, the payment of a road tax in labor is too vague and clumsy. Some pay it with good honest work, while others shirk it to the fullest extent. Even when paid honestly, it is too unwieldy to be applied in the manner, and at the time needed, either for durable, permanent work, or for timely repairs. The statute labor system has long since lost its usefulness.

The Frontage Tax System.

The following is a copy of a petition presented recently to the Ontario Government, requesting an amendment to the statute labor system. The town of Strathroy has been the prime mover in the matter, but we understand that the petition is being largly concurred in by others.

"*To the Legislative Assembly, of the Province of Ontario*:

GENTLEMEN,—The council of the municipality of Strathroy hereby petition your honorable body to amend the local improvement clauses of the Municipal Act, by adding as sub-section (4) to section 665, the following :

AMENDMENT S. S. (4.)

'The council of any town or village may, where in their opinion it is desirable in the public interest, by a two-thirds majority of such council at a regular meeting, charge the general corporate funds of the municipality with not less than one-third, and not more than one-half of the cost of such local improvements, and such by-law shall be applicable to all local improvements not otherwise provided for.'

And your petitioners, as in duty bound, will ever pray."

The subject is becoming better understood, and certain amendments to the act would render the frontage tax system workable, at least so far as street improvements are concerned ; and these amendments, no doubt, will be secured as soon as proper representation is made.

It would, for example, be better in cases where the council considers it necessary to take initiative, to require an adverse petition of two-thirds of the property owners to prevent the work, after which, if the council still considers the work necessary, they may proceed on a two-thirds vote of their own number. Where the improvement of the leading entrances of a town is undertaken and the property on either side of the street in the outlying sections is not built upon or improved, or for any reason is unfit for building purposes, and the council does not deem it equitable to assess such property in the same proportion as other property, then the council should have the power in all such cases to determine the proportion.

And further it would be well to provide, as the petition suggests, for the payment of say one-third of the cost of all street improvements out of the general funds. When the act was framed little interest was taken in the question of street improvement, and property owners were permitted to have improvements made and the payments extended over a term of years, the principle being to allow them to get what they wanted and to pay for it.

This was taken advantage of by the more progressive citizens, but very seldom in a general way. With the changes of time and conditions, the demand to-day for improved streets is general, and no system should be adopted which will not, to a reasonable extent, provide for this.

An injustice to the outlying sections less inclined to realize the advantage of improved streets, would be apparent at first sight of this proposition, but upon examination it will be found just and equitable. The opinion of such sections generally is that streets demanding any improvement beyond the safe condition of the roadway, should pay for such improvements, believing that the benefits are purely local.

This, however, is erroneous, as no improvement can be made upon the streets of a town without benefitting the whole place. The cost of these improvements is proportionate to the service they render, and should not be regulated wholly according to the desires of the owners.

The frontage tax system is a simple means of raising money. No matter how small the work, the money can be easily provided. It is a check on careless management, because contracts must be separate, are not large, are understood by each property owner who feels directly interested and studies the contract, watching closely its execution.

Water and Typhoid.

In view of the absolute necessity of water to the animal system, is it not singular how little we know of it? Those who have given the matter most thought can only sketch the faint outlines of a picture, the details of which time alone can fill in. With all the strides that have been made along the line of chemical, biological and bacterical investigation of water supplies, we seem only to be at the threshold of the revelations which are possible in this field.

Nature has intended that we should be supplied with pure water, but nature, in this, as in many other matters, has had its purpose thwarted by the ignorance or indifference of man. The mists and vapors arising from the ocean, lakes and ponds are pure as the typical "dews from heaven," but when these descend upon the land, and are gathered into the streams they are pure no longer. Civilization with its manifold organic wastes soon pollutes these pure waters and unfits them for the most important uses.

The best informed sanitarians of Germany are firm believers in the water transmission of certain diseases, chief of which are typhoid fever and cholera ; and visitors from the United States to that country, who may be interested in the hygiene of water, are reminded of the fact that in certain cities of Germany where the water supplies are known to be of very excellent quality, typhoid fever is scarcely known. Dr. William Osler, of the John Hopkins University, Baltimore, is authority for the statement that typhoid fever is so rare in Munich that enough cases cannot be had to illustrate the disease in the hospital clinics. Unfortunately, no large city in the United States can boast of a lack of typhoid fever.

When milk is the cause of infection, water used in reducing it or in cleansing or cooling of cans and bottles, has been the carrier of the germ. When oysters water-cress and other articles grown in the shoals of streams and bays are the causes of infection, it is found that these are washed by sewage effluents, and omitting the rare probability of personal transmission, it is not difficult to perceive that water carrying the germ in its typical form or the organism from which the typical germ is developed is, after all, the chief agency in the distribution of the disease.

The Filtration of Water.

Filtration, as carried on under the latest improved methods, is not a costly matter. It is commonly thought that if filtration clarifies the water, that is sufficient. That is a great mistake, and it can readily be understood to be so when it is known that a million or more bacteria can be present in a glass of clear water, and yet not affect its clearness. The filtration of water means straining it through a substance which removes all or most of its impurities, and this process is not properly accomplished unless the straining is so fine as to remove the very smallest bacteria, which means one-thousandth of an inch, more or less. It is the only absolutely safe method, as far as is known, at the present time, for domestic purposes when the supply comes from the surface, as from rivers and similar sources.

The supply from stored water is more likely to be wholesome than from some other sources, for the reason that large reservoirs afford time for water to settle, and any pathogenic or disease producing bacteria which may be present have an opportunity to sink to the bottom, or be destroyed by the beneficient bacteria. There is also, more or less beneficent action upon the water by sunlight, but even this protection is not considered entirely sufficient in the light of recent experiments.

Sand filtration when properly designed and worked, is capable of marvellous results, by it, polluted waters may be so far advanced in purity as to be fit for drinking and other dietetic uses, and all towns now supplying to their consumers water unfitted for many of the domestic uses should feel compelled to seek their water supplies in sources of known purity, or adopt thoroughly reliable methods of water purification.

A Municipal Officer During January.

"I always feel nervous this time of year."

"Why?"

"Afraid my salary will be cut."

"It worries me."

"Why, you'll have as much as usual, but your creditors, no doubt, will feel it."

Road Control.

One huge difficulty in the way of attaining better roads is that under the present system of township management the entire cost of roadbuilding falls upon the shoulders of the farmers. The people of the villages, towns and cities, to whom country roads are as necessary as to the farmers, and who compose nearly one-half of the population, pay nothing towards their construction or maintenance. While it is necessary that the farmer should have to haul his produce to the centres of population he also uses the roads to draw back to the farm the supplies purchased in town. It merely happens, as a matter of convenience easily understood, that the farmer draws his produce to the town and his purchases back to the farm; instead of the merchant hauling his merchandise to the farmer, and the produce of the farm back to the town. Enlarging the districts so as to place over the roads proper engineering skill, and taxing the whole population within these districts whether urban or rural, is the only method by which first-class roads can be attained. As long as the farmer bears the entire burden, it is manifest that this desired end will be difficult, if not impossible to reach, and in any event, the attempt to do so comprises an injustice.

The distribution of taxation is accomplished in all European countries by national aid, in one form or another while a number of American States have adopted plans modelled upon these.

In England the county council (aided by a grant from the national treasury) has entire jurisdiction over the roads. A county engineer is appointed, a salaried officer, whose sole duty is the supervision of road work. The county is divided into districts, and the detail of the road-work is attended to by assistant engineers acting under the parishes. The money required for the maintenance of highways is obtained by a precept issued by the various parish councils, demanding the amount expended on the roads of the parish. This amount is collected in the general parish (or township) taxes, levied on the assessment values of property. A system of county management has been extended to all parts of Scotland. Roads in Ireland are under a county engineer and several assistants, each of the latter having his own district. Improvements are regulated by a grand jury presentment system.

French roads are national, departmental and communal, corresponding largely to state, county, and township roads. The national roads radiate from Paris extending to all the important cities and departments, and are under a special engineering department (department of bridges and roads) attached to the national government. The second and third classes, departmental roads are in a general way under local authorities, but departmental roads are usually entrusted to the care of the national corps of engineers.

Germany has a magnificent system of turnpikes built and maintained by the national government. They are under the general management of a state road commissioner, while he is assisted by an extensive staff of road directors and inspectors. Other roads are known as "country roads," and are built and maintained by the several parishes through which they pass

The highways of Austria are classified as state or Imperial roads, provincial roads, district roads, and community roads according to the authority constructing and managing them. The cost of building and maintaining the Imperial roads, is derived from the national funds, the cost of provincial roads from provincial funds, district roads from district funds. A little of the cost of community roads is borne by the several communities interested, aided in certain cases from the district funds. For the Imperial and provincial roads the best of engineering skill is employed; while for the work of immediate repair road keepers are employed constantly.

Italian roads are under the supervision of the Minister of Public Works, and are national, provincial, communal or vicerial, according to the source from which taxes for the construction and maintenance is derived.

The more important roads of Denmark are controlled by the county councils, but are subject to the annual inspection of the state engineer; the roads of lesser importance are governed by the parish or township councils.

The main roads of Belgium, those routes running from one part of the kingdom to another, are controlled and managed by the state; another class, provincial roads, are controlled by the province; a third clsss, communal roads are controlled by the communal authorities. The construction of these roads is entrusted to corps of engineers.

In the Netherlands, a network of roads, providing convenient travel from one part of the country to another, is maintained by the General Government; other roads are at the expense of the various provinces and communities benefited.

The federal government of Switzerland controls a few of the important roads, but in the main they are built and maintained by the cantonial government through whose territory they pass. The construction and repair of roads of lesser importance pertains to the several townships through which they pass.

Spain, decayed and tottering, the vestages of an ancient magnificence falling from her, has not joined the good roads movement; nor has Turkey, the home of barbarism. Russia, too, has been exceedingly backward in road-building, and as a result her extensive and rich dominions are still practically undeveloped.

A Grand Jury Presentment.

The following is an extract from the presentment of the Grand Jury of the county of Perth to the last county court, referring to some portions of the address of His Honor Judge Barron, touching upon the road question:

"We thoroughly agree with you in regard to the benefit that would result to the roads from the general adoption of wide tires on wagons for heavy roads. We would suggest that the county council pass a by-law to compel their general use at an early date.

In some cases the roads are not the required width, 66 feet, being encroached upon by the owners of adjacent lands, while others use them as a dumping ground for such rubbish as stumps and stones. Some municipal councils have, we think, very wisely encouraged this encroachment by granting a bonus of a certain number of feet for the erection of wire fences where the roads are liable to be blocked by snow. Fences that cause obstruction to the public highway should be removed or the owners compelled to keep the roads open and in an easy passable condition.

The many industries now conducted and the rapid communication required necessitates that the roads be at all times in as passable a condition in winter as in summer. Perhaps the better plan would be to have no fence at all. This would be a good subject for discussion at Farmers' Institute meetings.

We would recommend that the rules governing the rights of persons travelling or driving on the public roads should be posted up for information of the public. It would be a great benefit to the winter roads if sleighs were made to track as wide as wagons.

We have examined the statistics you gave us regarding statute labor and approve your suggestion that the labor should be abolished and the value of that labor expended on the roads under the direction of a practical engineer.

Not on the World's Staff.

Lawyer (from Skedunk)—You think I must have lots of idle time? By George, I can beat any man in forty miles of my town playing checkers!

Lawyer (from Spiketown)—I can't play checkers, but I can lean back in a chair and balance it on its hind legs for fifteen minutes by the watch, and there ain't another man in my district who can do that.

Didn't Want the Earth.

A representative of a Georgia county recently received the following letter from one of his colored constituents:

"I want you, if you please, suh, ter git me a place where you is—I means in de legislatur'. I wants ez good a place ez you kin git, but I don't reach too high. All I wants is de same salary what de yuther legislatures gits—$4 a day and rations—dat's all!"—*Atlanta Constitution*

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 stamped addressed envelope. All questions answered will be published, unless $1 is enclosed with request for private reply.

Assessor's School Census.

113.—D. D.—In Townships where no truant officer is appointed is it necessary for the assessor to take census of school children

Yes. Assessors are required by section 17, sub-section (1) to make lists of children between the age of eight and fourteen years, for the use of truant officers *and others*.

This section appeared originally as section 11 of the Truancy Act, of 1891, and in 1892 it was transferred to the Consolidated Assessment Act as section 14 (*c*). At that time it did not contain the words, "*and others*," which now appear at the end of it.

Assess Income from Natural Gas.

114.—S. W.—As our township is a producer of natural gas would like to know of you if the income derived from the sale of such is assessable? All the revenue we get is from the assessment on gas plant.

Sub-section 9 of section 1 of the Assessment Act, defines land: "Land, real property and real estate," respectively, shall include all buildings or other things erected upon or affixed to the lands, and all machinery or other things so fixed to any building as to form in law part of the realty, and all trees or underwood growing upon the land, and land covered with water, and all *mines, minerals*, quarries and fossils in and under the same, except mines belonging to Her Majesty." Sec. 28 (2) of the same act provides: "In estimating the value of mineral lands, such lands and the buildings thereon, shall be valued and estimated at the value of other lands in the neighborhood, for agricultural purposes, but the income derived from any mine or mineral work shall be subject to taxation in the same manner as other incomes under this Act." Section 657 of the Municipal Act empowers the corporation of any township or county, wherever minerals are found, to sell or lease the right to take minerals found upon or under any roads over which the township or county has jurisdiction. And the court of appeal held, in case of Ontario Natural Gas Company vs. Gosfield, 18 A. R., 626, that natural gas is a mineral within the meaning of section 657, and that the council had power to lease a portion of the highway for the purpose of drilling thereon a well for natural gas. In the case of Lord Provost vs. Farie, 13 Ap., cas. 657, it was laid down that the word, 'minerals,' when used in a legal document or in an act of Parliament, must be used in its widest signification, unless there be something in the context or in the nature of the case to control its meaning. We are, therefore, of the opinion that the income derived from the sale of natural gas is assessable.

Collector's Seizure in County.

115.—A. W. F.—Can collectors of taxes go into an adjoining township to make a seizure for taxes or are their powers limited to the township the same as the treasurer's?

Under certain circumstances they may. Under section 135 (1) of the Assessment Act, he may levy upon the goods and chattels, wherever found, within the county in which the local municipality lies, belonging to or in the possession of the person who is actually assessed for the premises, and whose name appears upon the collectors roll for the year as liable therefor. Under certain other circumstances a seizure can only be made upon the premises. To answer your question correctly you should give us the facts of the particular case in hand. We cannot tell you whether the collector can make a seizure outside the local municipality, or not.

Assessment—Expenditure of Commutation.

116.—M. H.— 1. The assessment in our township is 100% too low. The ratepayers, many of them, would like to see the assessment raised, providing it is done equal, as it would not increase the taxes. The assessors have been asked to try and affect this change, but they think it would cause them a great deal of trouble and annoyance and no end of appeals.

Is there any way by which the council can affect this change?

2. When statute labor is commuted is it compulsory to spend such commutation money in the road division where the property is situated and where, if so spent, the money would be thrown away. In a case of this kind could the money be placed to account of general fund, or must it be spent in the division in which the property lies?

1. Section 28 (1) of the Assessment Act, provides: "Except in the case of mineral lands hereinafter provided for, real and personal property shall be estimated at their actual cash value, as they would be appraised in payment of a just debt from a solvent debtor." It is the duty of the assessor to assess all property according to this section, and the council has no right to lay down a rule of its own.

2. In the case of non-resident land, the commutation tax must be expended in the statute labor division where the property is situate. See section 108 of the Assessment Act. In other cases the council may expend the money in such divisions as it deems proper.

Qualification.

117.—J. H. C.—Kindly inform me if a councillor is qualified to hold a seat in municipal council with qualifications as follows and incumbrance on his property to these amounts:

Lot 1, assessed $400, mortgage on same of $900.
Lot 2, assessed $500, mortgage on same of $300.
Lot 3, assessed $200, (no mortgage on this.)

The above parcels of property are all owned by the councillor elected and all assessed to him in one schedule. Can he hold his seat?

Lot 1 appears to be mortgaged for more than its assessed value and, therefore, must be left out of consideration. In the case of lot 2 there is a margin of $200, and this amount with the assessed value of parcel 3, gives him $400 to qualify on. If there was any interest accruing or accrued, due on the day of nomination, it would reduce the marginal amount by that much. In the case of a village an excess of $200, freehold, is sufficient to qualify on; $600 in the case of a town; $1,000 in the case of a city and $400 in the the case of a township. See section 76 of the Municipal Act.

Disclaimers.

Re Disqualification of Township Councillor.

118.— ENQUIRER. — What are the duties of clerk repecting same? When two councillors resign, by sending me a disclaimer, after they have been notified that their right to continue to sit as said councillors would be protested on account of their being disqualified, being too low assessed.

At the last Municipal election there were only five candidates on the ballot-paper.

1. Is it my duty as clerk to notify the fifth candidate that there are two vacancies in the council, and that he is therefore required to take the necessary declaration of office and qualification as a councillor, and when am I to give such notice? After I have notified the members of council now remaining, and after they have accepted the resignation of the two councillors? The Act states that said disclaimers shall act as a resignation, or when.

2. In the event of said fifth candidate refusing to take said declaration of office and qualification as a councillor, would he have to give me a written refusal to do so?

3. Will any legal steps taken by the relator, by complaint to county Judge re disqualification, affect my duties in this case, or will I have to wait till ordered to do so by County Judge?

The relator has verbally protested to me against my acting on the disclaimers given to me by said councillors, dated fourth of February, claiming they were not given to me in the proper time.

1. We do not find any express provision in the Municipal Act requiring the clerk to notify any person of his election as a member of the council. Section 319 imposes a penalty upon a councillor who does not make the necessary declarations within twenty days after knowing of his election. The clerk should notify the fifth candidate when a disclaimer is received in proper form.

2. He would be liable to a penalty under section 319.

3. If a complaint has been made to the County Judge you had better wait the result of it.

Township Clerk and County Auditor.

119.—G. M. B.—Is there anything in the Statutes rendering it illegal for a township clerk to act as auditor for the county accounts?

No. Section 299 of the Municipal Act is the one which governs this case. It is only the clerk of the council which makes the appointment, who is disqualified. The township clerk is, therefore, qualified.

Teacher or Auditor.

120.—J. W.—Can a man act as auditor and audit the School Accounts and Public Library Accounts who is a public school teacher and was appointed by the council, a member of the public library board, and was appointed by library board as secretary at a salary of ten dollars per year ?

We cannot find that there is any statutory provision disqualifying him. There is nothing in section 299 of the Municipal Act to prevent him from acting. Nor do we think his position on the Public Library Board as a member and secretary thereof, at a salary of ten dollars a year, so incompatible with the office of auditor as to prevent him from acting.

Municipal Printer Disqualified.

121.—CITIZEN.— 1. One of our councillors for 1898 (being a printer) received the contract for the town printing. Contract was not completed at nomination day ; he was declared elected by acclamation for councillor for 1898. Does not these facts disqualify him ?

2. Our Reeve at the same time and now does hold a heavy mortgage on same printing plant, rents building for office, etc. at heavy rent. Does not these facts disqualify the reeve, he being declared reeve by acclamation at nomination ?

1. We think so. The election begins with the nomination and the contract not having been completed and closed before that time, the councillor in question comes within the disqualification mentioned in Section 80 of the Municpal Act.

2. We can see nothing in the facts stated to disqualify the reeve. We do not know any law that disqualifies a man just because he happens to have a large mortgage against the property of some other man who happens to be disqualified.

Private Road Wanted from Council.

122.—J. A. Mc.—A has a farm extending from one concession line to the other. The north line is not opened out to his place. A swale divides his place, so he cannot get to the north part, without going through his neighbor's farm. He has asked the council to make him a road. They have not done so. He has refused to pay last year's taxes, for the portion cut off by the swale. 1. Is he justified in doing so ? Can he compel the council to make him a road ?

1. No.

2. No. The council should insist upon the collector making the taxes before he returns the roll.

Resolutions—By-Laws—Appointment of Officers.

123.—W. T. G.— 1. Do motions in municipal councils have to be made with a seconder or can they be made by a mover alone ?

2. In passing by-laws to appoint town officers, etc., is it not necessary for councils to read by-laws first and second times, and then go into a committee of the whole on by-law, to fill in blanks, etc., then rise and report before third and final reading ?

3. Where a man is appointed to fill more than one office, say road commissioner, truant Officer and village constable, and where he has filled the position the previous year, to make the appointment legal, is it not required that in the motion appointing him for this year that all the offices to which he is appointed should be mentioned, or can the motion read, he be appointed road commissioner with same duties as last year, and the clerk without any further authority, embody in by-law that he is appointed to all the positions ?

4. Can a man legally hold the position of Clerk, Treasurer and Collector of any municipality ?

1. In the absence of a by-law regulating the procedure of the council, and requiring that a motion must be seconded as well as moved, we think the motion is sufficient without a seconder.

2. No, unless there is a by-law of the council requiring the procedure laid down by you to be taken.

3. *We think the by-law is wider than the appointment.* If the motion were that he should be appointed to fill the same offices as those held by him last year, it would be sufficient. It is not absolutely necessary that the names of the different offices should be stated, and it is quite probable that that was clearly the intention of the council, and if so there is no merit in the objection and we do not think the court would interfere.

4. The same person can hold the position of clerk and treasurer, but he cannot hold the position of collector if he is either a clerk or treasurer of a municipality. See the latter part of section 295 (1) of the Municipal Act which says : "But the council shall not appoint as assessor or collector a member of the council or the clerk or treasurer of the municipality."

Assessment of Farmer's Sons.

124.—SCOTT.—A diversity of opinion exists in respect to the true interpretations of subsections A, B, C, D, E and F of Sec. 14, Chap. 224, R. S. O., 1897. Some hold that it is compulsory on the part of township assessors to enter the names of farmer's sons on the Assessment Roll, who are resident on the farm of their father or mother (as the case may be) as joint or separate owners, occupants or tenants of the farm if required by such sons so to do. Others hold that it is not compulsory for the Assessor so to enter the names of farmers' sons even if requested by the sons so to do, except he believe them to have a direct and special interest in such farm, but should enter them as F. S. only.

We are of the opinion that the provisions above referred to give a right to a farmer's son under the circumstances mentioned in such provisions to require his name to be entered in the Assessment Roll. It becomes compulsory upon the assessor to so enter a farmer's son's name upon request. The right of a farmer's son to make such request does not depend upon his having any interest whatever in his father's farm.

Farmer's Son's Statute Labor.

125.—SUBSCRIBER.—Are farmer's sons liable to perform Statute Labor, they being rated as such on the Assessment Roll, and could the council exempt them in any way from performing or paying cash for statute labor ?

Section 106 (1) of the Assessment Act provides : (*a*) Every farmer's son rated and entered as such on the Assessment Roll of any municipality, shall, if not otherwise exempted by law, be liable to perform statute labor or commute therefor, as if he were not so rated and assessed. A farmer's son is not exempted from statute labor by having his name entered in the Assessment Roll as such. He continues liable as if he was not rated and entered on the roll. His liability is therefore to be found in Section 100, unless the council has passed a by-law reducing the amount or entirely abolishing it. We do not think a by-law exempting farmer's sons from statute labor would be valid. It would be discriminating in favor of a class and therefore objectionable.

Appointment of Auditors.

126.—D. K.—I am in the township council for the first time. At our first meeting auditors were appointed ; one by the council and the other by the reeve. At our next meeting I asked the question : had the reeve a right to appoint one ? He said in the past he had power to appoint without a by-law. Now he did not appoint ; he only nominated one auditor, and finally he said he could make suggestions as he did in appointing pathmasters. Was he right ? Has he the power to nominate one ? Has he a right to suggest ? Or is it the business of the council to nominate and appoint both auditors ?

By Section 8 of Chapter 23, 61 Victoria, the following words of Section 299 of the Municipal Act were struck out, namely, "one of whom shall be such person as the head of the council nominates." As the law now stands both auditors must be appointed by the council. The reeve has no right to appoint an auditor. He may suggest anything he likes but a suggestion does not amount to anything unless a majority of the council chooses to act upon the suggestion.

Price of Liquor Licenses

127.—N. M.—This council wants to know also, how high can tavern licenses be raised in villages ?

Sec. 41 of the Liquor License Act provides that a license duty of $60 shall be payable in respect of taverns in villages. But this section is subject to the provisions of sec. 42 and 43. Under sec. 42 the council may by by-law, to be passed before the 1st of March in any year require a larger duty to be paid for tavern licenses, but not in excess of $200 in the whole unless the by-law has been approved by the electors in the manner provided by the Municipal Act. The council may therefore, without the assent of the electors, increase the minimum duty of $60 fixed by sec. 41 to $200. In addition to this $60 more is payable for provincial purposes under sec. 44.

Appointment of Clerk.

128.—M. & L.—At our first meeting in January we appointed our town council clerk and other officers by motion, which was carried by the mayor's vote. At a special meeting held a few days after, called by the mayor, for the purpose of dealing with the bonus and appointing officers supposed to be by passing the

by-law according to previous meeting, but one councillor changed and at the special meeting on motion that by-law to appoint officers be read a first time with the name of the clerk changed and soon the second and third reading, voted against the party he supported before, giving a minority of votes to the clerk appointed at the previous meeting. The new elected-by-motion clerk, had, the same day of the special meeting, before said meeting, taken his declaration before the mayor, declaration enclosed.

1. Is the clerk, Levis, duly elected, and can he claim for damages? Is the clerk appointed at the second meeting duly appointed, Levis having taken his declaration before, but the declaration was not presented to the council, though it was on the table before the other clerk was appointed by by law?

2. Kindly let me know if we could keep Levis as clerk and what steps could be taken if he claims compensation, also if the second clerk appointed could claim damages?

1. The latter part of section 325 of the Municipal Act provides: "And the powers of the council shall be exercised by by-law, when not otherwise authorized or provided for." Section 282 makes it the duty of every council to appoint a clerk. Section 283 empowers the council to appoint a person, by resolution, to act in the place of the clerk in case of his illness or absence. We take it, therefore, that the appointment of the clerk permanently, should be by by-law. Mr. Levis does not appear to have done anything. He made his declaration on the same day as the special meeting. He suffered no damage in law up to that time, in any view of the case that is whether his appointment was sufficient or not. He had no right to do anything until after he had made his declaration of office. See section 312. The other man was appointed by by-law and we see no reason for holding that his appointment was not valid under the circumstances.

2. A minority of the council cannot insist upon retaining Levis. He has no claim for compensation. If he should be retained by a majority of the council, the second man could only claim compensation for the time he served, unless the by-law appointed him for a specified period of time.

Mover and Seconder Cannot Withdraw Nomination.

129.—SUBSCRIBER.—A man being nominated for county councillor, he not being present at the nomination meeting, can his mover and seconder withdraw his nomination at said meeting, or must he stand for election unless he sends his resignation to the nominating officer as the law directs.

When a nomination is properly made in writing, as required by section 128 (1) of the Municipal Act, the mover and seconder have no control over it, and the clerk must regard it as an existing nomination unless and until the person proposed resigns in the manner provided by the act.

Collectors Returns—Pathmasters Declarations.

130.—T. W.—Considerable amount of money has been lost by the council's neglect of duty. The collectors have returned their rolls before their work has been completed, and without making oath before the treasurer, and thus taxes have been left uncollected when there was sufficient distress upon premises, and now the goods are gone, land has changed hands, and nothing can be got.

1. Have ratepayers any claim on council in such a case for the amount so lost? If so, what is the proper course to take to recover damages?

Are pathmasters required to go to the clerk's office to get their road list and take declaration of office?

2. If duly appointed under a by-law, can they refuse to act? Some declare they will not act if they have to go to the clerk's office for their lists.

3. Is there any penalty for refusing to act, and should they bring list back and sign declaration before the clerk?

It has been the custom here for the clerk to send all road lists by mail with the declaration pinned inside, and the result was that the declaration was not made either before or after the list, only being returned to the clerk.

1. No.

2 and 3. The council may pass a by-law for inflicting reasonable fines and penalties not exceeding $50, exclusive of costs, upon any person for the non-performance of his duties, who has been elected or appointed to any office in the corporation, and who neglects or refuses to accept such office, unless good cause is shown therefor, or to take the declaration of office and afterwards neglects the duties thereof. See section 702 of the Municipal Act.

Seal on Minutes.

131.—J. MC.— 1. Do the statutes require the clerk to attach the municipal seal to the minutes of the municipal council's meetings?

2. If not, could there be any advantage in the attaching the seal to the minutes?

1 No.

2. No. There would be no advantage in doing so.

Married Woman's Property.

132.—J. T. F.—Division Court Executions. Could you tell me if property owned by a married woman before her marriage, but since jointly used by herself and husband, is exempt from seizure on an ordinary execution, being not for rent or taxes, but an ordinary debt?

The fact that property owned by a married woman is jointly used by herself and her husband does not enable a creditor of her husband to seize it. You do not, however, say whether it is a creditor of the wife or the husband. And moreover, we do not understand why you use the words, "ordinary execution." We are not aware that executions are divided into "ordinary" and "extraordinary." It would be much better if the facts of the case were stated, as following questions would indicate. When was the debt contracted—before or after marriage? Giving date, and by whom; nature of contract; nature of property, etc.

Division Court Clerk.

133.—I. T. F.—What powers have Division Court Clerks respecting administering oaths and affidavits, etc?

They have no power of administering oaths except in suits or proceedings in their own courts, as provided by the Division Court Acts and rules.

May Abolish Statute Labor.

134.—J. R.—As I understand the Statutes, the council may pass a by-law to abolish Statute Labor without consulting the ratepayers and without giving notice of its intention to pass such by-law. Am I right? If wrong, kindly state legal proceedings.

Yes, you are right.

Forming New School Section.—Statute Labor

135.—C. W.— 1. By Public School Act 11 (555), the first meeting of a new section has to be held at the same time as the organized sections. The clerk is not exactly required to attend this meeting, but if there is no man in the new section able to properly organize and conduct a first meeting, would he (the clerk) be justified to adjourn the meeting to the following day?

2. If a farmer's son, rated and assessed on the roll, neglects or refuses to perform his one day statute labor, can distress be levied on the chattels of the father, or has the farmer's son to be prosecuted before the magistrate?

1. No, he has no such authority.

2. A distress cannot be levied on the chattels belonging to the father. Section 106 (1) provides that every farmer's son rated and entered as such on the assessment roll of any municipality, shall, if not otherwise exempt, be liable to perform statute labor or commute therefor as if he were not so rated and assessed, and subsection (2) of section 107 provides the procedure to enforce performance of statute labor by persons liable to poll tax.

Amount of Debenture Debt.

136.—C. E. G.—Is there any restriction the debenture debt of a municipality? I am satisfied that the statute states twelve per cent on assessed value of municipality, but for the life of me I cannot find the section.

The latter part of section 402 (1) of the Municipal Act provides: "But no such council shall assess and levy in any one year, more than an aggregate rate of two cents in the dollar on the actual value exclusive of school rates and local improvement rates.

No Nominations.—No Election.

137.—H. L. MC.—I see by the last MUNICIPAL WORLD in answer to my question that it was not legal for me to appoint the old council for 1899. As there was no ratepayers at the nomination I thought it was the only course for me to take as I had never met with such a case before, and no one to tell me what to do.

Please give full information as to how I shall proceed to form a new council for 1899, if notices are to be posted up and how long?

No notices are required. We understand that the ratepayers did not elect any member for the present year and, if that is so, the members of the preceding year, or a majority of them, should appoint a sufficient number of qualified persons to complete the council. The ratepayers having neglected to elect a council, their right to do so is gone and it devolves upon the old council. See sec. 218 of the Municipal Act.

Obstruction on the Highway.

138.—A. R.—A small pile of cordwood is left on the public road about three feet from the driven track in winter (and the track is about centre of road). A man with horse and cutter is driving along after dark and when

turning out when meeting another rig his cutter runs upon this cordwood and upsets the cutter. The man thought this wood was bare ground as there was not much snow anywhere. The horse ran away and damaged the horse and cutter very much. Is the township liable for damages? If not who is?

If the corporation can be shown to have had actual notice of the existence of the danger, or if the pile of wood was on the road for such a length of time that corporation can be said to have been guilty of negligence in not having known of the existence of the wood, it may be held liable provided notice was given within the time and in the manner provided by section 606 of the Municipal Act. Section 609 gives a remedy over against the person who put the wood on the road, if he was not the servant or agent of the corporation.

Power to Set Aside Election—Owning Property not Sufficient to Entitle to Vote.

139.—Z. E.—At a public school meeting for trustee, at close of poll, vote stood 31 and 30 and chairman declared party having 31 votes elected. Party in minority appealed to inspector, who held investigation, cancelled the vote of a person living outside of section on the ground that he had paid no rate in the section though he owned property in section, rented tenant paying all taxes, and called on person who had acted as chairman at school meeting to give casting vote. Had inspector a right to declare party who had been declared elected unseated? Had the person owning property in the section on which he paid no rates a right to vote?

Section 12, of the Public Schools Act, states who shall be entitled to vote, and sub-section 7 of section 2 of the same act defines ratepayer. We think that the inspector had power to set the election aside and appoint a time and place for a new election. In a case of this kind he must either confirm the election or set it aside and appoint a time and place for a new election. He cannot, by a scrutiny of votes, declare that a minority candinate is entitled to the seat, and thereby obviate the necessity of holding a new election. See section 14 (8) of the Public Schools Act. Sub-section 7, of section 2, defines "ratepayer" to mean any person entered on the last revised assessment roll of the section for public school rates. It is, therefore, not sufficient that a man owns property in a school section to entitle him to vote. He must be entered on the last revised assessment roll for public school rates.

Municipal Election Forms.

140.—J. T. F.—I cannot see anything in the Act where instructions are given us to disposing of these or keeping them other than that Ballot Papers shall be destroyed after four weeks. Please say what should be done with the other forms and oblige.

Section 188 of the Municipal Act makes it the duty of the clerk of the municipality to retain for one month all ballot papers received by him from deputy-returning officers, and to then destroy them unless otherwise directed by an order of a court or judge. We are not aware of any statutory provision directing what the clerk is to do with other forms, but we may say that he should be guided by such instructions as the council may choose to give him.

Re Borrowing Money for Bridge.

141.—Tp. Clerk.—The council of the township of G have been petitioned to build a bridge which will cost about $1100, but have no funds on hand to pay for same. There never has been a bridge over this particular place, but the land is now occupied on both sides of stream and they are asking to have one built. The stream is about 34 rods wide, owing to the fact of a mill-dam backing the water up.

1. Can council borrow money to build this bridge and issue debentures for same payable over a period of three years without submitting by-law to the ratepayers, or would you consider this ordinary expenditure?

2. How can council legally raise this money payable as above, as it would be a hardship to raise all in one year, and they do not wish to go to the expense of taking a vote?

3. Can owner of dam be made to assist in building bridge if it can be proved that it could be built for far less money if dam was not there he having never got the privilege to flood highway. Dam has been there about 24 years?

1. The council cannot borrow the money and make it payable in three years, whether it is regarded as an ordinary expenditure or not, without submitting a by-law to the ratepayers. See section 389 of the Municipal Act.

2. It cannot be done without the assent of the electors

3. No. If he is flooding the highway without right (and we do not see how he could acquire such a right over a public highway) he can be enjoined from continuing to do so by an order of the court.

Special Waterworks Rate.

142.—T. M. C.—Should a special tax or rate as referred to in section 37, Chap 235, R. S. O., 1997, be levied and collected on personal property as well as on real property?

No.

Sergeant or Clerk—Non-Resident Tenant no Vote.

143.—D. D.—As clerk of the township I should like to know whether the duties of that office will prevent me from attending the annual drill at Camp Niagara. I hold the rank of sergeant in B squadron 2nd Dragoons, and have been on the service roll for the past ten years without having missed a drill.

2. A is assessed as tenant in the township of B, where he resides. Across the townline in the township of C he is also assessed as tenant having never resided there. Is A entitled to vote in the township of C?

1. This appears to us to be entirely a matter between yourself and the council, whose servant you are. Your position as sergeant will afford you no legal excuse for neglecting your duties as clerk.

2. No. See sub-section 2 of section 86, and form of oath provided by section 113. A cannot be said to be a resident of the township of C.

Exemption of Mill.—Assess Cheese Factories.

144.—A. S. L.—J. F. T. buys a mill site upon which there had been a mill, but was burned. He came to the council and they exempted him from taxes for four years with the understanding that he was to build a mill. He has built the mill? Could the council remit the taxes legally, or should they have assessed the property and then remitted them? A ratepayer claims that they must assess the property and cannot remit the school-tax under any circumstances or exempt the mill from being taxed. They did not assess it last year consequently if exemption was illegal the council would be liable for the amount of taxes.

2. Cheese factories of which there are four in township have never been taxed. Has the assessor any right to exempt them or must he assess them?

1. Two-thirds of the members of the council have power to exempt any manufacturing establishment from taxation, except as to school taxes, for any period not longer than ten years. It was the duty of the assessor to have assessed this property, because it is not exempt from school rates. We cannot say whether there is a binding contract between J. F. T. and the corporation to entitle him to insist upon the exemption of his property as to other rates or not. Assuming that there is, the council cannot collect any taxes except school rates. The ratepayer is right in his view. We do not agree that the members of the council are liable personally. See section 411 of the Municipal Act, sub-section 3 of section 67 of the Public Schools Act, and section 55 and schedule E of the Assessment Act, and section 247 and following sections of the Assessment Act, under the head of "Responsibility of Officers.

2. We are not aware of any authority for an assessor omitting these factories from assessment.

Time for Nominations

145—W. W.—I see by the Mail and Empire of Toronto of the fourteenth of February, a decision given by Chief Justice Armour, who ruled yesterday that Nominations for Municipal Elections may be received at any time during the day set for them. The learned judge held that only in the case of a solitary nomination was the time limit of one hour in effect.

Kindly inform me where the learned judge gets his law in the matter and how the nominations are to be made? We have held our nomination at 7.30 p. m. on the 26th December last and kept it open till 8.30 same evening taking for granted that was the law. R. S. O., 1897, chap. 223, section 120.

The following is a copy of the report of the case to which you refer:

"Re E. J. Parke,—W. H. Bartram, London, for the applicant in person appealed from an order of Meredith J., in Chambers, at London, dismissing a motion for a mandamus to the Police Magistrate for the city of London, to compel him to issue a summons upon an applicant's information, and complaint against one C. A. Kingston, the corporation clerk for the city of London, for his conduct, when acting as returning officer at the London municipal elections for 1899, in receiving nominations for the office of mayor after the lapse of an hour contrary to the statute. No one appeared to oppose the appeal. The Court dismissed it with costs."

The decision of Chief Justice Armour has no doubt been a surprise to the clerks throughout the Province, because we believe that the almost invariable prac

tice, where there were no more persons nominated than were required to fill the council, has been to declare the persons so nominated, elected after the lapse of an hour from the time fixed for the opening of the nomination meeting. The Chief Justice is an able lawyer and any decision of his carries with it great weight and though it may be a surprise to many, and though the legislature perhaps did not intend the sections of the Municipal Act relating to nominations to have the meaning which has been given to them by the Chief Justice, we agree that the decision is sound. Section 118, (1) of The Municipal Act provides that a meeting of the electors shall take place for the nomination of candidates for the office of mayor in cities, etc., on the last Monday in December, annually, at 10 o'clock in the forenoon, etc. Section 119, provides that a meeting of the electors shall take place for the nomination of the candidates for the office of aldermen in cities, etc., at noon on the last Monday in December annually, etc. Section 120 provides that notwithstanding anything contained in sections 118 and 119, the hour for the nomination of candidates for the office of aldermen in cities may in and by the by-law fixing the places of such nominations be fixed at half past seven o'clock in the evening, instead of at noon, etc. Sec. 121 (1) fixes the time for the nomination of candidates for the office of reeve in townships divided into wards at 10 o'clock in the forenoon of the last Monday in December, and sub-sec. 2 of the same section fixes the time for the nomination of councillors for each ward at noon. Sec. 122 empowers the councils of townships by by-law to hold the nomination at one o'clock in the afternoon. It will be observed that none of these sections say how long the nomination meeting shall be kept open or continued, and unless some other provision can be found limiting the time during which they are to be kept open there is nothing in the sections already referred to to prevent the clerk or other presiding officer from keeping them open till midnight. But he cannot continue them into the following day because the statute fixes the day of the week upon which they are to be held. and therefore they must be concluded on that day. Sec. 128 (1) provides the manner in which nominations are to be made. Sec. 128 (2) which is the one upon which Chief Justice Armour based his decision, is as follows :

"*If only one candidate for any particular office* is proposed, the clerk or other returning officer or chairman, shall, after the lapse of one hour from the time fixed for holding the meeting, declare the candidate duly elected for that office."

Now if only one candidate is nominated for any particular office it is imperative upon the clerk after the lapse of one hour from the time fixed for holding the meeting to declare such candidate duly elected for that office, and the moment that is done, the office is full and it follows that no further nominations can be made or received by the clerk. But suppose that instead of only one nomination for a particular office being made, there are two or more, what is there in the Act to prevent the clerk or other presiding officer from receiving further nominations after the lapse of the hour ? We cannot find anything to prevent him from so doing. Sub-sec. 3 of Sec. 118 provides: "If more candidates are proposed for any particular office than are required to be elected, the clerk (or other returning officer or chairman) shall adjourn the proceedings for filling such office until the first Monday in January next thereafter, when (unless there is an election by acclamation by reason of the resignation of any candidate or candidates nominated, as in the next succeeding section provided) a poll or polls shall be opened in each ward, etc." It will be seen that sub-section (3) does not state when the clerk or other presiding officer shall adjourn the proceedings. He is, therefore, not bound to adjourn them immediately after the lapse of the hour but may continue them and receive nominations until he closes the meeting. You were quite within the law in what you did in your municipality. You did not close the meeting until the lapse of an hour. You had the right to close the meeting then but you were not bound to do so In view of this decision, it would be well for clerks to announce to the electors present that the meeting is closed, but it would be better if the legislature would amend the law so as to require the clerk or other presiding officer to adjourn the meeting immediately after the lapse of an hour, in case of a poll being necessary, and to require all nominations to be made within the hour, because as the law now stands as interpreted by the learned judge, other misunderstandings and difficulties may arise resulting in litigation and expense to the parties interested as may be readily seen by reference to section 129. Section 129 (2), provides that any person proposed for one or more offices may resign at the nomination meeting or on the following day, etc., or elect for which office he is to remain nominated and section 129 (3), provides that the resignation after nomination meeting of any person so proposed shall be in writing signed by him and attested by a witness, and shall, within the time hereinbefore mentioned, be delivered to the clerk of the municipality. Under section 129, the person proposed may during the meeting resign verbally, but if he does not do so until after the meeting, the resignation must be in writing as required by sub-section 3. If the clerk or other presiding officer does not formally and publicly announce that the nomination meeting is closed, a question may arise as to whether the meeting was closed or not at the time when the candidate resigned and such a question is likely to arise where a clerk, instead of announcing promptly at the close of the hour to the electors that the meeting is closed and that the persons proposed are elected or that the proceedings are adjourned when a poll is necessary, sits in his official chair after the hour has elapsed receiving nominations, and perhaps until there is no elector present and therefore no person but himself who knows when the meeting was closed or whether it was as a fact closed at all.

Clerk's Pay for Copies of Voters' List.

146.—J. H. M.—At the time the Plebiscit elections of the Dominion were held last fall, the returning officer asked me for two copies of the voters' lists of this village as corrected by the judge, and also certificates in connection therewith, which were sent him, and I sent him a bill also at the same rate as I would be entitled to from a private individual, and not hearing from him I wrote him last week. I have his reply as follows : "Yours to hand. Unfortunately the statutes does not provide any fees for the Voters' Lists, but simply compels me to get them from the clerks."

This seems strange to me that a government should enact a law that would compel a municipal officer to do work without remuneration any more than they could compel him to do for a private citizen.

I would like to know if the R. O. should have gotten them of the Clerk of the Peace, as in the Provincial elections, who would have got his fees, and if so as he applied to me in error should he not be compelled to pay me the fees ? As you are very kind in giving information relative to such matters, I again take the liberty of troubling you.

Section 6 of the Prohibition Plebiscite Act provides that for the purpose of submitting the question to the electors, the same proceedings, as nearly as may be, shall be had as in the case of a general Dominion election. Section 13 of the Dominion Elections Act provides that the returning officer shall obtain from the officers who are the legal custodians thereof, or of duly certified duplicates or copies thereof, such provincial voters' lists or such certified copies thereof, or extracts therefrom, etc. And the second schedule to the act provides as follows : "Fees of returning officers and others. 7*a*. For necessary disbursements under section 13, the fees to be paid for copies of documents furnished to the returning officer, thereunder, to be those provided for similar services under the provincial law, and where no provision is made by the provincial law, ten cents per folio of 100 words, and for the certificate of the custodian, 50c." Under section 50 of the Voters' List Act, you are entitled to four cents for every ten voters whose names are on the list or part of list, or six cents for printed copies instead of the fee aforesaid. We understand that in this county the certified copies of the voters' lists were obtained from the clerk of the peace and that he was paid for furnishing them. The municipal clerk is one of the officers who are regarded as the legal custodians of the lists and, therefore, we do not see why you are not just as much entitled to be paid for these lists as the clerk of the peace.

Collector's Seizure.

147—A. H.—A tenant had a verbal agreement with his landlord to pay $5 per month rent for a house in Lindsay. During November he left the house, being behind in both rent and taxes. Before leaving for the West he went to his landlord and paid him $20 on the debt agreeing to send the balance as soon as he was able. In January, 1899, he left town with his wife and family, taking some household effects with him. He did not have sufficient funds to prepay all his luggage, however, and one box was left in the baggage-room to be forwarded to his address as soon as the funds were sent. In the meantime the freight agent notified tenant's mother-in-law that the storage would be 25 cents per day and tenant's mother-in-law had same removed to her house. Tax collector happened to be in the house and espied the box bearing tenant's address. He forthwith demanded possession of the box, which the mother-in-law delived to to him. The tax collector sold the box to a second-hand dealer for the sum of $9, being the amount of arrearage in taxes which tenant owed on landlord's house. The second-hand dealer, being on friendly terms, holds the box, which the tenant can claim. The box contained blankets, childrens' clothing and trinkets belonging to tenant's wife. The tax gatherer did not notify tenant that he was selling the box.

1. Was the seizure illegal ?

2. If so, can tenant recover damages from tax collector or is his case against corporation ?

1. Yes, because the collector could not lawfully sell without six days notice and advertizing in the manner provided by section 138 of the Assessment Act.

2. The tenant's right of action is against the collector.

Cutting Trees Adjoining Road—Taxes on Post Office.

148.—HILLIER—In our township there is a concession line road that was opened a number of years ago and it was never opened its full width, and some of the timber and brush has been left standing and the road has become dangerous by reason of leaning trees and the council has been frequently notified of its condition and the owner of adjoining lands has been notified verbally to remove the leaning trees, some of which stood over the fence, which he failed to do. Last year the council was notified that if steps were not taken within a certain date to remove the danger the parties would apply to the courts to compel the council to take action. After being served with notice the council took action and had the timber and brush removed, the party that did the work taking the wood f r part pay the council paying the balance. Now the owner of the adjoining land comes on and claims damages, says his father left these trees standing as shade trees ; also claims the wood. The council also cut leaning trees over the fence but did not remove them. Were the council within their rights in cleaning the road without first passing a by-law, and is it necessary to pass by-law to cut leaning trees, so long as they do not go outside of sixty-six feet, and was it necessary to give the party notice in writing ?

If the present council settles this claim would it have any bearing on any future action the council might take towards opening the road its full width ?

2 A is postmaster in a country place, the office being in his house. What share of the house should be exempt from taxes ?

1. The owner of land adjoining the highway has a special property in trees on the side of the highway, which were left standing for the purpose of shade or ornament, and before cutting such trees the council should pass a by-law under sub-section 2 of section 574 of the Municipal Act. As to the right of property in the owner, see sub-section (4) of section 2, chap. 243, R. S. S., 1897. If the owner can show that the trees are within the meaning of sub-section (4), cap. 243, he can recover the value of the trees unless the council can prove a sufficient by-law and ten days notice as required by section 574. The settlement of the claim would not affect any other case.

2. Unless some part of the house is leased to the post office department, we do not see how the owner can claim any exemption.

Number of Polling Sub-Divisions.

149.—G. M. E.—The answers to questions 1 and 2, number 72 of, February number, does not give me the exact information I wished. I will put the question like this : We have about 950 ratepayers and have five booths. Would we be entitled to seven ? I will explain why I did not understand. You say that 200 is the maximum. Then you say the sub-divisions may contain a less number than 200, but did not say how much less and as we had about 250 ratepayers I did know if we could reduce them to allow us seven booths or not.

The act does not fix a minimum number of electors. It fixes a maximum to prevent a polling sub-division being inconveniently large. We can, therefore, see no reason why the council cannot divide the municipality into 7 polling sub-divisions if it thinks the votes of the electors could be taken more conveniently by having that number. The alteration must be made within the time limited by the act. See sections 535 and 536.

Statute Labor Joint Owners' Assessment.

150—G. C.—A father and two sons, all under sixty years of age, are assessed as joint owners or freeholders of a 150 acre lot. All live together. Assessed value of lot is $2,850. According to by-law governing statute labor in this township (a copy forwarded) if only one person were assessed he would be liable for six days' labor. In this instance eight days are charged. The assessed parties contend that on account of being assessed jointly they are not liable for any more statute labor than if only one person were assessed for the property.

The by-law, as you will notice, authorizes the clerk to charge in cases of joint assessments an additional day's labor for each party assessed—after the first—if all are residents, except when the senior assessed party is sixty years of age

Has the council exceeded its power by making this provision in by-law ?

We cannot find anything in the Assessment Act authorizing such a provision as the one in question. Under what section of the act did your council profess to act ?

Claim to Land by Possession—Trustee Nomination.

151.—E. W. B.—1. A and B own adjoining farms. Many years ago rear of both was unoccupied. A was the first to enclose part of unoccupied but did not put fence out to line, leaving a strip outside. Some years af erward A enclosed remainder but did not move his fence back to the line, but made a "jog" back some five or six rods placing his fence on line to rear. A owns all the fence. In the meantime B enclosed all of the rear of his land. All transactions were prior to 1860. Now B claims the strip by possession. A claims it as unoccupied lands. It is bush pasture. Please give an opinion as to who is right.

2. We have just held a bye-election to fill a vacancy in the school board. 3 or 4 candidates were nominated. The returning officers did not announce the names of the candidates until the time had expired. A candidate present wished to resign orally but could not do so as the meeting was closed before he had time. Had to do it in writing and had to get his nominator to witness. Should not returning officers announce names of candidates as handed in ?

1. Before expressing an opinion on this question you should furnish us with a plan showing the lands with the fences as they have stood from the commencement, and the changes made, and full particulars of the acts of possession by B. We may say that B, in order to succeed in his contention against A, the legal owner, must make out a clear title to possession. If the two adjoining owners have a line run between their lands, and afterwards both exercise rights of ownership up to the line on either side, such as cutting fire-wood and timber, such acts will be sufficient to support a claim to title by possession. Or if a man encloses a piece of another man's lands by a fence, and cultivates such part for ten years, he will obtain a title by possession. Where a man runs a line, himself, through a wood, encroaching upon another man's lands, but without the consent of such other party, and he relies upon his having cut timber or fire-wood up to that line for ten years, such acts are not sufficient, because each time that he goes on the other man's land he is a trespasser, and as soon as he goes off he is then again out of possession; but if he were to not only run the line, but to also build a fence along that line so as to enclose the land with his own, and then exercised such acts for ten years, he would acquire a title by possession.

2. As a matter of law we do not think so, but we think it would be a very proper thing for clerks to announce before the hour expired, the names of the persons nominated.

Collector's Seizure in Districts

152.—D. M. G.—Would it be legal for the collector of a town in the judicial district of Manitoulin to seize for taxes the goods or chattels of a person assessed, if found outside the limits of the town but within the district ?

No. We cannot find any authority for going outside of the municipality itself. In the case of counties there is authority to seize in any part of the county, under sub-section 1 of section 135 of the Assessment Act.

Assessment Pulp Wood—Hemlock Bark and Ties.

153.—J. W.—1. In our municipality there is a quantity of pulp wood taken out by the farmers and sold by them to contractors (resident in this municipality) of a pulp wood company (resident in this province). Part of said wood is piled on the station grounds in this municipality and part has been shipped as it arrived at station. Is the pulp wood assessable that is piled on the station grounds, and to whom ?

2. At a tannery there is a large amount of bark piled in their yard, said bark being paid for as it is delivered there. The owner claims that it is not assessable because he has drawn on the bank to pay for it. Is it assessable ?

3. In this municipality there are a number of railroad ties taken and sold to contractors of the Grand Trunk railway and piled on their grounds. Are the ties assessable and to whom?

1. We do not think so. It appears to be property that is intended for shipment, and is only temporarily at the station grounds. See sub-section 15 of section 7 of the Assessment Act.

2. Sub-section 24 of section 7 exempts so much of the personal property of any person as is equal to the just debts owed by him on account of such property, unless such debts are secured by mortgage upon his real estate, or are unpaid on account of the purchase money therefor. We are of the opinion that if the owner borrowed the money at the time of purchase, from the bank, and used such money to pay for the bark, it is exempt, but if he had the money on hand and paid for the bark he cannot escape taxation by showing that he subsequently had to borrow money from the bank. It is only where a man can show that the purchase money has not been paid for the specific property, to the person from whom he bought or to a person from whom he borrowed for the express purpose of paying for that particular property.

3. If the ties belong to the Grand Trunk Railway Company, they are chattels and taxable. If they belong to other parties, and are simply in transit to other places, they are exempt for the same reasons as those given in answer to question 1.

County Council Election—Disclaimer.

154.— NOMINATING OFFICER. — A county councillor elected took the declarations of office and qualification and took part in the proceedings at the county council session, which, I presume, amounts to his assuming the office. An elector took proceedings before the county judge to unseat the councillor on the ground of the latter not having the requisite property qualification, and the councillor filed a disclaimer under section, I presume, 238 of the Municipal Act, R. S. O. 1897. Under section 241 of the Municipal Act, and the circumstances above related, will the "candidate having the next highest number of votes" become the member or officer elected? or, in other words, will the assumption of office by the councillor bar the candidate having the next highest number of votes? On reading note (b) in Harrison's Municipal Manual, 1889, page 150, "If the party, instead of disclaiming under this (200) or section 202 accept office he can only resign under circumstances detailed in section 179 and section 180" I take it that the acceptance of office by the councillor, subsequently unseated, bars the defeated candidate having the next highest number of votes, and that the proceedings provided for in section 217 of the Municipal Act are requisite to fill the vacant office. (The sections of the Municipal Act quoted from Harrison are numbered as in R. S. O. 1897.)

Some nice questions arise under the section to which you refer, and the one which you have asked us involves a point of some nicety, but after having considered it as carefully as possible, we do not agree with your views, or with the opinion expressed in the note contained in Harrison's municipal manual. It is now many years since the late Chief Justice Harrison's death, and for some years before his death, we believe the revision of his own work was left to others and therefore it is quite possible even probable that he is not responsible for the note to which you refer, and we have further to observe that the construction placed upon the act in Harrison is not supported by any decided case. Section 241 of the Municipal Act provides, such disclaimer shall relieve the party making it from all liability of costs, and where a disclaimer has been made in accordance with the preceeding sections, it shall operate as a resignation, and the candidate having the next highest number of votes shall then become the member or officer elected. It seems to us that the words "operate as a resignation" are broad enough to include a person who has taken his seat in the council, as well as a person who has not done so, but has been elected to a seat in the council. Section 243 throws some light upon the question under consideration, and we think supports our views. It provides "no costs shall be awarded against a person duly disclaiming unless the Judge is satisfied that such person consented to his nomination, or accepted the office, in which case the costs shall be in the discretion of the Judge." Now this section speaks of a person disclaiming who has accepted office, and makes it clear to our minds that the acceptance of office does not prevent a disclaimer being delivered in the manner provided by the act and if that is done it operates as a resignation and the candidate having the next highest number of votes becomes the member elected.

Percentage on Taxes—Collector's Authority to Distrain for.

155.—R. G. F.—I am the collector of taxes for the Township of Nepean and the municipal council passed a by-law levying all rates for the year 1898. The by-law further states that all taxes not paid on or before the first day of February, 1899, that five per cent. be added thereto. This means five cents on the dollar. Has the council a perfect right to do so? Will the statutes bear them out in doing so? Some ratepayers are paying without any trouble the per cent. and some are not?. One ratepayer called and asked the clerk to take so much money on account of his taxes as he had no bill with him. So the clerk took the money and gave him a receipt on account. When I came to settle with the clerk it turned out that he had left the even money, the amount of his taxes less the per cent. Now if I want that man to pay the balance if I can do so, can I issue a warrant and put in my bailiff's hands for to collect? What kind of a warrant would you use in the matter? Would the ordinary warrant do? (If you have any other kind in stock you might mail me a sample copy.)

The council has power to pass such a by-law under section 60 of the Assessment Act, and the latter part of sub-section (2) provides: "And such additional percentage shall be added to such unpaid tax or assessment, etc., and shall be collected by the collector or otherwise, as if the same had originally been imposed, and formed part of such unpaid tax, etc." So long as you have the roll in your hands, that is if you have not returned it, you may issue a warrant to levy the unpaid part of the taxes, assuming that you have made a demand already as the statute provides. The usual warrant will do.

Woman may be Clerk.

156.—W. F.—Our town clerk died on the 17th. There are several applications for the position, one of those is from Mrs. Williams, the widow of the late clerk.

1. Can she legally hold the office of clerk of the town?

2. Would she be obliged to attend all meetings of the council and the board of health or could she send one in her place to take the minutes?

1. A woman may hold the office of clerk.

2. The council may by resolution provide that in case the clerk is absent some other person to be named in the resolution or to be appointed under the hand and seal of such clerk shall act, see section 283. Arrangements could no doubt be made so that an assistant, satisfactory to the council, would attend to record the minutes at meetings of council, and board of health.

Owners of Cattle Running at Large to be Fined.

157.—R. A. T.—We have a stock by-law which prohibits stock running at large in the township. We have cattle inspectors which see that cattle, etc., found at large are put into pound. These inspectors are paid from general fund of the township. We would like to assess a certain damage or fine to cattle so found and thus pay inspectors, as we do not think it right for innocent parties to pay for those who break the law by allowing their cattle to run. Is it in our power to do so? If so, what kind of a by-law would be needed?

A reasonable fine may be imposed by by-law against the owner of animals running at large contrary to the provisions of the by-law, but the by-law should not provide that the inspector should be paid by the owner of the animals. The officer should be paid out of the funds of the municipality. See sub-secs. 2 and 4 of sec 546 and sections 702 (*b*) and 708 of the Municipal Act.

School Section Alterations.

158.—J. W.—We have a little trouble in our township with reference to the alteration of a school section. I will try and explain the case. No. 1 Division lay along the front of township and is the entire length of same, except where there is a Protestant Separate School Section formed out of the centre of said lands. At the extreme north end there are a few settlers. They are about seven miles from where the school-house is built which they belong to. The trustees of school section No. 1 offered them their school taxes each year to do as they wished with it. All the land below separate school section is non-resident but those few families mentioned. Now No. 3 school section wants the council to change the boundaries of 1 and 3 by taking from No. 1 all this non-resident property and giving it to No. 3. The assessment in both sections are about the same. There has been a petition signed asking council to pass a by-law to have same alteration made. This No. 3 division school is more than three miles from those families referred to.

1. Now what I want to know is, is the council obliged to pass a by-law making changes referred to?

2. Can No. 3 take our non-resident lands?

3. If the council is of opinion that the sections should be left as they are can the trustees

of No. 3 do anything but appeal to the county council? Its territory No. 3 wants. I am a trustee of No. 1, and would like to keep the territory we have. We can hardly keep the school alive as we are; the resident and non-resident asses ment only amounts to about $24,000, and if we lose this non-resident property we might as well close up our school There is an Indian Reserve of about 2,000 acres in our section which we derive nothing from. I merely explain this so that you will have an idea of how things are. Please answer particular points.

1. Under sub-sec. 2 of section 38 of the Public School Act, the council has power to pass a by-law to alter the boundaries of a school section and if the council pass such a by-law a majority of the school trustees or any five ratepayers concerned may appeal to the county council in the manner provided by sec. 39 of the act.

2. The council may place your non-residents lands in number 3 and if you are dissatisfied your only remedy is to appeal to the county council.

3. The only remedy in case of refusal of the council is to appeal to the county council.

It is not clear whether the council can, in altering the boundaries of existing school sections, so alter them that some of the lands shall be distant more than three miles in a direct line from the school-house. We are inclined to think that they cannot do so, and in any case it ought not to do so, because it is either against the letter or spirit of the law as laid down in section 11 of the act.

Alteration of School Section by Arbitration.

159.—ONE INTERESTED.—On February 21st a petition was presented township council praying that a certain S. S. be dissolved and added to two other S. S. Said petition was abandoned and another presented to same council on March 28th, 1898, signed by seventeen ratepayers of said S. S., praying that certain lands be transferred from an adjoining S. S and added to the S. S. of the petitioners. Due notice was given each secretary of school board and notices mailed each owner of property who did not reside in the S. S. concerned.

Meetings were called under Sec. 40, Chap. 292, R. S O, 1897, and the matter left with the trustees of the two S. S. interested. Said boards of trustees held a meeting and as they could not agree on the amount of land to be transferred, they passed a resolution asking the township council to appoint arbitrators to settle the matter. As the county school inspector is one by virtue of his office as such, there were two others appointed by by-law to act in conjunction with the county school inspector (copy of by-law enclosed). The said arbitrators called a meeting of those interested. Said meeting was held in township and all parties were duly notified. At the meeting different parties were examined or asked to make a statement regarding the lands asked to be transferred, also as to the lay of the different S. S. and the convenience of the scholars to attend the different schools as at present constituted and by the proposed change.

Neither of the arbitrators subscribed to a Declaration of Office and no oaths were administered to the parties examined. The board of arbitrators then adjourned until another day to meet and write their award. In due time said award was forwarded to the clerk of the municipality.

Said award ransferred all the property asked for except two lots and placed all the costs on the municipality instead of on the parties interested as per Chap. 292, Sec. 84, R. S. O. 1897 (some interpret the clause to mean in this case the two school sections interested.) When the award was read to council the following resolution was passed: Moved by ——, seconded by ——, that the award of the arbitrators re S. S. Nos. —— be referred back to the arbitrators, that the costs of said arbitrators having been assessed on the township, that in accordance with Sec. 84, Chap 292, R. S. O. 1897, the costs of the said arbitration should be assessed on the S. S. interest d. (Carried.) A copy of the above resolution was forwarded the county school inspector, also a copy of award, but he refuses to amend or alter the costs part of award in any way.

1. Were the arbitrators bound to assess the costs of arbitration on the municipality by the way the by-law was drawn up?

2. Does said by-law conflict with Sec. 84, Chap. 292, R. S. O. 1897?

3. Should oath have been administered to those examined at meeting of arbitrators for receiving statements?

4. Is it not the meaning in Sec. 84, Chap. 292, R. S. O. 1897, that in this case the two sections would be the parties interested, and therefore liable for all the costs of arbitration?

5. Under the circumstances would the council be bound to accept award as it now stands and settle the costs out of the funds of the municipality?

6. Would the council have authority to accept the award and divide the costs on the two school sections?

7. Have the council the power to refer the award back to the arbitrators to have the same amended?

8. Can the award be considered legal as the arbitrators failed to take and subscribe to a Declaration of Office before taking up the case?

9. Taking the whole case into consideration what would you advise as the legal course for the council to take in order to settle the matter?

We cannot answer the many questions asked by you, seriatim, because we do not think the course adopted by the council was authorized by the Public Schools Act. Section 38 (2) of the Public Schools Act empowers the council to pass a by-law to alter the boundaries of a school section, and sub-section 3 of the same section provides: "Any such by-law shall not be passed later than the first day of June in any year, and shall not take effect before the 25th day of December next thereafter, and shall remain in force, unless set aside as hereinafter provided, for a period of five years. The township clerk shall transmit forthwith a copy of such by-law and minutes relating thereto, to the trustees of every school section affected thereby, and to the public school inspector." The council, instead of determining the alterations which should be made, passed a by-law delegating the powers conferred upon it by the foregoing section, to certain arbitrators. We do not think the council had any such power, and even if it could, what right had the school inspector to take part in the alteration of school sections? It appears to have been assumed that he had such power, and the council did not appoint him but, taking it for granted that the inspector was an arbitrator for such purpose, it appointed two arbitrators and then the inspector stepped in and took part in the matter and signed an award along with the other two. The School Act gives no such power to the school inspector. You will observe that sub-section (3) of section 38 prohibits even the council, itself, from passing a by-law of this kind later than the first day of June in any year. And the by-law to be passed must be a by-law which makes the alteration then and there. The by-law, in this case, was passed on the 9th day of May and was, therefore, in time if the council had itself made the alterations, but it did not do so. The alteration was not made until the 15th day of November, 1898, which is the date of the award. It follows, therefore, that even if the council could unload its own duties upon arbitrators, which we reassert it could not do, the matter was not completed until long after the time limited by the statute. If the council had passed a by-law making the alterations, an appeal could have been made to the county council under section 39, and the county inspector would, in that case, be one of the arbitrators under sub-section (3) of that section. The parties concerned have entirely misunderstood the object of section 40, under the supposed authority of which the proceedings were taken in this matter. It was passed to provide for a division of the property and the adjustment of the rights of the parties interested or concerned, consequent upon a change made by the council by a by law passed not later than the first day of June. If the council had passed a by law making an alteration in the boundaries, it could, on or after the 25th day of December following, which is the date on which such a by-law would take effect, appoint two arbitrators under the conditions and for the purposes mentioned in section 40. In conclusion we are of the opinion that the by-law and award are nullities and that the school sections remain as they were.

We do not see how the costs can be paid out of the general funds of the municipality, nor do we think the school sections liable for them, because they were incurred without legal authority and resulted in no good whatever to the sections. We do not think the inspector can recover the expenses made payable to him by the award, because the award, being a nullity, will not support the claim.

County Bridge Accident – Notice of Drainage Work.

160.—G. A. A.—There was an accident on a county bridge which is on the townline between two townships within the county. Solicitor notified reeves of the townships.

1. Was there any legal reason for this?

2. Should he notify warden of county?

3. Would the fact that he notified reeves hold the county?

4. Party in initiating townships notified parties in second township to clean out portions as per award, but they refused on technical grounds. First party then notified engineer to sell said portions. He came on and planted new stakes, etc., but withdrew the sale because of technical objections. But after a time parties in second township thought that it would hardly pay to squabble over the matter, and therefore went on and cleaned out their portions. The new stakes were there, of course, and no doubt were a convenience, but after all they did not ask for a new survey. Council in

nitiating municipality now asks second township to pay proportionate cost of planting new stakes. Can they collect, particularly so as said stakes were planted for the purpose of selling portions, which was not done, as explained above?

5. Our township serves another with papers, under Municipal Drainage Act. Second township passes by-law, pays for publishing by-laws, clerk's fee, etc., out of their own funds, and then pays to initiating township full amount of assessment, failing to deduct cost of said by-law, etc. Now second township demands pay for said by-law, etc., or at least a fair share of what the engineer set apart for clerk's fee and by-law. but he failed to say how much each township should be allowed for such purpose. How should we arrive at a settlement? We are of the opinion that initiating municipality should pay over to the second full costs of expenses, and that initiating municipality should not have adopted engineer's report until all these things were properly specified, and so save any possible di pute. What say you?

1, 2 and 3. Section 606 (1) of the Municipal Act, makes a municipal corporation liable for accidents caused by its default to keep a road or bridge in repair, and subsection (3) of the same section provides "no action shall by brought to enforce a claim for damages under this section unless notice in writing of the accident and the cause thereof has been served upon or mailed through the post office to the mayor, reeve or other head of the corporation, or the clerk of the municipality within 30 days after the happening of the accident, where the action is against a township, and within 7 days where the action is against a city, town or village." This provision does not apply to a county corporation, and therefore the notice given was unnecessary.

4 Before answering this question we must know when the drain was constructed, and under what act, and we should be furnished with a plan showing the position occupied by the drain with respect to the two municipalities, and a copy of the award or other proceedings in connection with the drain.

5. If it can be shown that the engineer of the initiating municipality provided in his estimates for the expense of publishing by-law in the other municipality, and clerks' fees, etc., and that the latter municipality paid over the amount demanded, which included such expenses, the initiating municipality should pay back the amount, or pay the clerk and other parties direct as it does the contractor who does the work, such expenses being part of the cost of the work. The engineer ought to have shown on his report how the cost of the whole work was made up, so that there would be no difficulty in adjusting the rights of all parties, and the initiating municipality should have required him to amend his report, if it was defective in this particular, but yet if this was not done it is, we suppose, too late to have the proceedings amended now, because his report was, no doubt, accepted and acted upon.

Truancy Act Fines.

161.—W.A. P.—We have fined two parents for not sending their children to school, under the Truancy Act. What disposition should be made of the fines?

The Truancy Act does not make any provision for the application of penalties paid by persons violating its provisions, as does the School Act and certain other acts. See section 116 of the Public Schools Act. Section 15 of the Truancy Act provides for the mode of procedure under the act, and concludes with these words: "and save where otherwise provided by this act, the procedure shall be governed by the Ontario Summary Conviction Act. We, therefore, think that justices of the peace and police magistrates must make returns of and account for such penalties in the manner provided by chapters 93 and 94 of the Revised Statutes, 1897.

Council may Make Solid Bridge—Township Clerk not Entitled to Remuneration.

162.—A. R.—Re, in the MUNICIPAL WORLD of February, 1899, question 65, A. R.:

1. The bridge was built about 40 years ago by the authority of the township council of Storrington (not special) It connects a concession road leaving the original allowance, about 75 rods to get a narrow place in lake to cross. Therefore the bridge is not on an original highway. It is the leading road through that part of the township. The lake and drowned lands consequent on building the Rideau Canal cuts up the land very much as you will see on the enclosed tracing of map of of that part of the township. The road crossing this bridge leads to the government bridge across the Rideau Canal leading into another township (Pittsburg). The part of the lake cut off by this bridge is very small, in fact it is drowned land, but navigable by drawing stuff one quarter of a mile. Boats need not go through this bridge.

2. Is a township clerk entitled to remuneration from county council receiving ballots and election papers from county clerk and making return of county councillor election?

Looking at the question asked by you in the February number of the MUNICIPAL WORLD and considering it in the light thrown upon it by the plan which you sent us and the facts set forth above, we are of the opinion that the council may make a solid bridge if in the public interest it thinks best to do so.

2. Not when election is held in local municipality at same time.

Vote at School Meeting—Electors' Oath.

163.—T. R.—1. If a man owns a property in a public school section, and has it leased to a tenant, and the tenant pays the taxes, has the tenant and owner both a right to vote at a school election or trustee?

2. What is the oath to be taken by electors voting for public school trustee?

1. If both the owner and tenant are assessed for the property they are both liable for the taxes and are, therefore, ratepayers, though as between themselves the tenant is to pay the taxes, and consequently both are entitled to vote. See section 12 of the Public Schools Act.

2. There is no provision for taking an oath in such a case. Under sub-section 4, section 14, of the Public Schools Act, the chairman of the school meeting shall, in case objection is made to the right of any person to vote, require him to making the declaration, provided by said section 4. In the case of an urban municipality when the election is by ballot, a form of oath is given under sub-section 5 of section 58 of the act.

Trustees' Rates New Section.

164.—D. C. F.—In a case where a township has changed from school board to sections and where the council did not collect a school rate for the reason that the law does not provide for the change, the trustees of school board did not ask the council for any money for the schools as they thought they had no authority to do so; the council did not provide money for the schools for the same reason. The township was left in that shape when the new council was elected. All the sections have borrowed their own money with the exception of one section. Now they want $150 from the council. We have about $300 which was collected for municipal purposes.

Can the section compel us to pay out that money or can they compel us to borrow money? If they can, will the expense come on the section? How are we to act in this respect with this section? The treasurer of this section was treasurer for the school board. He asked for $200 in August last, for his section, which was not in existence at that time, and did not get it.

Sub-section 9 of section 62 of the Public Schools Act, makes it the duty of the trustees of public schools to submit to the council on or before the first day of August, or at such time as may be required by the municipal council, an estimate of the expenses of the school under their charge for the 12 months next following the date of application, and section 67 provides "the council of every municipality shall levy and collect upon the taxable property of the section in the case of rural schools in the manner provided in this act, and in the Municipal and Assessment Acts, such sums as may be required by the trustees for school purposes." Where money is raised upon the requisition of trustees of rural schools the money so raised belongs to the section and must be all paid to the treasurer of the section, except to the extent that money has been collected from property in the section, the council cannot be compelled to pay over money to the trustees. We cannot see how the trustees could ask the council to pay money to the trustees if the section was not in existence. The matter appears simple. The trustees must make their requisition in proper time, and it then becomes the duty of the council to levy the amount and pay it over to the secretary-treasurer of the school section on or before December 15th. This date is fixed because it is supposed that the collector will have the taxes in by that date.

Bridge Over Navigable Lake.

165.—D. C. F.—A lumber company is about putting a little steamboat on a lake which runs into another lake. The narrows which connects both lakes is crossed by a bridge built by the government. The water, when low, can be driven through with horse teams. The road is one of our principal roads. The bridge is high enough for all other purposes. The company

wants us, the council, to raise the bridge. The bridge is a good, strong bridge and would not be as good if raised higher. Can the company compel the council to do the work alone? What steps are we to take in this matter?

Unless the company undertakes to pay the extra expense which will be incurred in doing what it asks, tell the company that you will do nothing.

A Council's Borrowing Powers.

166.—D. M. C.—Is there any limit in municipal law respecting the borrowing powers of county councils? An adjacent county has recently borrowed under the provisions of a county council by-law, $45,000 from a certain bank. Have they power to do so without a vote of the ratepayers?

Section 388 of the Municipal Act provides: "A county council elected under this act may, during any one term for which it is elected, raise by a by-law, or by-laws, for contracting debts or loans, not more than $20,000, over and above the sums required for its ordinary expenditure without submitting such by-law or by-laws for the assent of the electors." And Sec. 435 empowers the council of any municipality to authorize the head with the treasurer to borrow such sums as the council deem necessary to meet the current expenditure of the corporation until such time as the taxes can be collected, but the powers under this section are not to be exercised except for the purpose of meeting the ordinary expenditures of the municipality. The amount borrowed in this case seems large but before we can say whether the council has exceeded its powers or not, we require to know what the money was borrowed for, because it is possible that the council has not borrowed more than $20,000 in excess of the sums required for its ordinary expenditure.

Auditors' Special Report.

167.—MUSKOKA RATEPAYER.—1. Can council separate auditors' report, that is, accept financial part and reject report of illegal expenditure; Auditors made out regular financial report and certified that accounts were correct according to orders and vouchers produced, but made a special report as to illegal expenditure; signed them both and attached them together. Council accepted the financial, and are getting it printed, but rejected the report on illegal expenditure.

2. Council appointed auditor and reeve one. By-law appointing them was not passed until after the audit was completed. Is audit legal?

3 Can the council of a village in Muskoka charge and pay themselves for their duties as court of revision? If illegal, can a ratepayer sue for the amount?

1. Councils are required to publish a detailed statement of the receipts and expenditures under section 304 (6), but this provision does not apply to township municipalities in Muskoka. See sub-section 9 of same section. In any case we don't think more than a detailed statement of receipts and expenditures is required, together, of course, with a statement of assets and liabilities and uncollected taxes. It is not necessary to publish a special report made by the auditors.

2. The reeve had no power to appoint an auditor as the law now stands and therefore we do not think the audit was legal.

3. No. Councils of counties and townships may pass by-laws for paying the members under section 538 of the Municipal Act, but this power does not appear to have been conferred upon municipalities in Muskoka. See section 32 (1), Chap 225, R. S. O. 1897. A ratepayer cannot sue for the amount. The treasurer ought not to have paid the money. See section 290 of the Municipal Act, which says, "but save as provided by section 538 of this act no member of the council shall receive any money from such treasurer for any work performed or to be performed," but section 538 does not apply to Muskoka.

Treasurer Irwin, of Bentinck Township, writing to the Toronto *Globe*, refers to the new treasurers cash books, as follows:—

"In your issue of the 24th January, you have an article on what you call the beneficial effects of the establishment of the Provincial Municipal Auditors' Department, and state that one effect of the introduction of the new account book has been the appointment of new Treasurers. If Municipal Councils rely on the new account book as something that is going to be an infallible cure for defaulting Treasurers some of them may get an unpleasant awakening a few years hence. If, as you say, the treasurers who resigned were unable to keep the books, does it not stand to reason that as the books get more intricate and complex, the average auditor will be less able to detect fraudulent entries, and thus leave the public more at the mercy of a skillful manipulator of figures than formerly? The new account-book is certainly very far from perfection. Although when open it measures forty-eight inches in width, yet the space alloted to name and particulars of payment is only three inches wide, and that in the most awkward part of the book, at the left hand side of the centre, so that the treasurers, instead of having a flat surface on which to write name and particulas, have a sort of half circle or bend to write on. A more serious objection is that the book is too large to be got into any ordinary sized safe, thus increasing to a very great extent the risk of its loss by fire."

A very important decision to municipal councils and clerks was given in the Court of Appeal within the past week, in reference to the legality of temporary absent voters. The action was brought to disqualify certain voters in Northumberland County for having been temporarily absent in Manitoba. The court held that temporary absence did not disqualify a voter: that continuous residence did not mean residence from day to day, and that until a new domicile was taken up, the old one existed. The court ordered the voters in question to be placed on the lists.

A Question of Individuals.

"Of course," said one member of Congress, "you are opposed to any man holding two offices at the same time?"

"Well,' answered the other, "all people ain't alike. There are some men I know of who are equal to holding three or four offices and doing the work well, and then again there are some who have a mighty hard time getting away with one. You can't lay down any general rule."—Washington Star.

Municipal Affairs.

For two years the Municipal Admistration Committee of the New York Reform Club, has published a most valuable quarterly magazine, devoted exclusively to municipal problems from the standpoint of the taxpayer and the citizen. Every number has been welcomed by all who take a practical interest in municipal questions. It has been found that when an enterprising city or town in any country considers a proposed extension of municipal functions, the question is asked, "What has been the experience of others under similar circumstances?" The demand for information of this character has been so great that the committee decided to publish material at their command. This was supplemented by the co-operation of the State Department of the United States' representatives abroad, with the result that in the December number, 1898, which has recently be received, they present to their readers, information relating to 140 American and 350 foreign cities. Among the subjects referred to are:

1. The evolution of the city.

2. Present activities, which include police administration and regulation, fire department, charity, education, recreation, street facilities, industurial functions, such as gas works, electric lighting, street railway, and franchises, etc.

3. The present tendency towards municipal socialism, in which the causes of increased municipal activity are considered, and an effort made to forecast future developments.

Every one interested in the welfare of their city or town will in this number of "Municipal Affairs" find the experience of other municipalities, and be the better able to draw conclusions as to what they should do.

"Municipal Affairs" is published at $1 per year, single copy, 25 cents. Adress, 52 William Street, New York City.

To Raise Dog Tax in Cities.

The season of the year for taxing dogs will soon arrive, and here is a good plan that will be found to work advantageously wherever tried. It has been adopted in many cities and towns across the line, and its advocates speak encouragingly of its success. A list of the dogs taxed is posted up in a prominent place in the town and a reward of ten cents each is given to the boys who can hunt up the animals that have escaped. The plan has two advantages. It adds considerably to the town funds, and takes away the temptation to deceive the chief.—*St. Catharines Journal.*

The many deadlocks and hot contests reported, show that the position of warden is a coveted one. The Essex County Councillors are to be congratulated on the graceful manner in which they elected their warden this year.

In 1898 a deadlock occurred. Messrs Buchanan and Durocher, each had seven votes, and Mr. Buchanan, representing the largest assessed district in the county, had the casting vote. He generously gave his vote to his opponent and elected him, and as result Mr. Buchanan was the unanimous choice for the position this year.

Cobourg School Trustee Case.

Cobourg, Feb. 11.—Judge Benson has ordered that the election of Major John McCaughey as public school trustee for the east ward of the town of Cobourg be set aside, and that he be removed from the said office and a new election held. The case has excited a great deal of interest in this locality, and the issues raised and points determined are of general interest. Six years ago the Cobourg Public School Board passed a resolution providing that the election of school trustees should be held at the same time and place by the same returning officers and in the same manner as elections of municipal councillors, and by ballot. In 1898, the Ontario Legislature, by what is known as the "Caven bill," enacted that in towns of less than 5,000 by the last Canadian census the ward system of representation should be abolished, and municipal councillors elected, like mayors, by general vote, and by section 128 of the Municipal Act nominations are required to be in writing. Mr. D. H. Minaker, town clerk, issued a proclamation convening a meeting of the electors for the nomination of councillors and mayor and for school trustees for each of the three wards, the time fixed being 10 a. m. During the hour between 10 and 11 one name each was proposed for school trustee for the west and centre wards, and the names of John McCaughey and William Barr, the latter being the retiring trustee, were presented for the east ward. Mr. Barr's nomination paper, however, though in all other respects valid, did not mention the name of the ward. When the town clerk pointed this fact out it was claimed on behalf of Mr. Barr's nominator, that he had supposed that the ward system of representation had been abolished as well for school trustee as for councillors. The clerk consulted some lawyers, and coming to the conclusion that he could assume judicial functions in the matter, decided to reject Mr. Barr's nomination, and declared Mr. McCaughey elected by acclamation. Mr. William Kinsman, the seconder of Mr. Barr, took the matter up and lodged a complaint, and appeared, with Mr. Frank M. Field as his counsel, in support of his complaint before County Judge Benson, Mr. H. F. Holland appeared as counsel for the returning officer, Mr. D. Minaker. Judge Benson took the view of the petitioner and decided that Mr. McCaughey's election was invalid, and ordered that a new election be held. A hot election is likely to ensue, Mr. Barr having six years ago defeated the major by a few votes and having held the seat ever since until turned out as described.—*Globe.*

The questions involved in the foregoing case are interesting, and it is to be regretted that the legal points involved have not been set forth more clearly in the report of the case. The report states that the legislature, by what is known as Caven's Bill, enacted that in towns of less than 5,000 by the last Canadian census, the ward system of representation should be abolished. Upon reference to the act referred to, which is the Municipal Amendment Act, 1898, we do not find that the legislature abolished the ward system. The following is the language used: "71*a*.—1. The council of every town having a population of not more than 5,000, by the last Canadian census, shall consist of a mayor, who shall be the head thereof, and of six councillors to be elected by a general vote." There is nothing in this section showing that the legislature intended to abolish the ward system. It simply amounts to this, that the ward divisions are ignored so far as the election of councillors is concerned in towns having not more than 5,000 of a population, but the wards still exist for other purposes. Suppose, for illustration, that a by-law is being submitted to the electors for their assent, in such a municipality as this, a person would be entitled to vote in each ward in which he possessed the necessary qualifications. See section 355 of the Municipal Act, which provides: "Where a municipality is divided into wards, each ratepayer shall be so entitled to vote in each ward in which he has the qualifications necessary to entitle him to vote on the by-law." Sec. 158 provides: "In towns and cities every elector may vote in each ward in which he has been rated for the necessary property qualifications, but in case of mayor of cities or mayor, reeve or deputy-reeve of towns, the elector shall be limited to one vote." The Deputy-Attorney-General some time ago expressed the opinion that an elector was entitled to vote in a town having a population of not more than 5,000, for each councillor in every ward in which he had sufficient property qualifications, but if his interpretation is correct we are satisfied that the Legislature never thought when it enacted the Caven Bill that it was thereby giving an elector more than one vote for each councillor or it would have said so expressly. If the ward system was abolished by the act of 1898, the school trustees in Cobourg would have to be elected by general vote throughout the whole municipality, but we think that the wards existed in Cobourg at the time of the election in question and that it was therefore proper to nominate and elect a trustee for each ward to be voted for in each ward as formerly and not by general vote. Section 58 (1) of the Public Schools Act entitles the board of school trustees to give notice to the clerk of the municipality in the manner therein provided, that they require the election of school trustees to be by ballot and to take place at the same time as the municipal elections, and though sub-section (3) of the same sub-section provides that where such notice is given the elections shall be conducted in the same manner as the municipal nominations and elections of aldermen or councillors are conducted, yet that does not mean that the trustees are to be elected by a general vote over the whole municipality in towns in which the councillors are elected by a general vote. Sub-section (4) provides that a separate set of ballot-papers shall be prepared by the clerk of the municipality for all the wards containing the names of the candidates nominated for school trustees, of the same form as those used for councillors or aldermen except the substitution of the word "school trustee" for councillor or alderman as the case may be. This provision indicates that it was not intended by the legislature that trustrees should be elected by general vote over the whole municipality and moreover we do not think the act of 1898, so general in its terms, can be read into the School Act. Assuming that the election in question was conducted in the manner in which we think it should have been, the only point remaining for consideration is whether the nomination paper was required at all and if so whether it was in proper form. Reading sections 128 (1) of the Municipal Act and section 58 (3) of the School Act we think the nomination had to be in writing. Mr. Barr's nomination was in writing and the only objection to it appears to have been that it did not mention the ward for which he was nominated. We do not think there is anything in the objection. Sub-section (1) of section 128 provides "at such meetings, the person or persons to fill each office shall be proposed and seconded seriatim and every such nomination shall be in writing, shall state the full name, place of residence and occupation of the candidate and shall be signed by his proposer and seconder." It will be seen that this section does not require the municipality or ward to be mentioned. The clerk was the presiding officer and he knew that Mr. McCaughey and Mr. Barr were nominated for the east ward and he ought to have prepared the ballots accordingly. We may say that we are pleased to receive notes of cases of interest to our subscribers such as this one but it would be more satisfactory to get a copy of the judgment rather than newspaper reports of it, which are not always reliable and contain more than we require for publication.

Was Sure of Office.

"I reckon," said the veteran colored voter, "dat in all de 'leckshuns ter come in dis country I'll play a mighty prominent part."

"Why so?"

"Well, you see, hit's dis way: De very las' member er my fambly done come er age, en takin de boys one by one dey's sixteen er 'em, all ready ter vote, en wid constitutions dat kin stan all de votin you kin put on 'em! Yes, suh, I'm gwin ter be somepin mo' dan a figgerhead in de nex' votin time!"—*Atlanta Constitution.*

A councillor of an English town was present at a meeting when the subject of planting trees in the borough was under discussion. He objected to the scheme in these words: "I will never vote for the granting of a sum of the ratepayers' money toward planting a revenue of trees in the streets of this town." On another occasion the same man was discussing the question of education with a friend, when he made the remark that he was going to give his daughter a good education, and should send her to a first-class cemetery to be finished off.

It is calculated that the yearly production of paper in the world is 3,000,000,000 pounds weight, and, according to an estimate which has been made, this emanates from 2,891 mills.

PAGES

MISSING