THE MUNICIPAL WORLD

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

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Calendar for November and December, 1903.

Legal, Educational, Municipal and Other Appointments.

NOVEMBER.

1. Last day for transmission by local clerks to County Treasurer of taxes on lands of non-residents.—Assessment Act, section 132.
   Last day for transmission of Tree Inspector's Report to Provincial Treasurer.—Tree Planting Act, section 5.
5. Make return of contagious diseases to Registrar-General.—R. S. O. c. 44, s. 11.
9. King's Birthday.
10. Last day for collector to demand taxes on lands omitted from the roll.—Assessment Act, section 166.
15. Report of Medical Health Officer due to Local Board of Health.—Public Health Act, schedule B, section 1.
    Day for closing Court of Revision in cities, towns and incorporated villages when assessment taken between 1st July and 30th September.—Assessment Act, section 58.
    On and after this date councils of townships, cities, towns or villages may enter on lands and erect snow fences.—Snow Fences Act, section 3.
30. Last day for municipality to pass by-laws withdrawing from Union Health District.—Public Health Act, section 50.
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DECEMBER.

1. Last day for appointment of School Auditors by Public and Separate School Trustees.—Public Schools Act, s. 22 (1); Separate Schools Act, s. 28 (5.)
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   Last day for Councils to hear and determine appeal where persons added to Collector's Roll by Clerk of Municipality.—Assessment Act, s. 166.
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9. County Model School examinations begin.
14. Last day for payment of taxes by voters in local municipalities passing by-laws for that purpose.—Municipal Act, s. 535.
    Last day for Collectors to return their rolls and pay over proceeds, unless later time appointed by Council.—Assessment Act, s. 144.
    Local Assessment to be paid Separate School Trustees.—Separate Schools Act, s. 58.
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    Councils of towns, villages and townships hold meeting.—Municipal Act, s. 304 (6.)
    County Model Schools close.

The Municipal World

PUBLISHED MONTHLY

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

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ST. THOMAS, NOVEMBER 2, 1903.

Mr. C. H. Ashdown, clerk of the Town of Sandwich, died suddenly from the affects of a stroke of appoplexy last month. He was 67 years of age.

* * *

Mr. D. B. Robertson, for the past twenty-two years clerk of the City of Belleville, died last month, and Mr. W. C. Mikel, barrister, has been appointed to succeed him.

* * *

The council of the Township of Christie, at its meeting held on the 19th September last, passed a by-law commuting statute labor in the municipality to a money payment of sixty cents per day.

* * *

Mr. John A. Jackson, clerk of the Township of Eldon, has resigned, owing to ill-health, and will remove to Toronto. Mr. Edward Mosgrove, of Kirkfield, has been appointed in his stead, and will also fill the office of treasurer.

* * *

One Robert Taylor recently obtained judgment against the Township of Collingwood for $100 damages and costs for the flooding of his lands by freshets coming from an adjoining mountain. The cause of the injury, the plaintiff alleged, was the negligence of the defendant municipality. A perpetual injunction was also granted restraining the municipality from accumulating water on the mountain road above plaintiff's property and distributing it over his lands.

University Influence in Municipal Affairs.

Municipal conditions are gradually changing. In 1881 the rural population of Ontario was 70% of the whole, and in 1901, 57%. The trend is towards the cities and towns, not only in this Province but throughout the world. The conditions incident to the concentration of population within limited areas has, of necessity, enlarged the municipal idea. Annual town meetings of 100 years ago disposed of the public business of what are now populous communities, in one day. The affairs of a modern municipality include a multitude of things about which men of the early nineteenth century troubled themselves very slightly.

The appreciation of this fact has shown itself in the growing bulk of the literature devoted to municipal government and administration. Most of the writers are men who have had a University training, while some of the most active are officially connected with University faculties.

The University of Toronto has for some years devoted considerable attention to municipal problems; it is one of the important functions of a Department of Political Science to stimulate interest therein and give as many students as possible accurate, broad, up-to-date knowledge of municipal conditions and to compel comparisons of the different forms of municipal management in actual operation to-day.

In connection with the University of Toronto studies, the publication in 1889 of "The Ontario Township" by J. M. McEvoy, now a prominent London barrister, was the first of a series of articles relating to municipal affairs, which includes "Municipal Monopolies and their Management" by Sinclair, "City Government in Canada" by Dr. Wickett. The last number of the series was issued in September, and contains a valuable historical article by Mr. Adam Short, M. A., Professor of Political Economy, Queen's University, Kingston, entitled, "Municipal Government in Ontario." This is a concise history of our municipal development, showing the influences which determined the various changes in municipal legislation, both public and private, from 1792 to the passing in 1849 of the Baldwin Act, the foundation of our present system of local self-government. In referring to this the writer says: "Looking at the Baldwin Act in its historic significance we must admit it to have been a most comprehensive and important measure, whose beneficial influence has been felt not merely in Ontario but more or less throughout the Dominion. Scarcely a session of the Legislature has passed since the year of its enactment without bringing amendments, altering and enlarging, though not always clarifying its details. Yet in all essential principles its spirit and purpose are embodied in our present municipal system."

A second article, entitled "Municipal Organization in Ontario" by K. W. McKay, the editor of this paper, deals with present conditions which are familiar to our readers, but not to students and others for whose information it was prepared. The number concludes with a list of publications relating to Canadian municipal government by Dr. Wickett, Lecturer in Political Economy, University of Toronto, who has taken a special interest in the investigation of municipal problems, and who believes that the future leaders in the special field of municipal affairs will be the students of to-day.

The electors of the City of Guelph voted, on the 29th September last, on a by-law providing for the acquisition by the municipality of the Street Railway. The by-law was carried by the substantial majority of 279.

* * *

Mr. Samuel Cunningham, clerk of the Village of Waterford and Township of Townsend, is dead. Mr. Cunningham was also treasurer of the village and of the Townsend Agricultural Society, and secretary-treasurer of the Townsend Mutual Fire Insurance Company.

* * *

The electors of the Town of Barrie last month carried a by-law by a vote of 711 to 13 providing for a loan of $20,000 to the Barrie Carriage Co., and by a vote of 588 to 112 a by-law to raise $3,900 for improvements to the Fire Hall and for the installation of an electric fire alarm system.

Collection of Taxes.

It is the duty of the collectors of taxes upon receiving their collection rolls to collect the taxes therein mentioned. (Section 133 of the Assessment Act).

PROCEEDINGS BEFORE SEIZURE CAN BE MADE—DEMAND.

Before a seizure can be made by a collector upon a man's chattels, for taxes, a demand must be made for them, or notice served in the manner provided by section 134. In cities and towns he may adopt either of two courses: (*a*) He shall call at least once on the person taxed, or at the place of his usual residence or domicile, or place of business, if within the local municipality, and for which such collector has been appointed, and shall demand payment of the taxes payable by such person; (*b*) or he shall leave or cause to be left with the person taxed, or at his residence or domicile or place of business, or upon the premises in respect of which the taxes are payable, a written or printed notice, specifying the amount of such taxes. (Sub-section 1 of section 134).

The written or printed notice above mentioned shall have written or printed thereon, for the information of the ratepayer, a schedule specifying the different rates and amounts on the dollar to be levied for each rate, making up the aggregate of the taxes referred to in such notice. (Sub-section 2 of section 134.)

In other municipalities he shall call at least once on the person taxed, or at the place of his usual residence or domicile, or place of business, if within the local municipality in and for which such collector has been appointed, and shall demand payment of the taxes payable by such person. (Sub-section 3 of section 134). In these municipalities the collector cannot make use of and leave a printed notice as in the case of cities and towns, unless there is a by-law authorizing him to do so, but the municipality may empower the collector by by-law to leave with the person taxed, or at his residence, or domicile, or place of business, a written or printed notice specifying the amount of taxes.

ENTRY UPON ROLL.

It is the duty of the collector immediately after having made a demand or given the notice above mentioned, to enter the date thereof on his roll, opposite the name of the person taxed. This is important because the statute makes such entry *prima facie* evidence of such demand or notice.

WHEN DISTRESS CAN BE MADE.

A distress cannot, except in the case provided for by Sub-section 4 of section 135, be made legally until the expiry of fourteen days after the demand or notice, or, where the council has, under section 60, passed a by-law appointing a day for payment of the taxes at any time after the expiration of fourteen days from the giving of such notice or making of such demand, or after the day appointed for the payment by such by-law, whichever last happens. If a demand is made, say on the first day of October, a distress cannot be made until the sixteenth day of October, because the day upon which the demand is made is excluded and the taxpayer has the whole of the 15th within which to pay his taxes. (Section 60 and sub-section 1 of section 135.)

Under sub-section 4 of section 135, if, after demand made or notice served and before the expiry of fourteen days, the collector has good reason to believe that any person in whose hands goods and chattels are subject to distress, is about to remove such goods and chattels out of the municipality before such time has expired, and makes an affidavit to that effect before the mayor or reeve or a justice of the peace, such mayor, reeve or justice shall issue a warrant to the collector authorizing him to levy for the taxes and costs.

A COLLECTOR MAY LEVY BY DISTRESS.

1. 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 collector's roll for the year as liable therefor (and who is hereinafter called the "person assessed.") Under this sub-section the collector may seize the goods belonging to the person actually assessed for the premises and whose name appears upon the roll for the year as liable therefor or he may seize any goods and chattels in his possession in any part of the county. In such a case the collector need not concern himself about the ownership of the goods. If they are in the possession of the person assessed he may seize and sell them. (Sub-section 1, section 135.)

2. Upon the interest of the person assessed in any goods on the premises, including his interest in any goods to the possession of which he is entitled under a contract for purchase or a contract by which he may or is to become the owner thereof upon performance of any condition. This sub-section applies to cases where the person assessed has only an interest in the goods. Farmers often buy farming implements under special contracts by which the seller retains title in himself and gives the farmer the right to retain possession of and use the goods until he pays the price according to the terms of the contract. It will be observed that in a case within sub-section 1, a seizure may be made anywhere in the county, but the right to seize under sub-section 2 is confined to the premises. If, however, such goods as these are found in the possession of the person assessed within the meaning of sub-section 1, why cannot the collector seize and sell the goods without regard as to who is the owner of them?

We think he can, because sub-section 1 authorizes the collector to seize the goods and chattels in the possession of the person assessed anywhere within the county. If the collector finds such goods off the assessed premises and not in the possession of the person assessed, he cannot touch them at all. If he finds them on the assessed premises in the possession of the person assessed he may seize and sell them without regard to who owns them. If they are on the assessed premises, but they are not in the possession of the person assessed he can only seize and sell the interest of the person assessed in them. (Sub-section 2, section 135.)

3. Upon the goods and chattels of the owner of the premises found thereon, whether such owner is assessed in respect of premises or not.

Under this section the goods of the owner, though not assessed, may be distrained on the premises, but such goods cannot be distrained off the premises.

4. Upon any goods and chattels on the premises where title to the same is claimed in any of the ways following:

(*a*) By virtue of an execution against the owner or person assessed; or

(*b*) By purchase, gift, transfer or assignment from the owner or person assessed, whether absolute or in trust, or by way of mortgage or otherwise; or

(*c*) By the wife, husband, daughter, son, daughter-in-law or son-in-law of the owner or person assessed, or by any relative of his, in case such relative lives on the premises as a member of the family; or

(*d*) Where the goods liable for the taxes have been exchanged between two persons by the one borrowing or hiring from the other for the purpose of defeating the claim of, or the right of distress for the non-payment of taxes; and subject to the provisions of the preceding clause numbered 4, where the owner or person assessed is not in possession, the goods and chattels on the premises, not belonging to the owner or person assessed, shall not be subject to seizure; and the

possession by the tenant of said goods and chattels on the premises shall be sufficient *prima facie* evidence that they belong to him. 55, V. c. 48, s. 124 (1); c. 49, 19, (1); 59, V. c. 58, s. 6, s. 7, (1); 60, V. c. 3, s. 3; c. 15, sched. C. (133).

In cases under this sub-section the distress can only be made on the premises, and, except in the cases referred to in clauses *a*, *b*, *c* and *d*, the goods and chattels on the premises not belonging to the owner or person assessed cannot be distrained where the owner or person assessed is not in possession.

The collector may make the distress in person, or he may appoint a bailiff or agent. The collector is liable for anything done by the bailiff under his authority, Corbett v. Johnston, 11, U. C. C. P. 317; but it has not yet been determined whether he would be liable for anything done by the bailiff without authority or contrary to the warrant. The collector or bailiff should not seize more than is reasonably sufficient to pay the taxes, but he should also take care to seize enough so as to avoid the necessity of making a second seizure, in case the goods should not realize enough to pay the taxes, otherwise the legality of the second seizure might be questioned.

The collector ought not to adjourn the sale in the interests of the persons liable for the taxes. This section is emphatic in its language and says: "At the time named in the notice the collector or his agent *shall sell* at public auction," etc. There may be good reason in some cases to adjourn the sale in the interests of the municipality when there are no bidders and the property cannot be sold for want of buyers.

In the case of a non-resident, the power of distress is only as to any goods or chattels which the collector may find upon the land.

PROVISIONS AS TO GOODS IN HANDS OF ASSIGNEE OR LIQUIDATOR.

Provided, nevertheless, that no goods which are in the possession of the person liable to pay such taxes for the purpose only of storing or warehousing the same, or of selling the same upon commission or as agent, shall be levied upon or sold for such taxes; and provided further that goods in the hands of an assignee for the benefit of creditors, or in the hands of a liquidator under a winding up order shall be liable only for the taxes of the assignor or of the company which is being wound up, and for the taxes upon the premises in which the said goods were at the time of the assignment or winding-up order, and thereafter while the assignee or liquidator occupies the premises or while the goods remain thereon. (58 V. c. 47, s. 7.)

This proviso excepts and exempts goods in the possession of a warehouseman and those of an assignee for creditors or a liquidator, and collectors must be governed by its provisions.

By section 10 of the Assessment Amendment Act, 1899, it is enacted that in cities and towns, and any other local municipalities having power to sell lands for the non-payment of taxes, no distress for the taxes upon each parcel of vacant property shall be made upon the goods or chattels of the owner in any part of the county other than upon such property, and this provision shall be retroactive, so as to apply to the returns for arrears of taxes for the years 1896 and 1897.

(2) The goods and chattels exempt by law from seizure under execution shall not be liable to seizure by distress unless they are the property of the person who is actually assessed for the premises, and whose name also appears upon the collector's roll for the year as liable therefor. (R. S. O., cap. 224, s. 135, s. s. 2.)

For a list of the goods exempted from execution, see cap. 77, R. S. O., 1897. It will be observed that the person who is actually assessed for the premises, and whose name also appears upon the collector's roll for the year as liable therefor is not entitled to any exemption.

(3) The person claiming such exemption shall select and point out the goods and chattels as to which he claims exemption. (R. S. O., 1897, cap. 224, s. 135, s. s. 3.

Section 11, sub-section 1, 62 Vic. c. 27, adds section 135a to the Assessment Act. The added section makes provision for distress by the collector for taxes charged against and payable in respect of *personal property*, and is as follows:

135a.—(1) Subject to the provisions of section 60 of this Act, in case a person assessed in respect of personal estate or personal property neglects to pay the taxes for fourteen days, after demand or after notice served pursuant to a by-law aforesaid, or in the case of cities or towns after demand and notice as aforesaid, the collector may by himself or his agent (subject to the exemptions provided for in sub-section 2 of this section) levy the same with costs by distress.

1. Upon the goods and chattels of the persons assessed wherever found within the county in which the local municipality lies for judicial purposes;

2. Upon the interest of the person assessed in any goods to the possession of which he is entitled under a contract for purchase, or a contract by which he may or is to become the owner thereof upon performance of any condition;

3. Upon any goods and chattels in the possession of the person assessed where title to the same is claimed in any of the ways defined by sub-clauses a, b, c and d of section 135, and in applying said sub-clauses they shall be read with the words "owner of" and the words "on the premises" omitted therefrom.

(2) Sub-sections 2 to 8 of the said section 135 shall apply to goods and chattels liable to distress under this section and to proceedings taken under this section.

Collectors should be diligent in the collection of taxes and should, if possible, make them out of the chattels. If the person who ought to pay them neglects to do so, it is a frequent objection to the sale of lands for taxes, that they might and ought to have been made out of the goods and that it is unlawful to sell the lands to satisfy them. Municipal councils ought also, as far as possible, to avoid extending time for the collection of taxes or special arrangements in regard to the collection of any person's taxes. They should insist upon the taxes being collected and the roll returned within the time fixed by statute, to enable the clerk and the county treasurer to perform their duties in regard to those taxes which cannot be collected.

Representatives of the Victoria County Council have been inspecting Houses of Refuge at Whitby, Brantford, Sarnia and Berlin. *The Post* says: "The House of Refuge at Berlin impressed the members more favorably than the others as to its location and general appearance." This was the first institution of its kind in the Province, and the experience of its progressive management has always been at the disposal of counties desiring to profit thereby.

At a recent meeting the council of Toronto Gore passed the following resolution: "That this council is of the opinion that the railway and other great corporations are not bearing their fair share of taxation in this province, and that consequently, the people whom we represent in our capacity as a council are compelled to bear an unjust share of the burden of taxation. Therefore, we desire to go on record in favor of the immediate enactment by the Provincial Legislature of the Pettypiece Bill or some such measure as will embody the principles of that Bill. We believe that such legislation will meet with the unanimous approval of this municipality."

Question Drawer

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

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

Communications requiring immediate attention will be answered free by post, on receipt of a stamp-addressed envelope. All Questions answered will be published unless $1 is enclosed with request for private reply.

By-Laws Allowing Erection of Wire Fences on Roads.

538—T. G. M.—Did township councils in years past have the power to enact a by-law allowing wire fences to be extended six feet on road allowance? What I want to know is, if any council had the right years ago, say ten or twelve, to pass such a by-law as above mentioned.

Councils of townships never had legal authority to enact a by-law of this kind.

Collection of Charges Under the Ditches and Watercourses Act.

539—J. J.—When a special tax is levied upon a ratepayer under powers conferred by the Ditches and Watercourses Act, about which said ratepayer may be inclined to dispute payment, should the collector accept that part of the taxes of said ratepayer not in dispute, if same is offered, and seize goods for the unpaid tax in dispute? or should he hold out for all taxes to be paid him and accept no part thereof, but seize for the whole tax, if whole be not paid?

Unless he has been instructed by a resolution of the council not to collect the fees charged under the provisions of the Ditches and Watercourses Act, and to accept the balance in full of this ratepayer's taxes, the collector cannot legally accept payment of part of the taxes, but must proceed to collect the whole amount, by distress of the goods and chattels of the person liable, if he refuses or neglects to pay it.

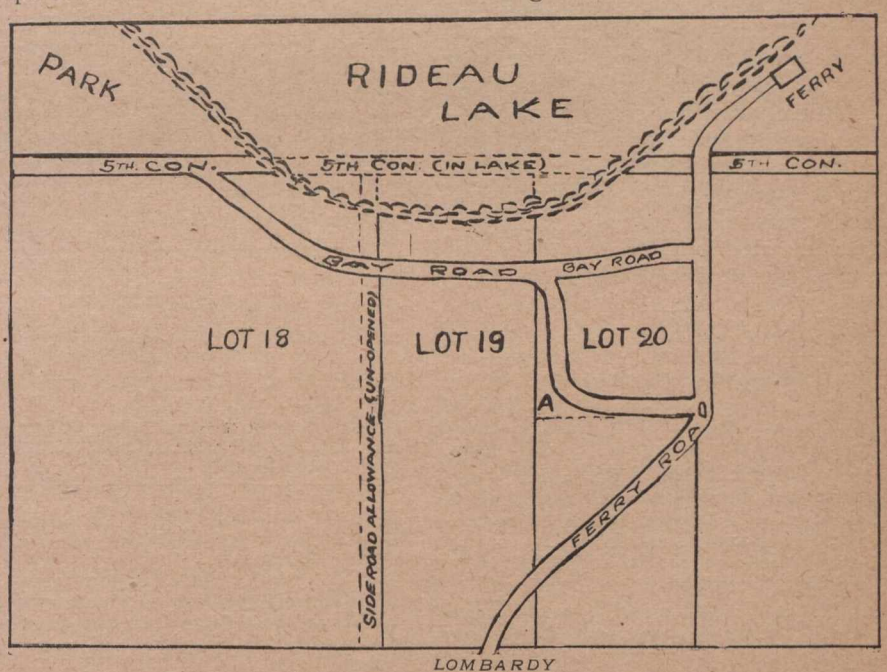
Closing Old Road and Opening New—Gates Should Not be Erected on.

540—E. J. O.—In our township we have a road running from fifth concession near where said concession joins waters of Rideau Lake, thence across lots 18, 19 and 20 to Ferry Road. Said road, which is commonly called Bay Road, was opened by by-law of council and surveyed by surveyor over fifty years ago. It was then used considerably, but later had almost fallen into disuse until some parties purchased that piece of land marked as Park. J. H., the owner of lot 19, has had gates or bars across road for last twenty years or so. Now owners of park and some others want bars and all obstructions removed, which would necessitate him fencing the sides of road, thereby shutting him off from water for his stock, which would be considerable loss to him, also M., owner of north half of 20, would be cut off from that piece of land marked A. Now a majority of our council are in favor of closing Bay Road and opening in lieu thereof the sideroad between lots 18 and 19, and in addition to sideroad the owners of lot 19 and north half of 20 are willing to give a by-road, using Bay Road as far as line between 19 and 20, thence running northward, running along lake a distance, thence north-westerly until it joins Ferry Road, they reserving right to put gates on said road, one at each side of lot 19, also one on lot 20.

1. Can council legally close Bay Road under circumstances, owners of park contending if would be a damage to their property, as they could not get to ferry without going farther around or opening gates on by-road. They would, however, be nearer Lombardy.

2. Would council be entitled to compensation from interested parties?

3. Can council legally accept by-road as described? If so, would it be same as compensation?



4. Would the fact of J. H. having gates or bars on road for so long give him any claim on road? The council, I believe, told him he might put gates on, and if public was satisfied, they were. That was about twenty years ago; they are there yet; sometimes they were left open.

5. If council close Bay Road, will parties owning park have any chance of an action for damages?

6. Can council legally close all of Bay Road except that which connects 5th concession with sideroad?

7. Part of Bay Road running from Ferry Road to near lake shore never had any gates on it. It was used formerly as winter road. Does that make any difference?

8. Does Government reserve any land along lake shore on north end of lot 19, 5th concession of S. Elmsley? Some parties claim it does, and as the Bay Road runs near water's edge, they claim the reservation would let them into Rideau Lake, but they can just as well and better go down sideroad when it is open.

Outside of all these roads parties owning park have another from town of Smith's Falls running along 5th concession.

1. The council may pass a by-law pursuant to the provisions of section 637 of the Consolidated Municipal Act, 1903, providing for the closing of the road, if it considers it in the general interest of the public to do so. The preliminary proceedings mentioned in section 632 should first, however, be strictly observed.

2. No.

3. The council cannot accept conveyance of the land necessary for the purposes of the new highway and establish it as a public highway, allowing certain interested parties to erect and maintain gates across it at the point mentioned. The land acquired could not be dedicated to the public as a highway, as it should be, if the public is prevented from using it freely, by reason of the existence thereon of these gates.

4. No. The soil on a public highway is vested in the Crown, and the Statute of Limitations does not run against the Crown.

5. No.

6. Yes, if the council thinks it is in the general public interest to do so and passes a by-law for the purpose, pursuant to section 637 of the Consolidated Municipal Act, 1903, after it has strictly complied with the preliminary steps mentioned in section 632.

7. No.

8. We cannot say as to this, unless we have the opportunity of examining the plan of the original survey of this locality. This is probably on file in the office of the Crown Lands Department in Toronto, and we would suggest corresponding with the commissioner with a view to obtaining the desired information.

Township's Liability for Damages to Owner of Engine Falling Through a Bridge.

541—J. M.—On or about the 20th July last a person having a threshing outfit and using a traction engine went through a bridge on one of the concessions with the engine. The person in charge states that he got off the engine before going on the bridge and examined it and it appeared to be all right. The bridge had been inspected by an officer of the township about three weeks previous to the accident, and it then appeared to be in good shape. The owner of the engine claims that the cause of the accident was dry rot in two of the needle beams. This dry rot was not apparent on examination of the bridge before the accident. Leaving out the technical objections of want of written notice, do you consider the township liable ?

It is a question of fact whether the bridge was defective at the time of the accident, and whether the council knew that it was defective at that time, or was negligent in not having discovered the defect. It is common knowledge that timber will, in the course of time, decay, and it may be that it can be shown that the bridge was built of a kind of timber that would be expected to be in a state of decay at the time of the accident. If the council can show that there was no reason why the bridge should be expected to be defective by reason of decay, having regard to its age and the kind of timber out of which it was made, and that it had no actual knowledge that it was defective, the municipality is not liable.

Building Bridge Across Lake—By-Law Permitting Cows, etc., to Run at Large—Liability for Damages for Cattle Trespassing.

542—W. T. M.—1. In our township the 17th concession runs across a lake which would require a bridge of 160 feet to cross it. The ratepayers in that part of the township presented a petition to the council asking them to construct said bridge, signed by 72 ratepayers. The council refused to take any action. Is there any way to force them to do so and build the bridge ?

2. Has a township council power to pass a by-law allowing milch cows and heifers to run at large ?

3. Supposing a ratepayer had no line fence between his grain on his property and the highway and some of the cows running at large on highway under aforesaid by-law would get into his grain and destroy it, could he impound them and get damages ?

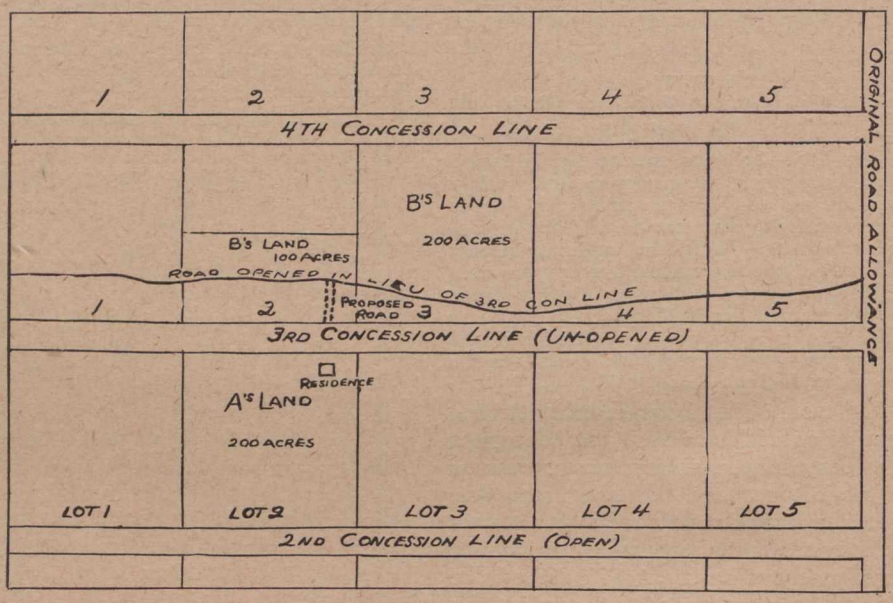
1. No.

2. Yes.

3. Yes. This township is not in one of the unorganized districts of Ontario, and therefore section 94 of chapter 109, R. S. O., 1897, does not apply.

Expropriation of Land and Building Road for Private Individual—Collection of Expenses of Disinfecting Premises.

543—A SUBSCRIBER.—A is owner of lot 2, concession 2, township of B. B is owner of east lot 2, concession 3. The allowance for road between the 2nd and 3rd concessions is not opened at said lots, but a road is opened through east lot 2, concession 3, in lieu of the concession line, as you will see by the enclosed diagram. Some years ago A lived on the east half lot 2, concession 2, and the council opened the 2nd concession into his land. Afterwards he bought the west half of said lot and moved on to it, and applied to the council to open the 3rd concession line or to open a road through part east lot 2, concession 3, to the present travelled road in lieu of the concession line. B gave A the privilege of driving through his land as long as he required a road if he would open and shut a gate. After A applied to the council to have a road opened up they employed a Provincial land surveyor to locate the 3rd concession line and also to survey a road through part east lot 2, concession 3, from the 3rd concession line to the present travelled road, a distance of 8 chains and 75 links. Since the line has been run B has put up a fence across the road where A travelled and forbid any person travelling on same or he will be prosecuted. There is a difference of opinion as to the 3rd concession line being practicable, but should it be considered so it will cost a large amount of money to do so and not answer A as well as where the present survey is made.



1. Can the council force a road through B where A has the 3rd concession opened at the east end of his land ?

2. Can the council pass a by-law and make the road and leave the matter to arbitration, or must the matter of compensation be settled before they proceed to make the road ?

3. Could B enter action against the council for trespass if the line is proven to be practicable ?

4. What would you consider the necessary steps for the council to take in the matter ?

RE BOARD OF HEALTH.

A is owner of part W. lot 11, concession 2, township of B, and had the same rented to B who kept a small general store. In February last B died from tubercular disease, and in the spring the widow moved off the premises and a complaint was made to a member of the Local Board of Health living near by that the back yard of the premises was in a very unsanitary condition and unsafe to the health of the community. The member of the Local Board notified the owner of the premises to have the same cleaned up and put in a sanitary condition. The owner came and viewed the same and said they were not in need of cleaning and refused to clean up any. The member of the Board of Health then called on the reeve or chairman of the Local Board and they sent the medical health officer to examine the premises and ascertain whether or not he considered them in a sanitary condition. The medical health officer reported them in a bad state and considered them unsafe, and ordered the secretary to notify the owner of the property to put them in a sanitary condition inside of eight days or legal steps would be taken to have the same cleaned up and also to notify the member of the Local Board living near to see that the work was properly done. The owner of the property then went and cleaned up part of the filth, but did not do it to the satisfaction of the member in charge, who after the eight days had elapsed engaged a man to complete the work. The member in charge sent in his account to the secretary, who forwarded it to the owner of the property who refused to pay same.

5. Can the Local Board of Health collect the amount of cleaning the premises from the owner of the property, or can they charge him with the medical health officer's fee for examination of same when he refused to clean up when first notified of the nuisance ?

6. If the amount can be recovered from the owner of the property, can the clerk enter it on the roll against the property and collect in taxes, or must it be collected through the courts ?

1. The council is empowered by section 637 of the Consolidated Municipal Act, 1903, to expropriate the portion of B's land required for this road and to pass a by-law opening and establishing it, after the preliminary steps mentioned in section 632 have been strictly observed, if it is considered that such a course is necessary for the convenience of the general public. The council should not do this, however, for the accommodation of one private individual only.

2. The council may pass the by-law necessary for opening and establishing this road, and expropriate and enter upon the lands required for the purpose of constructing it, and allow the question of compensation to the owner, to be settled afterwards by agreement or arbitration, as the case may be.

3. No.

4. From the facts as stated, we are of opinion that the council had better remain inactive in the matter. The general public do not seem to require this road. A appears to have ingress and egress to and from his premises, by the second concession road, and the

council is not compelled to, nor should it, give him another road, which seems to be required for his accommodation only.

5. Section 66 of the Public Health Act (chapter 248, R. S. O., 1897,) confers upon the medical health officer of a municipality the powers mentioned in sections 75, 76 and 79 of the Act. The latter sections empower him to enter and examine premises in the municipality, to notify the owner or occupant to cleanse the premises and to remove all objectionable matter found thereon, and in case the owner or occupant neglects or refuses to obey his orders in this regard, to cause the cleaning of the premises and the removal therefrom of all objectionable or unsanitary matter (section 79). Section 71 of the Act provides that "all reasonable costs and charges incurred in abating a nuisance shall be deemed to be money paid for the use and at the request of the person by whose act, default, or sufferance the nuisance was caused, and such costs and expenses shall be recovered by the municipal council or Local Board of Health or person incurring same, under ordinary process of law." It is not stated whether the medical health officer is engaged at an annual salary or is paid for the work he actually does as and when he performs it. If the former, his charges in this matter are covered by his salary, and if the latter, his fees can be included in the amount of the costs and charges, collectible from the person by whose act, default or sufferance, the nuisance was caused.

6. This amount cannot be entered on the collector's roll and collected at the same time and in the same manner as ordinary taxes, but is recoverable from the person by whose act, default or sufferance the nuisance was caused, by the municipal council or Local Board of Health, under ordinary process of law.

Irregular Assessment of Cost of Local Improvements.

544—G. W.—The council took up the eight-inch tile in the Main street drain and replaced it with 20-inch tile. Then, in council assembled, passed a resolution authorizing the clerk to charge property owners benefited by the change for the new tile for the price of eight-inch tile, giving each one credit for their share of the proceeds of the sale of the old tile, which was sold at a reduced rate. The clerk placed on the collector's roll, with other rates, the several sums chargeable to the said owners. Is this proceeding legal, or should there have been a by-law passed to legally impose the said sums?

If this was the reconstruction and enlargement of a drain, undertaken under the authority of sub-section 2 of section 664 of the Consolidated Municipal Act, 1903, a by-law should have been passed by the council specifying the properties to be benefited by the work, and the portion of the cost to be assessed against each lot or part of lot according to their respective frontages. Notice of the by-law should be given as provided in section 671 of the Act, and a court of revision held in the regular way, otherwise the tax, as a frontage tax, cannot be legally imposed or collected. This work may be done at the general expense of the municipality, but in this event, the cost should be borne and paid by the owners of ALL the taxable property within the limits of the municipality. If the amount is not to be paid within the year in which the debt is incurred, a by-law providing for the raising of the necessary funds will have to be submitted to and receive the assent of the electors. (See sub-section 1 of section 389 of the Act.)

Qualification of Tax Defaulter to Vote in Townships in Districts.

545—W. J. H.—Can a ratepayer, who is not otherwise disqualified, be deprived of his vote because he has not paid his taxes? If so, please quote chapter and section.

No, unless the council of the municipality has passed a by-law pursuant to sub-section 1 of section 535 of the Consolidated Municipal Act, 1903. It is very doubtful, however, as to whether this municipality (being located in one of the unorganized districts) can pass such a by-law. Sub-section 1 of section 32 of chapter 225 (R. S. O., 1897,) enumerates the sections of the Municipal Act, under the authority of which the councils of such municipalities may pass by-laws, and section 535 is not one of them. Until some legislation is enacted making this point clear, we do not think the council of this municipality can safely pass a by-law of the kind mentioned.

Liability of Municipalities and Owners for Damage to Traction Engines and Bridges.

546—A. S.—1. Are there any laws in the statutes governing traction engines drawing threshing machines on highways?

2. Can municipalities hold owners of same good for damages sustained to bridges?

5. If a traction engine drops through a bridge, is the municipality liable?

4. Is there any law relating to how many tons a bridge shall carry?

1. The general law regulating the use of traction engines on highways will be found in chapter 242 of the Revised Statutes of Ontario, 1897. Section 43 of chapter 7 of the Ontario Statutes, 1903, adds to section 10 of the general act the following sub-section: "(3) The two preceding sub-sections shall not apply to engines used for THRESHING PURPOSES or for machinery in the construction of roadways." This means that township municipalities must build and maintain their culverts and bridges of sufficient strength to permit of the safe passage thereover of engines used for threshing purposes.

2. No, but, on the contrary, the owner of the threshing engine can recover from the municipality such damages as he may sustain by breaking through a defective culvert or bridge under its jurisdiction. (See the above legislation and also the case of Pattison v. Township of Wainfleet cited in our answer to question No. 481, 1902, November issue.)

3. Yes, if the engine is being used for threshing purposes, and there is no negligence on the part of the owner or his employer contributing to the happening of the accident.

4. No. Every bridge must be of sufficient strength to meet the reasonable requirements of the locality in which it is situated.

Electors Must Approve of By-Law for the Construction of Electric Lighting Plant.

547—H. W. E.—1. Is it necessary for the council of an incorporated village to take a vote of the ratepayers in order to purchase an electric light plant, there being no plant in the village?

2. What steps would the council have to take to proceed in the matter?

3. Would a by-law have to be passed by the council before purchasing a plant or submitting it to the people?

4. If our taxes raised in 1902 were only $1,300, could we pay more than 10% of the total annual municipal taxation for lighting the village?

1. Assuming that reference is made to the construction of electric light works in and by the municipality, the by-law to be passed for the purpose should first be published as provided by clause (firstly) of sub-section 5 of section 569 of the Consolidated Municipal Act, 1903, and before its final passing the assent of the electors as provided in clause (secondly) of this sub-section, obtained.

2. The steps to be taken preliminary to the final passing of a by-law of this kind are those prescribed by sub-section 5 of section 569 of the Act. The procedure to be followed in submitting a by-law to the vote of the electors will be found in section 338 and following sections of the Act.

3. The by-law must be approved by a majority of the electors before it is finally passed by the council.

4. This question is not clear to us. Please explain more fully, and we will reply.

Power to Impose Percentage for Default in Payment of Taxes.

548—Y. R. H.—Our township council passed a by-law to add one per cent. unpaid taxes on first of each month from January to

May inclusive. Is this in accordance with the law? If not, give reasons and dates within which percentage may be added.

Sub-Sec. (1) of Sec. 4 of Chap. 27, Ont. Stats., 1899, intituled The Assessment Amendment Act, 1899, empowers councils of cities, towns and villages to pass by-laws for the payment of taxes by instalments on days to be named, and by sub-section (2) they may in default of payment of the taxes or any instalment by the day named for payment impose an additional charge for non-payment by the day or days fixed, not to exceed 5%. Section (3) of the same Act provides "such discount, or additional charge may by the by-law be provided for on the basis of a sliding scale corresponding with the length of time default is made, but so as not in the aggregate percentage to exceed five per cent. as aforesaid." Under the last sub-section we are of the opinion that the by-law passed by your council is a valid by-law. We may, however, say that we do not think much of this legislation, (we are referring to sub-section (3),) because a by-law passed under its authority is pretty certain to encourage delay in the payment of taxes and collectors will not make their returns within the time limited by the Assessment Act, and the result will be that difficulties will arise in cases where it becomes necessary to return taxes against lands.

Change in Drainage Assessment Cannot be Made After Close of Court of Revision.

549—ESSEX.—An engineer laid out a drain and assessed lands for an outlet $50.00. The owners stated at Court of Revision that he could not use it as an outlet, so the Court of Revision reduced the assessment to $20.00. The owner, after the drain is constructed, takes advantage of the drain and drains more acres into it than was stated at Court of Revision. In what way could he be compelled to pay a fair portion for the use of the tap drain?

We do not think there is any remedy by which the party referred to can be compelled to pay more than the amount of his assessment as fixed by the Court of Revision.

Grant by County Council to Aid Roads in Local Municipality.

550—B. A.—A county council makes a grant to a township municipality for improving the roads, and the county district commissioner applies to the township council for information where they wish it expended. They pass a motion that a portion of the grant be expended on a certain hill and supplement the county grant, appointing a township road commissioner to expend the money. At the letting of the job the commissioners disagree, the township commissioner wishing to cut the hill, the county commissioners wishing to grade and gravel, making the hill steeper, and did so, telling the township commissioner it was a county grant and he would spend it how he pleased.

1. The hill being on a road not assumed by the county, but under the jurisdiction of the township council, had the county commissioner the right to expend the money as he did, contrary to the wishes of the township representative?

2. Can a county council make grants to improve township highways and expend the money without consulting with the township council? If so, who would be responsible for any damage that may occur?

3. Should the grant be made to the minor municipality for the council to expend, or how should it be expended, so as to prevent disagreements?

1. Assuming that the county council had authority to make this grant, its commissioner would have power to direct and regulate the expenditure of the money under the authority of the county council, but unless the local road in respect of which the county grant was made was a new road, or one running into a county road, the grant was illegal. (See section 615 and sub-sections 5 and 6 of sections 657 of the Consolidated Municipal Act, 1903.)

2. Yes, provided they are such roads as are mentioned in the above sections of the Act. The local municipality would still remain responsible for damages occasioned by reason of the non-repair of the highway.

3. This is a matter for agreement between the local and county councils. Since the grant is being made by the county council, it should appoint a commissioner to look after the expenditure of the money, who would be responsible to them for the proper carrying out of the work. Assuming, of course, that the roads are such that the county can legally make a grant in respect of them, as mentioned in our reply to question number one, a definite understanding should be entered into between the councils concerned as to how and where the work is to be done, and the commissioner appointed by the county council to oversee the work should be instructed accordingly.

Payment of Fees of Medical Health Officer.

551—J. P. M.—When a municipality engages a medical health officer to attend all contagious diseases, including small-pox, at a fixed fee, for placarding and fumigating house where any contagious disease breaks out, and when he makes any more visits than those two mentioned who has a right to pay him, the municipality or the party whom he is attending? I mean if the party is quite able to pay, has the doctor to collect himself from those parties, or has the municipality to pay him and then collect from parties? I always maintained that the medical health officer had to collect himself, and then if he could not collect, the municipality would have to pay him.

We agree with the clerk's idea of this matter. The council cannot be held liable to pay the medical health officer any further sum than the remuneration agreed upon, and if the parties afflicted with the contagious disease desire him to perform services for them in addition to those for which the council has agreed to pay, they must bear the expense themselves.

Qualification of Municipal Voters and Voters on Money By-Laws.

552—X. Y. Z.—A. Kindly inform me if section 86 of the Consolidated Municipal Act, sub-section 1, means that, firstly, freeholders; secondly, tenants; thirdly, income voters, and fourthly, farmers' sons, have the right to vote at municipal elections whether their names appear on the voters' list or not; that is to say, on the last revised voters' list as certified to by the County Judge?

B. If so, what is the procedure to be taken in such cases?

C. If they have the right to vote at municipal elections, does it include voting on money by-laws?

D. If so, what procedure must be followed to enable them to record their votes?

A. None of the persons named in section 86 of the Consolidated Municipal Act, 1903, have any right to vote at municipal elections unless their names are duly entered in the proper list of voters. Section 89 of the Act provides that "except in the case of a new municipality for which there is no assessment roll, no person shall be entitled to vote at any election unless he is one of the persons named or intended to be named in the proper list of voters."

B. Our answer to question A renders it unnecessary to reply to this.

C The municipal voters' list cannot legally be made use of to ascertain the names of persons entitled to vote on money by-laws The list to be used on a vote of this kind is one to be specially prepared by the clerk pursuant to the provisions of section 348 of the Act from the *then last revised assessment roll* of the municipality.

D. Our answer to question C renders it unnecessary to reply to this.

Refund of Overpaid Instalments of Tile Drain Rates

553—TILE DRAIN.—A number of our residents took advantage of the Tile Drain Act about the year 1886, and have been paying the same in since. Now the treasurer of Ontario notifies the treasurer of the township that owing to the lowering of the rate of interest the said debentures are cancelled, and as provision had to be made to meet said debentures the clerk had it entered on the roll and collected. Now the question is, Can the council pass a resolution giving the parties who paid said debentures a rebate of the amount of money in the hands of the township treasurer after settling for said debentures in full, as there is about $100 surplus left after settling for the year's assessment on said drains now, as said money was paid by the owners of the farms who paid for said debentures, are they not entitled to get it back?

The ratepayers are entitled to recover from the municipality any sums they have paid in excess of the amount

required to retire the tile drain debentures, as any sums they have so paid were handed over to the municipality under a mistake as to the facts. The council has power, by resolution, to refund these sums to the several ratepayers who paid them, and should do so.

Payment of Debentures for Building New School House.

554—J. B.—When the debentures were issued to build a public school in our village a certain property was owned by a separate school supporter (we have a separate school in the village). Since then it has been purchased by a public school supporter who now owns it. Is that property liable to pay said debenture tax? If so, please state where we can find the authority to collect.

The exemption from the payment of a proportionate part of the rate levied to meet the payment of the debentures issued to raise money to build the new school in this municipality applies only so long as the owner of the property is a supporter of the separate school. The amount required to meet the annual payment on the debentures should be levied against ALL the taxable property in the municipality belonging to ratepayers who are supporters of public schools therein.

Appointment and Tenure of Office of Municipal Officials.

555—X.—Section 321 of the Consolidated Municipal Act, 1903, says: "All officers appointed by the council shall hold office until removed by the council." Does "council" mean the body elected for one year? or does it mean the permanent institution? And do all officers require to be appointed each year, where it is a new appointment or a reappointment.

The word "council" in the section quoted means the continuing governing body of a municipal corporation. Some officers must be appointed each year, for example, assessors, collectors and auditors. Others may be appointed and hold office until removed by the council. They need not be appointed each year, for example, treasurers and clerks.

Mode of Issuing School Debentures.

556—J. H.—Our council are about to issue debentures to the amount of $5,000 for the purpose of building a new school house, the debentures to run for 30 years with equal annual payments of principal and interest of $289.15. Now in drawing the by-law we find that three of the said debentures amount to something less than $100 each, which is not in accordance with the statute in that behalf, but said difficulty can be avoided by adding the interest and principal together and making the debenture to include both interest and principal. See Consolidated Municipal Act, 1903, chapter 19, section 436. We wish to know how this by-law is to be worded so as to have coupons attached for the payment of interest half-yearly?

We are of opinion that section 436 of the Consolidated Municipal Act, 1903, has no application to this case. The by-law under the authority of which these debentures are issued was not passed pursuant to the provisions of sections 384 and 386 of the Act, but pursuant to the provisions of either section 74 or section 76 (as amended by section 5 of chapter 32 of the Ontario Statutes, 1903,) of the Public Schools Act, 1901, according as the municipality is rural or urban. Therefore sub-section 2 of section 76 of the latter Act regulates the time for which the debentures can legally run and the amounts for which they can be respectively given. This sub-section provides that these debentures must be given for a term not exceeding thirty years and *for such amount as the council sees fit.* If three of the debentures amount to less than $100 and the council sees fit to issue them in this way, they are authorized to so issue them by sub-section 2 of section 76. If the council is desirous of paying the interest half-yearly instead of yearly, it should express it in so many words in the by-law. We cannot give the proper words to be used to accomplish this, unless we have before us a copy of the by-law.

Time for Coming into Force of By-Law Increasing Ratio of Statute Labor.

557—E. W.—Our council passed a by-law increasing statute labor at the first Court of Revision. Some parties question the by-law because it was not passed before our assessment was made, as they then could have appealed to the Judge. Who is right?

We assume that it is meant that the council passed a by-law increasing the ratio of statute labor at a meeting held on the same day as the Court of Revision pursuant to sub-section 1 of section 102 of the Assessment Act. If this is the case, we are of opinion that this by-law was passed too late to have any force or affect so far as the assessment of the present year is concerned. In order to effect this object, the by-law should be passed previous to the entering on his duties by the assessor. Sub-section 4 of section 13 of the Act requires the assessor to enter in his roll in column No. 18 the number of days' statute labor chargeable against or in respect of each lot or part of lot therein. These entries had presumably been made by the assessor of this municipality prior to his return of the roll on or before the 30th day of April last, and they could not subsequently be altered so as to conform to the provisions of a by-law increasing the ratio of statute labor passed at a meeting of the council held on the same day as the court for the revision of the roll.

Status of Road Granted Through Crown Lands.

558—J. B.—1. On or about ten years ago the municipality got bonds of road from a farmer, had surveyed and passed a by-law, but never got by-law registered. Can municipality hold road? It has been fenced and travelled for ten years or more. Since getting bond, farmer got deed of farm from the Crown.

2. There was a special meeting of council called on May 18th, 1903, for the purpose of forming school section. The Act is to come into force in December. Can the trustees of said section demand and compel the council to grant general and trustee levy for the present year?

1. In the case of Rae vs. Trim, 27 Grant, 374, Blake, V. C., says: "The land could not be actually dedicated by the defendants while it was in the Crown; but although this is so, yet still parties may so far bind themselves by their acts as that when a patent issues to them the land granted would be bound in their hands by the right or easement which had obtained their sanction." Without the bond, or a copy of it, we cannot express any opinion as to its effect. If it clearly provides that a certain strip of land shall be used as a public road, and if upon the strength of it the road was opened up and used as a public highway we do not think that the owner of the land who gave the bond can now repudiate it, he having himself obtained a patent for the land from the Crown. If the Crown, however, issued a patent to a stranger, such stranger could obtain a good title free from the easement.

2. We presume that a by-law, passed pursuant to section 41 of the Public Schools Act, 1901, providing for the formation of a new school section out of existing sections in the municipality is referred to, and that this by-law is not to come into force until the 25th December next, as provided in sub-section 3. If this is so, the council has no authority to raise any moneys for the new school section thus formed until next year (1904).

Liability for Repair of Covered Drain.

559—G. C. B.—Where sewer pipe has been placed in ditches and covered, and have since filled with earth, who should bear the expense of repair, the municipality or the individual benefited by the covered ditch?

No information is given as to the proceedings taken preliminary to the construction of these drains. If they are ordinary township drains, constructed by and at the expense of the municipality, the council should keep them in repair. If they were constructed under the provisions of the Ditches and Watercourses Act (R. S. O., 1897, Chap. 285,) they should be kept in repair by the several parties interested as directed in the award, and if the work was done under the provisions of the Municipal Drainage Act (R. S. O., 1896, Chap. 226,) they should be maintained and kept in repair at the expense of the parties

benefited, pro rata according to their assessments for the original construction.

Employment of Township Engineer—Payment of Fees of Fenceviewers—Location of Fences.

560—INQUIRER.—1. At the beginning of the year our council engaged an engineer for our township at a certain sum per day, including expenses. Would this include an award and profile ?

2. Is he engaged only for the road allowance ?

3. Council thought he was engaged for the ratepayers as well. Was he ?

4. What is an engineer's allowance where no special engagement is entered into ?

5. A and B are neighbors, with line fence between them. A being a new neighbor, called on two fenceviewers to run the line and divide the fence, which they did. A built a new wire fence on his portion of the line, but B did not touch his. A's horses went over B's portion of fence on to B's land and then on to the road and got lost three or four times. A called on the fenceviewers the second time, who made out an award agreeable to both parties. Fenceviewers did not ask for any compensation the first time, but are demanding $2.00 each for the last trip, but as yet have not been able to collect any pay. B paid $9.00 to A for lost time looking for his horses. Was he obliged to do so ?

6. Who should pay the fenceviewers the last time ?

7. Would the council be justified in paying the fenceviewers under the circumstances and run the risk of collecting from the parties ?

8. How should a straight rail fence or line be built, the rails on yourself and the posts on your neighbor, or vice versa ?

9. How should a wire fence be built under like conditions ?

1. We assume that reference is made to an engineer appointed pursuant to the provisions of sub-section 1 of section 4 of the Ditches and Watercourses Act (R. S. O., 1897, Chap. 285). Whether the provision in the by-law mentioned covers the engineer's fees for preparing an award and profile depends on the language used in the by-law, and not having seen it, we cannot give our opinion as to this.

2 and 3. Not having seen the by-law, we cannot say as to this, but the by-law should be in accordance with Form A appended to the Ditches and Watercourses Act, and appoint the engineer to carry out the provisions of the Act, whether they affect the municipality as to its roads or the property of private owners.

4. This allowance depends on the circumstances of each particular case, and we can give no estimate as to what would be fair and reasonable, without being fully informed as to all the facts, that is, the length of the award, the number of parties to it, the time it took to prepare it, etc.

5. No.

6. This depends upon the terms of the award made by the fenceviewers. They should therein provide by whom and in what proportion the costs should be paid. Not having seen the award, we cannot give an opinion as to this. (See sub-section 2 of section 12 of the Line Fences Act, R. S. O., 1897, Chap. 284.)

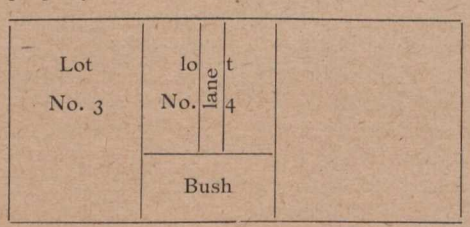
7. Not unless the fenceviewers have stated in their award by whom and in what proportion these costs are payable. If they have made a provision of this kind in their award, these costs should be collected in the manner provided by sub-section 2 of section 12 of the Act.

8 and 9. In the case of Cook v. Tate (26 O. R. 403) it was held by Mr. Justice Ferguson, agreeing with Mr. Chief Justice Armour, that a boundary fence under R. S. O., Chap. 219, (now R. S. O., 1897, Chap. 284,) should be so placed that when completed the vertical centre of the board wall will coincide with the limit between the lands of the parties, each owner being bound to support it by appliances placed on his own land.

Liability to Fence Bush Land—Tenant's Qualification as a Municipal Voter.

561—C. B.—1. Owner of lot No. 3 has cleared and works his land to the rear end of lot. Owner of lot No. 4 has bush on the rear of his lot. Is owner of lot No. 4 obliged to fence his share along the bush portion, he having a lane back to bush and his cattle allowed to run in bush, or is the bush portion reckoned as occupied land according to sections 2 and 3 of Act Respecting Line Fences ? If No. 4 is not obliged to put up his portion of fence, can he allow his cattle to run at large in the bush, or is he responsible if they trespass on No. 3 ?

2. Can a person not assessed, but a tenant on the property occupying a house, etc., and engaged with the owner of the property be a municipal voter ?



1. By sub-section 1 of section 2 of chapter 284, R. S. O., 1897, it is provided that " occupied lands " shall not include so much of a lot, parcel or farm, as is unenclosed, *although a part of such lot, parcel or farm is enclosed and in actual use and occupation.* The latter part of section 3 provides that owners of unoccupied lands (as is this " bush land ") which adjoin occupied lands, shall upon their being occupied be liable to the duty of keeping up and repairing such proportion (of the line fence), etc. The owner of lot 4, therefore, is not bound to erect and maintain a proportionate share of the fence between his bush land and lot 3 until his bush land is enclosed and becomes occupied. The owner of lot 4 is bound, however, to take care of his cattle, and if any of them escape from his bush to the adjoining lands, and occasion damage thereon, he will be liable to make good the amount, and the animals trespassing will be liable to be impounded.

2. This tenant can vote at municipal elections if his name is on the voters' list for the municipality used at the elections in parts one or two, and he is a British subject of the full age of 21 years, provided he is a resident of the municipality in which he tenders his vote, and has resided therein for one month next before the election, and that at the date of the election he is, or his wife is, a tenant in the municipality. (See section 86 of the Consolidated Municipal Act, 1903, clause SECONDLY of sub-section 1.)

Payment of Expenses of Persons Quarantined.

562—E. G.—We had four cases of diphtheria in our township last winter. The doctor was called by the families afflicted, and after pronouncing the case diphtheria, he notified the secretary of the Board of Health to quarantine these families, which he did, and also appointed a guard to attend to them, without consulting the Board of health, as it would take some time to call a meeting as the members live from eight to ten miles apart. The doctor was called by these parties several times, and considering he lived about twenty miles from the infected families, it has cost considerable. The doctor in question was appointed by the Board of Health, medical health officer, but refused to accept the appointment, saying at the same time he would nevertheless do the work if called on to do so. Each of these families have paid the doctor's first trip. After the trouble was over the Board of Health held a meeting and bills amounting to $420 were laid on the table, consisting of doctor's bills, guard's bills, store-keeper's bill and secretary's bill. The board accepted these bills, except the guard's, which they thought exhorbitant, $168.00, and the doctor's bill, not before he had made a statement in detail of his account, $118.00, which was in a lump sum. The guard was offered $113.00 by the board, which he would not accept. The council has since tried to borrow the money to pay these bills, but find they cannot do so before a money by-law can be voted on by the ratepayers, as the municipality is not assessed high enough to borrow money without consent of ratepayers. Now the guard and doctor are looking for their money and the board does not know what to do, as the parties quarantined are poor people, but the majority of board (and ratepayers) think they are able to pay their own bills.

1. Is the Board of Health liable for those bills ?

2. If the Board of Health order those bills paid, can the council reject them ?

3. As the parties are poor, should the Board of Health be willing to pay half the expenses ? Would this make them liable for the whole amount ?

4. The Board of Health not having taken their oath of office, are they acting legally in paying these bills ?

8. Would it not be as well to let the doctor and guard collect their money of the parties who were quarantined ? The Board of

Health intend letting the case go before the courts if they are called on again to pay the cost of the quarantining.

1. The local Board of Health is liable for and should pay such of these bills as they have accepted, and after consideration of the circumstances, agreed to pay, provided their proceedings as a board have been such as to render that body liable. As to this we cannot give an opinion without full information as to what took place at the meeting of the local board at which the bills were presented, considered and accepted, and having an opportunity of examining the minutes of this meeting. If these proceedings were not of such a nature as to render the board liable, and the parties afflicted are able to pay the bills, the persons to whom the amounts are due should look to them for payment. (See section 93 of the Public Health Act, R. S. O., 1897, Chap. 248.)

2. No. See section 57 of the Act.

3. If the local board has not by its acts rendered itself liable for payment of these accounts, the persons to whom the amounts should be paid must look to the persons afflicted, or persons liable for their support for payment of their bills, and if, owing to their poverty, they are unable to pay the amounts or any part of them, the municipality will have to make good the deficiency. (See section 93 of the Act.)

4. The Public Health Act does not require a member of a local Board of Health to make a declaration of office before entering upon his duties.

5. We agree with you as to the course which should be taken, unless the parties are absolutely good for nothing.

Council Cannot Grant Bonus to Resident Physician.

563—MUSKOKA.—Our council at last meeting passed a resolution to grant a bonus of $200 to a resident physician for one year and take the vote of the ratepayers on said bonus at the municipal election.

Is it necessary to first pass a by-law in both cases before the vote is taken?

Would a by-law passed on the 15th December next be legal in each case?

How long must a by-law be published before the vote is taken?

The council has no legal authority to grant a bonus of this kind either by resolution or by-law, nor to submit such a by-law to the vote of the electors. The assent of the electors would not give it any validity.

Township's Liability to Owner of Traction Engine Breaking Through Bridge.

564—T. R.—A party owning a traction engine (reputed weight seven tons) for threshing purposes, in going from one farm place to another breaks through a culvert in public highway (the same being in a good state of repair) thereby causing damage to engine, as well as breaking down culvert.

Who is responsible for repairing said culvert and can owner of engine hold the municipality for damages in the matter?

Section 43 of chapter 7 of the Ontario Statutes, 1903, provides as follows: "Section 10 of the Act to authorize and regulate the use of traction engines on highways is amended by adding thereto the following subsection: (3) The two preceding subsections shall not apply to engines used for threshing purposes or for machinery in construction of roadways." This means that municipalities must build and keep the bridges and culverts under their jurisdiction of sufficient strength to permit of the safe passage thereover of traction engines in use for threshing purposes, but the owner of the traction engine in this case must prove negligence on the part of the municipality in order to recover damages. He can do this by showing that the culvert was never strong enough to support a traction engine, or that even if it was strong enough when first constructed, yet it had been in existence so long that the municipality ought to have known that the timbers had decayed to such an extent that the culvert was not strong enough to support a traction engine at the time of the accident. What we have said will enable you to determine whether the municipality is liable or not. The municipality must in any case repair the culvert.

Levy of Sum Requisitioned by Trustees After Completion of Collector's Roll.

565—H. M.—The trustees of a union school put in a requisition for school money. The council of our township passed a by-law authorizing clerk to place the amount on the collector's roll.

The clerk had roll ready Oct. 1st. Collector started out on 14th. During first week of October the trustees met and passed a resolution to require the council to raise an additional $300.00.

Will the clerk be required to make a roll for this purpose, and will the collector be required to collect the amount?

There is no provision authorizing the clerk to insert the additional sum required by the trustees in the collector's roll already prepared by him, or to prepare a supplementary collector's roll for the purpose. If the trustees require this additional sum, they must borrow it, under the authority of sub-section 10 of section 65 of the Public Schools Act, 1901, until it can be collected from the ratepayers in their taxes next year.

Qualification of Crown Locatees.

566—J. B. S.—Our municipality is composed of five townships in the provisional County of Haliburton. Only one of the said townships is open for location under the Free Grant Act, consequently there are quite a number assessed on the roll as occupants and are entered in part first of the voters' list.

Are they entitled to vote or hold office as councillors if located or if not located?

This question was first raised at the last municipal election. Previous to that their right to vote was not questioned.

In order to qualify for election as councillors these ratepayers must at the *time of the election* (which begins on nomination day) possess the legal or equitable freehold or leasehold interest in the lands for which they are assessed, mentioned in section 76 of the Consolidated Municipal Act, 1903, sub-section 1, clause (E). If they are simply "squatters" they do not possess this qualification. If the names of these ratepayers are in Part I. of the proper voters' list to be used at the election as persons entitled to vote at municipal elections, they have a perfect right to exercise this franchise. Section 89 of the Act provides that "except in the case of a new municipality for which there is no assessment roll, no person shall be entitled to vote at any election, unless he is one of the persons named or intended to be named in the proper list of voters; *and no question of qualification shall be raised at any election, except to ascertain whether the person tendering his vote is the person intended to be designated in the list of voters.*"

Notice to Attend Court for Revision of Voters' List to be Served on All Parties Complained Against.

567—CLERK.—I notice by section 17, subsection 3, of the Voters' List Act the proceedings to be taken by the clerk, etc., shall be the same, or nearly as may be the same, as in the case of an appeal from the Court of Revision.

According to that, is the clerk required to send notices to all parties whose names appear in list number 3, showing persons wrongfully inserted in the voters' list.

Sub-section 9 of section 71 of the Assessment Act requires the notice therein mentioned, and which answers the same purpose in cases of appeals under the Assessment Act, as the notice to be served pursuant to section 17 of the Voters' Lists Act, in cases of appeals under the latter Act, to be served on each person with respect to whom a complaint has been made. We are therefore of opinion that the notice, form 14, appended to the Voters' Lists Act should be served on all parties against whom a complaint on any ground has been filed under the Act.

Disposition of Moneys Found on Unidentified Dead —Compensation to Finder of Money.

568—SUBSCRIBER.—When the body of a drowned person is found on the beach with money on his person, what becomes of the balance of the money after burial expenses are paid out of the money found on the body, providing the body is not identified?

2. Is the party who finds the body of a drowned person entitled to any compensation?

1. The balance should be paid over to the Treasurer of the Province. It will then be held, pending the proof by some claimant that he is entitled to it as the heir of the deceased.

2. No.

Liability of Councils to Pay Claims for Damages for Sheep Killed When Dog Tax Dispensed With.

569—R. J. G.—Providing the council of any municipality has passed by-law in accordance with section 21, chapter 271, R. S. O., dispensing with levy of dog tax, can such council be compelled to pay two-thirds the value of sheep killed in said municipality, the owner of the dogs being unknown ?

Section 7 of chapter 271, R. S. O., 1897, provides that "the money collected and paid to the clerk or treasurer of any municipality under the preceding sections shall constitute a fund for satisfying such damages as arise in any year from dogs killing or injuring sheep or lambs in such municipality, and the residue, if any, shall form part of the assets of the municipality for the general purposes thereof; but when it becomes necessary in any year for the purpose of paying charges on the same, the fund shall be supplemented to the extent of the amount which has been applied to the general purposes of the municipality." After the amount to the credit of the dog fund has been exhausted, and is no longer being supplemented annually by the levy of dog tax (the council of the municipality having by by-law passed pursuant to section 2, dispensed with this levy) the owners of sheep or lambs killed or injured by dogs have no claim for compensation from the council under section 18 of the Act. The rights of the owners of sheep or lambs killed or injured by dogs against the owners of the dogs are preserved by section 21 of the Act.

Worm Fence Partially on Road Allowance.

570—W. G. ONT.—In building a worm or snake fence along a road, can a person have half the fence on road allowance, or can he only let corners come to road line ? It is contended that when centre of any fence is on line it is all right. Is that correct ?

The proviso appended to sub-section 5 of section 557 of the Municipal Act enacts that unless a by-law of the municipality otherwise provides, a worm fence which is not for more than one-half its width upon a road allowance, shall not be deemed an obstruction within the meaning of clauses 3, 4 and 5 of this section.

Collection of Fees From Non-Resident Pupils by Trustees of Urban School.

571—A. E. M.—1. A is a non-resident; his children attend our school, paying fees monthly. How much can school charge non-resident pupils per month ?

2. If non-resident parent has property in village, can he send to said school free ?

3. Can school expel non-resident pupils ?

1. The school to which it is desired to send these non-resident pupils being located in an urban municipality, the law on the subject is to be found in section 21 of the Public Schools Act, 1901, as amended by sub-section 1, cap. 40, Ontario Statutes, 1902. The provisions of section 95 of the Act apparently apply to school sections in rural districts only. This being the case the amount of the fees to be charged the non-resident pupils by the trustees of the urban school will depend on the arrangement made with them by the trustees of the rural school section pursuant to a resolution of the ratepayers passed at the annual or any special school meeting called for the purpose and approved by the Minister of Education.

2. The fact that the parent of the non-resident pupil is assessed for property in the urban municipality does not affect the question in any way.

3. The trustees of the urban school can refuse to admit the non-resident pupils until the above arrangement has been entered into, and the fees thereby agreed upon, paid.

Municipality Cannot Acquire and Grant Right of Way to Railway Company.

572—W. S. E.—A village municipality is asked to grant a right of way for railway instead of a bonus. This no doubt would have to be submitted to the electors.

1. What vote is required to carry it ?

2. In case of a dispute as to the value of any property, what is the mode of procedure ?

3. Suppose another railroad lies in the municipality in question, and the new proposed railway would have to pass over or under it, would the existing road be recompensed in the same way as other property owners ?

4. Would a debt contracted as above be considered when estimating a municipality's borrowing powers ?

The nature of the aid that municipalities are empowered to grant to railway companies is mentioned in sections 694, 695 and 696 of the Consolidated Municipal Act, 1903. The purchase and handing over of a right of way to a railway company is not one of the methods, and we are therefore of opinion that the municipality has no authority to grant aid of the kind stated. If the council deems it in the interest of the municipality to aid the railway company it must submit a by-law to the electors for the purpose. The latter part of section 697 of the Act authorizes the council of every TOWNSHIP to pass by-laws empowering companies or individuals to construct tramways and other railways along any highway on such terms and conditions as the council see fit. Debentures issued to secure repayment of a bonus to a railway should be taken into consideration in estimating the total indebtedness of the municipality. There is no provision requiring railway companies to compensate municipalities for highways over which the railway passes.

Council's Power to Move Sidewalks.

573—C. A. B.—Our village council, as a committee of the whole, are removing an old plank sidewalk in the outskirts of the village from one side of the street to the opposite side, as there are more dwellings on the latter side. A farmer ratepayer, who is partially exempt from sidewalk tax under the Assessment Act, has notified the council on behalf of himself and others to desist from further removal and to replace the portion already removed.

1. Can the council legally do as above mentioned ?

2. Has the said notice any effect ?

1 and 2. It is not stated whether this sidewalk was originally constructed as a local improvement pursuant to section 664 and the following sections of the Consolidated Municipal Act, 1903, and paid for by an assessment, in accordance with these sections, of a frontage tax on the several properties benefited on the side of the street on which it was originally made. If this is the case the council has no legal authority to move it to the other side of the street, and place it along the front of properties that paid nothing towards its construction. If, on the other hand, it was built under the direction of the council, and paid for out of the general funds of the municipality, the council can move it as proposed, or take it away altogether if it sees fit.

Mode of Filing Plans in the Registry Office.

574—E. C. S.—I wish to obtain the best information as to method of filing plans of survey in the registry office, and whether there are folders to be obtained for that purpose, so that large and small plans may be handled with facility in the registry office. Could you ascertain how this is done in the Toronto registry office ?

Directions as to preparing plans of survey for registration are given in the Land Titles Act. chapter 138, R. S. O., 1897. In registry offices it is customary to file plans flat without any form of folder. In Toronto the plans are placed in a special rack, on edge, each in order of its number, with the number of each attached, on a durable tag, so that it can be conveniently found when required.

The Provincial Farmers' Association is securing the co-operation of township councils in support of their agitation for increased taxation of railways. The Legislature will no doubt take some action in the matter at their next session when other questions (of equal importance) relating to taxation will be considered.

Engineering Department

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

Good Roads Officers.

At the recent meeting of the Western Ontario Good Roads Association, the following officers were elected : President, Jas. Graham, Lindsay ; Secretary, Lieut.-Col. Farewell, Whitby. Executive Committee —President and Secretary, P. G. VanVleet and A. W. Campbell, Toronto. Legislative Committee—Essex County, R. R. Brett, Essex P. O. ; Wentworth County, E. Kendrick, Lancaster ; Simcoe County, D. Quinlan, Barrie ; Welland County, Warden N. Hogger, Welland ; Victoria County, D. J. W. Wood, Kirkfield ; York County, J. D. Evans, Islington ; Ontario County, Peter Christie, Manchester ; Oxford County, S. R. Wallace, Burgessville ; Bruce County, Warden Robt. Watt, Wiarton ; Perth County, L. J. W. Turner, Fullerton ; Waterloo County, J. A. MacDonald, Branchton.

Campaign for Better Roads.

It is interesting to those who have been identified with the movement for better roads and better methods of road-making to note the steady progress that has been made by agitation in this connection during the past seven or eight years. For a time it was difficult even to secure a meeting for discussion of the question. Where meetings were secured, the object was more one of resentment than sympathy, and frequently these meetings were divided as to whether any discussion on road-making should be permitted, and not unfrequently were very warm speeches made, and threats and severe language used. It was often difficult to secure a man to act as chairman, and not always was the chairman a good roads man, and it sometimes appeared as if the chairman was unwilling to admit, in his introduction, that he knew or could recommend to their favorable consideration the speaker of the evening or his remarks. Many municipal councillors feared the agitation and refused to countenance or attend any of the meetings and it looked as if a councillor considered it municipal suicide to act as chairman at a meeting or to have anything to say favorable to the cause. In those days the popular cry was "oppose any agitation that reflects in any way upon the work that is now being done, or suggests that labor and money is in any way being misused or improperly applied or that insinuates that the present system possesses weakness or defect." The idea that any man should presume to know more about the question of road-making than the most humble citizen in the land was impertinence, and that he should be able to instruct those in special charge of the road-work of the township was a rascally insult.

Where all possess the fullest knowledge of the question, wherein lies the wisdom of appointing an expert to give information on that particular matter? Who should know better how to fix the road in front of a man's farm than the farmer himself? was a question that required no answer. And so long as the people of that particular road were satisfied with its condition, why the anxiety on the part of others as to its improvement ?

If one-half the people in the township did their statute labor faithfully and well, and the other half did nothing, whose business was it excepting the people of that particular township? If one man hauled a yard and a-half of gravel at a load, and another man only a wheelbarrow and a-half full, what difference did it make ? If Jones took a contract from the council to do a piece of work for $100 so long as Jones did the work, it should make no difference whether the work was properly or improperly designed or performed, so long as he made a fairly decent effort to comply with the terms of the contract. If the tax-payers were willing to pay for imperfect work or would just as soon pay for making a bad road as a good road, why shouldn't they be permitted to do so ? If a township preferred bad roads to good roads, and were willing to be taxed for them in labor and money, why shouldn't they enjoy the privilege of satisfying their desire ? If millions of days of labor and millions of dollars of money were being expended in the Province in a shiftless, ineffective and extravagant way, why should attention be called to it ? And if as great an expenditure was being made on bad roads as would provide good ones, it was because the people wished it, not because of an improper system of taxation or ignorance of the principle of road-construction and maintenance. And then above all, how could a man younger than the oldest settlers be expected to know more about road-making than the people of their own township ?

Undaunted by all these things, the agitation pressed on, not stubbornly or rudely, but quietly and convincingly, offering argument after argument, producing evidence upon evidence, illustrating and demonstrating, always keeping old friends, constantly making new ones, urging for better and more economical work. Appealing to reason, judgment, local and municipal pride, a healthy and substantial sentiment soon appeared. Many of the trifling, unreasonable and, in some instances, nonsensical objections were removed. Prejudice was turned into sympathy until a genuine conviction was created for better methods, better work and a more careful expenditure, until to-day the people of Ontario are all advocates of the best methods, the easiest and cheapest way of doing the work, and the improving of the roads as rapidly as possible consistent with the means available for such purposes.

As an evidence of the keen interest taken, it might be interesting to mention the names of some of the leading county councillors in Ontario, who attended the meeting of the Western Ontario Good Roads Association, held on the 8th and 9th of September last, all anxious to assist in securing the best possible measures for road-reform. Among these were : A. E. Henry, W. J. Gibbs, Wm. Shannon, Ontario County ; Jas. Graham, F. Shaver, Victoria County ; Robt. Watt, Warden of Bruce ; Dan. D. Quinlan, R. J. Fletcher, Geo. Campbell, Major G. W. Bruce, Robert Murphy (Warden), Simcoe County ; A. McCallum, Jas. Curby, J. D. Evans, W. H. Pugsley, J. H. Kerby, A. Quantz, G. W. Powell, York County ; Thos. Yeo, Daniel Reid, Alex. Ironside (Warden), E. Kendrick, Wentworth County ; T. W. Turner, Perth County ; J. C. Wilson, Halton County ; J. Pickering, Peel County ; L. Bowman, J. Hallman, J. A. MacDonald, Waterloo County ; D. Orminston, R. Mowbery, D. E. Pugh, Ontario County ; S. R. Wallace (Warden), Oxford County ; J. E. Brown, Essex County ; Geo. Turner, Welland County.

Road Machinery.

An outfit of road-making machinery, consisting of a steam roller, rock-crusher, grader, scraper, sweeper, sprinkling carts, is one of the first requisites in making and maintaining macadam and gravel streets. Among the towns and cities in the Province to equip themselves with the more important implements are : Windsor, Chatham, London, St. Thomas, St. Catharines, Niagara Falls, Stratford, Berlin, Guelph, Galt, Ingersoll, Woodstock, Hamilton, Brantford, Owen Sound, Barrie, Toronto, Belleville, Peterborough, Kingston, Brockville, Cornwall, Carleton Place, Smith's Falls, Ottawa, Pembroke and Renfrew.

For economical, durable and serviceable road-making a heavy roller is indispensible. A road should be sufficiently smooth and compact to shed the water readily to the side gutters. If the gravel or other road metal is dropped from the wagon loosely on a soft earth foundation, water passes into the subsoil as through a seive. Wheels passing over the road when in such a condition at once sink into and rut not only the gravel, but the earth beneath. Water is held in the ruts and each succeeding vehicle renders their condition worse. The road is less durable, since the gravel being mixed with the earth from beneath it, contains, when finally consolidated, a dusty, easily worn surface.

The weight of roller used must depend upon various circumstances—the amount of work it will be required to do, the quantity of road metal used, the strength of the bridge and culverts over which it must pass. A steam roller costs much more than a horse roller, but does so much better work that it is more economical. A weight of twelve tons does satisfactory work, and it is not too heavy for the majority of bridges. Rolling should commence at the side of the road, approaching the centre gradually. If the roller is first passed over the centre, the loose metal is crowded out and the shape of the road destroyed. The earth foundation should be rolled and each succeeding layer up to the top dressing. When the latter is put on, the rolling should be continued in wet weather (or the metal thoroughly soaked from a hydrant or with an ordinary watering cart) until the metal is thoroughly compact and solid, able to resist, without displacement, the heaviest load passing over it.

Rock crushers are used for preparing, for street purposes, not only quarried stone, but also field boulders and coarse gravel. By a screen attachment the product is separated into grades for application to the roads in the best possible manner. For city or town work, where a large quantity of material is required, it is a mistake to purchase a small crusher. The breaking of stones is a very severe test on machinery, owing to the varying character of the material; and ample capacity, so that the work can be done with perfect ease, if necessary. A crusher which can break ten cubic yards per hour run at three-quarters its capacity, is the most serviceable and economical machine for most towns and cities. The extra cost incurred will prove a profitable outlay when the expense of maintenance and operation is considered.

It is a mistake to provide for the original cost of pavements, without at the same time insuring the investment by providing for their proper care and maintenance. If an asphalt pavement is allowed to go uncared for in a very short time an accumulation of dirt, brought on by traffic and other means, will make it discreditable. But where these high-class pavements are laid, provision is made for scraping, sweeping and sprinkling, so that their best qualities are always fully realized. The cheaper class of pavements, such as macadam and gravel, are generally neglected and in consequence wrongly condemned. Quite as much, often more, filth from outside sources is carried to a macadam or gravel roadway, than to asphalt, and to realize the most from the investment similar attention should be given. During the summer season these streets should be swept with a revolving sweeper; in the spring and fall gutters and catch-basins should be scraped and cleaned. During the dry season sprinkling will lay the dust and lessen the wear.

The purchase of certain road implements, more especially sweepers and scrapers, is sometimes opposed in towns, on the ground that they will take away the employment of a number of old men, largely dependent upon corporation work for support. Experience with these machines, on the other hand, goes to prove that they do not take away work, but in some cases tend to create work. They enable a much greater amount of street to be gone over, and effect a most encouraging improvement. The material swept or scraped to the side of the street has still to be drawn by hand into heaps and thrown into wagons, gutters have to be cleaned out and weeds have to be cut. The work of these machines in cleaning the streets stimulates to greater effort on the part of the ratepayers, and there is a tendency to extend the work rather than to decrease it.

Control of Street Signs.

The control of advertising on the streets of towns, cities and villages and country districts is a line of æsthetic effort in which relatively scant progress has been made on this continent, and yet it is inconceivable that in the growth of regard for civic beauty more attention has not been given to this matter of so much importance. The League of Municipal Improvement, recently formed in Canada, has already done something by way of a beginning, but outside of the general assumption of the right of official censure of posters on moral grounds, there has been little done beyond the substantial admission that the individual in this matter, as in others, may be curbed for the general good.

There is nothing quite so cheap and disfiguring as to see buildings, walks, fences and poles plastered with hideous placards and signs, and it does appear as if some of the smaller Ontario towns are simply acting as sign-boards for all kinds of coarse advertising. The day of the modest poster has passed, and the aim now is for the largest letters, the most glaring colors, the most hideous characters in the picture, and all to compel the attention. One cannot get away from these beastly signs and often they are present to haunt one for miles in the country emblazoned on the biggest side of the barns, stables and other buildings. There is nothing artistic nor decorating about them, and the wonder is that permission should be granted for their display. It is usually remarked that the owner permitting such signs is exceedingly miserly and regardless of effect, or forced by circumstances to claim the few dollars such privilege rewards. If the owner knew the bad impression such signs created, and cared at all for public sentiment, they would not be permitted on his premises or buildings. Probably one of the greatest evidences of disfigurement by signs is to be found on the Canadian frontier of the Niagara River, where many owners have apparently abandoned all regard for impression created by people on their first visit, and have made part of this otherwise beautiful and attractive shore take on the appearance of a wing of the midway or the entrance to a side-show. In many other parts of the country is the same true, and particularly in the suburbs of larger cities and towns, where the appearance, not always the most attractive, has been made exceedingly distasteful.

Councils of cities, towns and townships, should control by by-law the individual will in the matter for the general good, and such by-laws should clearly define what signs should be permitted, and such permission should be granted only after a careful study of its nature and location. All bill boards should be limited as to height and other dimensions, and sign boards should not be permitted in the vicinity of well-kept public parks, gardens, or on residential streets. Property is often depreciated in value owing to signs on adjoining lots. Even in the smaller towns of Ontario much taste is being displayed on streets in building costly sidewalks, nice driveways

and ornamental boulevards, and decorating with plants, shrubs and trees, and the most stringent measures should be provided for preventing anything that may mar the beauty of boulevard, avenue or street, destroy vistas or ruin good facades.

The idea current that art is incompatable with economy and the necessity of trade, is false. If advertising is necessary let its form be neat and in keeping with surroundings. Where signs must be used, let them be considered as a decorative element of the business structure. If the sign fails to harmonize with the architecture of the structure it injures the building upon which it is placed. It becomes an ugliness of the public way, with no gain in advantage from the view point of publicity, and no municipal government will be interfering with private rights by taking power to prevent the desecration of good streets or buildings by ugly signs. Such by-laws or measures are necessary to attract substantial attention to this matter, but the main object is to appeal to the patriotic regard for the aspect of our country.

Road Drainage.

Water is the great destroyer of country roads. It not only washes away the service material, but it destroys the foundation and makes all the mud. It may come from springs, and in such cases ditches should be provided and, where necessary, under drains, either of stone or tile to convey the water where it will do no harm to the road. But often the trouble is caused by water standing in pools by the roadside. Deep side ditches, having no outlet and holding water, should be provided with an outlet or filled with earth to exclude the water. Depressions or holes, as often made by the road machine, or shallow places from any cause, where water may stand, whether upon or beside the road, should be filled. Where water stands in pools by the roadside, especially during the fall months, the whole structure of the road is thoroughly filled with water by capillary attraction, as it fills a sponge, making deep mud in fall, and the thawing process in the spring destroys the road. So we cannot have good roads of whatever material made, however well built, unless sufficient drainage be provided.

Laying Tile Culverts.

To meet with success in the use of tile culverts they must be put in place properly. They should be laid with a good fall on a regular grade to a free outlet, in such a way that water will not stand in them.

The tile should be laid with the spigot end down grade, and the joints made tight with cement mortar. If the joints are open, water will work its way along the outside of the culvert, and finally make a considerable channel, which will allow the culvert to get out of line, and finally result in a "cave-in." To prevent the water finding its way along the outside of the pipe, it is advisable to protect the ends with concrete, stone or brick headwalls.

Care should be taken to excavate a concave bed for the pipe, with depressions for the bell of the pipe to rest in, thus securing an even bearing, without which a heavy load passing over before the culvert has properly settled into place, may burst the tile. Tile cannot be used in very shallow culverts, but must have a sufficient depth of earth over them to protect them from the direct pressure of heavy loads. The depth of covering necessary increases with the size of the pipe. At least a foot of earth over the top is advisable in every case, but for culverts of two feet in diameter or over this should be increased to at least eighteen inches.

The earth should be well packed and rammed around the tile to secure a firm bearing, and light soils should not be used immediately over or around the culvert. A heavy clay, a firm gravel, or a compact sand or gravel will answer, but vegetable mould, water sand and light loams are subject to wash-outs.

At the outlet, the culvert should be set nearly flush with the surface of the ground. If set higher than the surface, the fall of water will wash out a depression, and in time will undermine the end of the culvert. A too rapid grade will have the same effect, and it is well to cobble-pave an outlet where this undermining action is likely to occur.

Sewage Disposal.

The septic tank system of sewage disposal is now accepted as one of the most useful methods yet discovered of treating certain classes of waste. For ordinary kitchen and household refuse, it is thoroughly effective, but where certain manufacturing wastes are intermixed with domestic sewage, the septic action may be partially or wholly destroyed. The septic tank is merely a closely covered vat, of a size suited to the quantity of sewage, through which the sewage slowly flows. During its passage through the tank the solids are broken up by the action of microbes, and the resulting effluent is then in a suitable condition to be completely disposed of, by distributing it over sand or gravel filter beds.

While best known in its application to the disposal of large quantities of city or town sewage, the principle is readily and cheaply applicable to the destruction of sewage from individual farm or country residences, and can be employed in connection with a water supply furnished by a pump or a wind mill, or from a natural elevation. Farmers and suburban residents find it a means of sewage disposal that affords them conveniences formerly supposed to belong solely to the city. An arrangement of water-tight barrels for septic tank, filter and flush tank, with an underground system of tile to dispose of the effluent, will provide for an ordinary family. The method is most successful where the soil, through which the tile are laid, is of a sandy or porous nature, and will operate without odor or nuisance, but is not suited to a locality where the soil is a stiff clay or such as has not good natural drainage.

Road Maintenance.

Roads being subject to continual use, and also to the destroying effects of the elements and the changing conditions of our climate, should have constant care. Ordinarily the country roads do not wear out, but by neglect they go to waste, run down and become bad. In that condition they are attacked usually about once a year by a gang of men with a road machine, operated by a great team force ; they proceed to break up the hard settled ground and scrape upon the surface of the road, sods and other rubbish utterly unfit for road material, and call it road repairing. Roads should not be out of repair ; they get in that condition only by neglect. A road, poor in character, should be kept so that it will get no worse, and by constant attention and small expense it should slowly grow better. A good road should be kept always good. All slight defects should be discovered and remedied at once. In this way the much praised macadam roads in France and other countries are kept and maintained at normal expense, and are always in good condition. The railroad corporations would become bankrupt should they practice the methods ordinarily used on our highways. All business corporations and successful farmers understand the necessity of watchful care that their plant, be it factory or farm, is continually at its best and never out of repair.

Surfacing Roads.

In surfacing a road, the work should be well organized. The number of shovelers should be proportioned to the number of teams engaged, and the number of teams regulated by the distance of the haul, so that there may be little or no delay to teams or men by waiting. Beginning the work at the end of the section of road to be surfaced nearest to the source of the gravel, in this way each loaded team passes over the gravel already applied, and returning empty, does the same. This helps to build the road, especially if there is no road roller for this purpose. A man of skill should have charge of spreading the material, and the loads should be spread as they are dumped. In this way the material is evenly distributed.

Other means are sometimes employed for spreading the gravel by the use of a harrow or road machine after the mate.ial is all applied ; but no amount of harrowing the surface with any tool will secure as good results as hand-spreading as each load is dumped. This gives not only even thickness, but an even compactness that cannot be secured by dumping loads one after another and simply leveling the surface.

We should know that we are building an artificial floor, which, when finished, should have an even surface, hard and smooth, without depressions where water may stand and materially damage the road. The material should not be spread over too great surface and should be well rounded up in the middle.

The greatest general fault with our roads is they do not shed water. A road when finished, and at all times should have sufficient grade from centre to side drains to readily carry off all surface water.

We should bear in mind that surfacing a road with broken stone, gravel or other road material, is but one step in the process of road building. The best of material, however well applied, does not build a road.

Street Dust.

Street dust, in its relation to health, is an important matter, but one which is commonly overlooked, except in so far as the clouds of dust rising on a windy day, create a temporary nuisance by filling the eyes or throat, covering the clothing, settling on exposed merchandise in front of stores, and blowing into houses through open windows or doors. It is the common experience of those who spend periods of the year away from the dust and smoke of towns, that there is almost entire freedom from colds and catarrhal affections, in spite of much exposure and hardship, such as is encountered by surveyors and explorers. A return to dusty and smoky surroundings is immediately accompanied by a returning of susceptibility to inflamed conditions of exposed mucous membranes.

Bronchial and lung diseases are exceedingly common among workmen exposed to dust, such as coal miners, coal haulers, firemen, foundry men, etc., all obliged to breathe into their lungs finely pulverised matter. While not itself a direct cause of disease, dust from such surroundings or from the street, irritates and brings about an inflamed condition of the delicate membranes of the eye, nose, throat and lungs, and this condition paves the way for infection with bacteria of disease, contained in the dust or otherwise encountered.

Street dust is a mixture of ingredients not pleasant to contemplate as blowing into the mouths of pedestrians on a windy day. Diseases which undoubtedly are communicated in this way include consumption, smallpox, diphtheria, whooping cough, measles and scarlet fever.

Even when not accompanied by bacteria, the inorganic particles of dust are a menace to health and every practicable means should be adopted to lessen the dust of towns and cities. Clean sidewalks and pavements should be adopted, and they should be kept clean ; the throwing of waste into the streets, the accumulating of refuse in back yards, spitting in public places and smoke from factories are among the sources of dust to be considered, and for which suitable remedies should be found.

Road Machinery in Lanark County.

About a year ago the County Council of Lanark passed a by-law, with the consent of the local municipalities, under the provisions of the Ontario Act to aid in the Improvement of Highways, assuming 120 miles as county roads. The Carleton Place Central Canadian of a recent date says :—"Roadmaking is going on with great activity on the 11th line, Beckwith. The promoters hope to complete an up-to-date bit of work from the Franktown Road to Cram's cemetery this year. Our whole outfit is there—grader, crusher and roller, and on Wednesday they came in and hired our sprinkler and team of horses. The work is being done by the County Council. The town is taking great pride in the work, while the township is in ecstacy. The work is in charge of Mr. Duncan Hamilton."

From this report it is apparent that Lanark is soon to be a county of good roads. It is evident, too, that the County Council of Lanark, like all councils that undertake such work in a comprehensive way, have quickly come to the conclusion that modern implements, such as graders, crushers and rollers, are essential in the proper building of roads ; that these implements are time and labor saving ; that better and cheaper work can be done by their use ; and, in fact, that little work of a satisfactory character can be done without them.

Hamilton and Bell Telephone.

The City of Hamilton, Ontario, have given the Bell Telephone Company an exclusive franchise for five years. The company is to pay $1,450 on the execution of the agreement and $2,900 a year for five years. The company agrees that it will not increase the rate charged the city or the Board of Education, the number of phones not to exceed 125. It also agrees to maintain and keep in repair without charge the poles and wires used in connection with the city police patrol system, and permit the city to use the cross-arm on every pole for the fire alarm wires. Provision is also made that as soon as the switchboard is in operation all subscribers will be supplied with long-distance instruments free of charge, and that all agreements to pay extra charges for these instruments shall cease on January 1, 1904. The rates are fixed at $30 a year, unlimited calls for private residences ; $25 a year and 2 cents a call, measure service plan for private residences ; $20 a year, with an allowance of 100 calls each month, and 2 cents a call for all extra calls for dwelling houses, on a party line, not more than four on a line. The charges for offices or for houses used for trade, etc., $45 a year for unlimited calls ; on measured service plan $25 a year and 2 cents a call ; offices on party lines, $35 a year with 100 calls a month, and 2 cents a call for all calls over 100 a month.

In the case of Galt vs. Bank of Montreal, His Honor Judge Jamieson has given his decision in favor of the plaintiff, confirming the claim of Galt that the marking of a cheque "good," by the bank, guaranteed as value.

"Children," asked the school commissioner, "what is political economy?" "Political economy," answered the precocious son of the district boss, is "getting men to vote for you as cheap as you can."