

THE MUNICIPAL WORLD

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

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Calendar for February and March, 1901.

Legal, Educational, Municipal and Other Appointments.

- FEB. 1. Last day for Railway Companies to transmit to Clerks of Municipalities statement of Railway Property.—Assessment Act, section 31.
Last day for Collectors to return their Roll and pay over proceeds.—Assessment Act, section 144 (1).
Last day for County Treasurers to furnish Clerks of Local Municipalities with List of Lands in arrears for taxes for three years.—Assessment Act, section 152.
5. Make return of deaths by contagious diseases registered during January.—R. S. O., chapter 45, section 11.
6. First meeting of Board of Education, at 7 p. m., or such other hour as may have been fixed by resolution of former Board at the usual place of meeting of such Board.—High Schools Act, section 14 (1).
15. Last day for Assessors to begin to make their rolls.—Assessment Act, section 55.
28. Last day for Councils to pass by-laws for imposing a larger duty for tavern and shop licenses.—Liquor License Act, section 42.
Last day for City and Town Councils to pass by-laws to prescribe further requirement in taverns.—Liquor License Act, section 29.
- MAR. 1. Auditors, reports on the accounts of High School Boards, and the Boards of cities, towns and villages should be mailed to Education Department. Separate School supporters to notify municipal clerk.—Separate School Act, section 42.
Inspector's Annual Reports to the Department due.—Public School Act, section 83 (5).
Financial Statement of Teachers' Association to the Department due.

NOTICE.

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

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76. Assessment of Branches of Chartered Banks.....
77. Proceedings on Division of School Section.....
78. Conduct of Business at Council Meetings.....
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90. Enforcement of Dog-Tax By-Law....
91. Mode of Assessment.—Court of Revision.—Arrears of Taxes—Proceedings at Elections.....
92. Deputy Returning Officer Leaving Booth on Polling Day.—Can he Vote for School Trustee.....
93. Dismissal of Municipal officers.—Form of By-Law Commuting Statute Labor
94. Collection of Deficiency in Amount to pay Drainage Debentures.....
95. Can Council Initiate Proceedings Under the Ditches and Watercourses' Act?.....

The Municipal World

PUBLISHED MONTHLY

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

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A. W. CAMPBELL, C. E. } Associate
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ST. THOMAS FEBRUARY 1, 1901.

Since the recent fire in Oakville which destroyed a considerable portion of the business part of the town, the installing of a water-works system is being discussed, and it is likely that action will be taken in the near future.

* * *

A vote of the electors was taken at the last municipal elections, in Lanark and Victoria, as to the advisability of establishing county poor-houses. In the former case the vote was favorable, but in the latter, it resulted adversely. It is not as yet decided what action either council will take.

* * *

The by-law giving J. Stewart Clark a bonus of \$2,000 to erect electric light works at Ayr and bring the Port Dover-Berlin railway to that village, was endorsed by a majority of the ratepayers of Ayr, the vote standing 124 for, and 33 against. According to the terms of the by-law, Mr. Clark is to get \$1,000 when he has his electric works built and the lights burning; and the other \$1,000 when the first car on the proposed railway reaches Ayr.

* * *

John A. Patterson, tax-collector for the town of Galt, has been mulcted to the tune of \$60 in damages and the costs of a high court action for excessive zeal in the discharge of his duty. The plaintiff in the case was a Galt tailor named McKinnon, now of Brantford. He rented a shop, and his landlord, McTague, fell behind in his taxes. Patterson came upon the tenant for the amount and Bailiff Gillies levied distress. In giving judgment Chief Justice Falconbridge finds that the notice served upon McKinnon was badly written, and was insufficient. He also holds that the distress was illegal.—Brantford *Expositor*.

Queen of the World.

AN EXPRESSION OF INTERNATIONAL SYMPATHY.

We are in receipt of the following communication from the President of the National Good Roads Association, of the United States:

CHICAGO, JAN. 26TH, 1901.

The Municipal World, St. Thomas, Canada.

GENTLEMEN,—We desire to thank you for your courtesy in sending us a copy of THE MUNICIPAL WORLD. It is likely that, from time to time we will quote articles from your valuable publication; when we do you will always receive due credit for same.

We are planning a National Campaign; plans of which will be consummated in February, and when ready will send you copy of same.

During the progress of the last National Convention, held in this city, November 19th to 21st, inclusive, we were proud to have such representatives from a foreign state as Mr. Andrew Pattullo, of Woodstock, and Mr. A. W. Campbell, director of highways, of Ontario.

Well may the Dominion of Canada be proud of those two men. They are practical, and they possess the excellent qualities that create closer reciprocal, social and commercial relations between this and that country whose people are rapidly promoting more friendly national alliances.

We especially notice now that the people of the United States are bowing their heads, and standing almost as closely by the bier of that revered ruler, the Queen, as her own subjects. In fact, it seems that that honored woman was not alone Queen of Great Britain and her dependencies, but of the whole world.

Again thanking you, I am,

Yours sincerely,

W. H. MOORE,
President.

The *Alexandria News* says: As far as the duties of a councillor go, we could never detect that they were particularly arduous. We do not believe that the average councillor lies awake nights on account of the weight of his responsibilities. The great qualification necessary in a councillor is that he should take a personal and active interest in all that effects the welfare of his municipality.

* * *

Mr. W. Beaton, clerk of the township of Derby, has favored us with the printed minutes and proceedings of that township, for the year 1900. The pamphlet is divided into two parts. The first contains the minutes of all meetings held during the year, the auditors' report for 1899, and reports of committees' by-laws and statistics for 1900; the second part consists of the statement required by sub-section 6, of section 304, of the Municipal Act. It is prepared by order of the council, and placed in the hands of the ratepayers prior to nomination day.

Re Early Closing By-Laws.

In the report of the trial to set aside a conviction under "The Ottawa early closing by-law, Reg. vs. Milligan." This conviction was quashed on account of the city by-law not giving the power to the justice to award imprisonment in default of goods and chattels to be distrained for fine and costs. Municipal Act, chapter 223, R. S. O., 1897, section 704, gives authority for justices to enforce the "fine and penalty imposed by this Act and the same can be recovered and enforced with costs by summary conviction, etc.," and then goes on to state, "in default of payment the offender may be committed to the common jail, for not exceeding thirty days, but this is not so with prosecutions for contravention of a by-law under section 705.

The by-law has not only to state a sum for penalty of contravention but must give some time for imprisonment of the offender, if no distress found, out of which the penalty can be levied. See sub-section 705 and 706. By section 706 unless the by-law gives a term of imprisonment when no distress can be made, the justice has no authority to award imprisonment.

This matter is very important as a large number of by laws only name a penalty.

R. KIMBER JOHNS.

Gravenhurst, 17 Jan., 1901

For the information of a correspondent we hereunder publish the section of the Public Schools' Act relating to the union and alteration of boundaries of existing school sections:

Every township council shall have power:

1. To pass by-laws to unite two or more sections in the same township into one, in case at a public meeting in each section, called by the trustees or inspector for that purpose, a majority of the ratepayers present at each of such meetings request to be united;

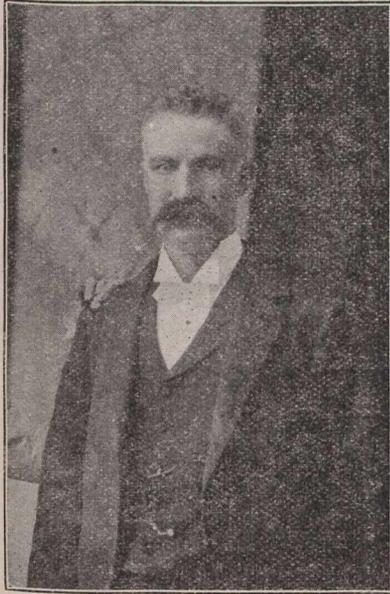
2. To alter the boundaries of a school section, or divide an existing section into two or more sections, or to unite portions of an existing section with another section, or with any new section, in case it clearly appears that all persons to be affected by the proposed alteration, division or union respectively, have been duly notified, in such manner as the council may deem expedient, of the proposed proceeding for this purpose, or of any application to the council to do so;

3. Any such by-law shall not be passed later than the first day of June, in any year, and shall not take effect before the 25th day of December next thereafter, and shall remain in force, unless set aside, as hereinafter provided, for a period of five years. The township clerk shall transmit forthwith a copy of such by-law and minutes relating thereto to the trustees of every school section affected thereby, and to the public school inspector.

Municipal Officers of Ontario.

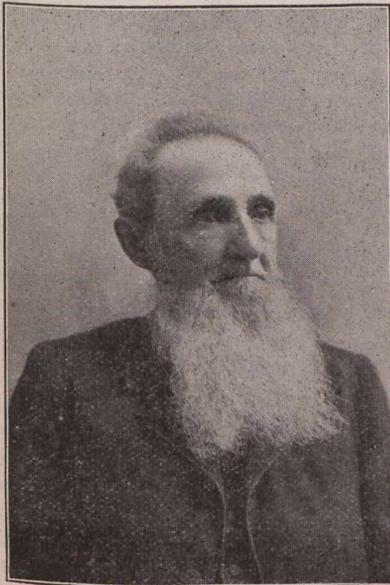
Clerk of the Municipality of Lindsay and St. Edmunds.

Mr. Bryan was born in the county of Peel, in the year 1865, and moved to



MR. A. H. BRYAN.

Orangeville in 1869. He was educated at the public schools in Orangeville and Shelburne, and at the High School in the former place. He engaged in farming in the township of Sydenham until 1895, when he located in the township of



MR. HENRY STONE.

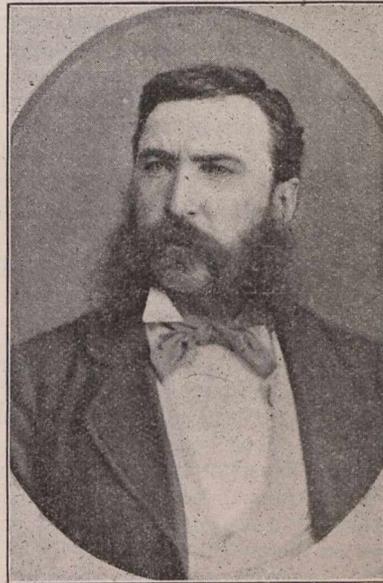
Lindsay, and embarked in the timber business. He was appointed clerk in 1900.

Clerk of the Township of Tecumseth.

Mr. Stone was born in the township of Gwillimbury, seventy-eight years ago. He was educated in the common schools. He started business life as a clerk in a general store, in Schomberg, and was afterwards in business for himself in that village and Pennville. He was appointed clerk thirty-eight years ago. He is also a conveyancer, insurance agent, issuer of marriage licenses, and a commissioner in H. C. J.

Clerk of the Township of Bromley.

Mr. Hart was born in the township of Bathurst, fifty-five years ago. He was educated in the rural schools in that township, and the Separate and Grammar schools in the town of Perth. He taught school for some time, and afterwards con-



MR. PATRICK HART.

ducted a general store. He was appointed clerk twelve years ago, and has been a county auditor for the past ten years.

Clerk of the Township of Sherbrooke.

Mr. Niece was born in the township of Sherbrooke, in the year 1850. He was educated at the public schools in that neighborhood, and a commercial college in Toronto. He was auditor of his township in 1879-80, and reeve of same for six years thereafter. In 1900 he was appointed clerk and treasurer.

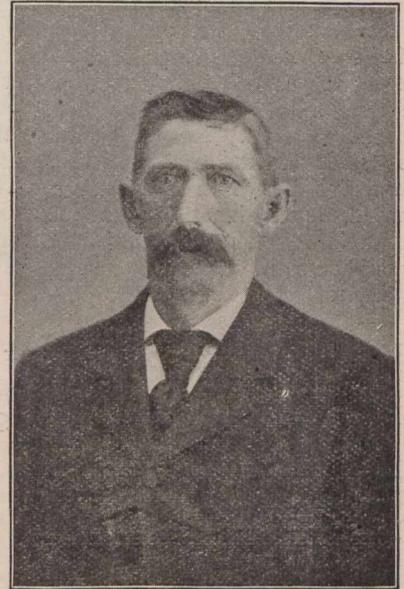
Clerk of the Township of Esquesing.

Mr. Tracy was born in Stewarttown. He was educated in the public schools of his native village and the Galt Collegiate

Institute. He taught school a short time, and was in the service of the Bank of Hamilton for ten years. He was appointed clerk in January, 1900.

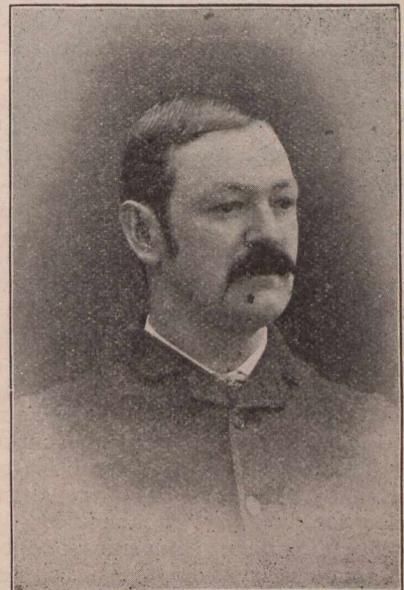
Oldest Township Clerk.

Mr. Andrew Henry, who had long been regarded as the oldest township clerk in Ontario, is dead at his home at Mono Centre, at 90 years of age. He was clerk



MR. JOSEA NIECE.

of Mono township for 49 consecutive years, discharging also the duties of township treasurer for the greater part of that time. He was justice of the peace for sixty years and a school trustee for forty years. Mr. Henry's portrait and a sketch of his



MR. J. A. TRACY.

career were published on page 3 of the issue of THE WORLD for January, 1898.

Suggested Amendments to the Municipal Laws.

We have observed, and our attention has been repeatedly called by correspondents to certain anomalies and defects in the municipal statutes. Their presence is confusing to the layman and annoying to those who are, from time to time, called upon to interpret the sections in which they exist. In this article we purpose referring to some of these anomalies and defects with a view to bringing them to the attention of the legislature.

DEPUTY-REEVE.

As a result of the provisions of the Municipal Amendment Act, 1898, the deputy-reeve, as a municipal official or representative, elected or appointed, ceased to exist. Notwithstanding this, the words "deputy-reeve" are still found in numerous places in the statute. They should be expunged by the necessary legislation. The sections requiring amendment in this particular are as follows:

- 2—Clause 12.
- 112—Clause 6 of Oath of Freeholder.
- 113— " 8 " Tenant.
- 114— " 7 " Income Voter.
- 115— " 8 " Farmer's Son.
- 118—Marginal Note.
- 159—Fourth and fifth lines.
- 219—Second line of sub-section 1.
- 220—Seventh line of sub-section 1.
- 311—First line of sub-section 2.
- 316—Second line.
- 319—Second line.

FORM OF BALLOT.

The form of ballot introduced by sec. 16 and schedule "A", of the Municipal Act, 1899, for use in the case of cities and towns in which aldermen or councillors are elected by general vote, and incorporated villages and townships, is confusing to the voter, and opens an avenue to designing and unscrupulous candidates, and conscienceless voters, to the commission of offences against the election laws. Section 158 of the Act, as re-enacted by section 13 of the Municipal Amendment Act, 1899, as amended by section 6 of the Municipal Amendment Act, 1900, allows voters in these cities and towns to vote in each ward therein, in which they possess the necessary property qualification for aldermen but once only for mayor. Section 159 gives voters in townships, divided into wards, similar rights in voting for reeve and councillors. The fact that the names of the candidates are upon one and the same ballot enables a person having more than one vote for alderman or councillor, as the case may be, to vote for mayor or reeve, as often as he has a vote, and does vote, for alderman or councillor. This was actually done in numerous instances at the last municipal elections. To prevent this, it should be enacted that the ballots for mayor and Reeves in towns and cities, electing by a general vote, and townships respectively, should be separate and distinct from those for aldermen and councillors.

DUAL VOTING.

This principle should be eliminated from our municipal statutes. There is no reasonable argument in favor of its continuance. It is an anomaly, and in many instances results in injustice. To illustrate the inconsistency we will instance the fact that an elector, assessed for property in one ward only, for \$50,000, has but one vote, while his neighbor, owning small properties, each assessed at a sufficient sum to qualify him as a municipal voter, in each of four wards, has four votes. When the vote is on a by-law to borrow money on the security of the debentures of the municipality, the unfairness of the principle is easily discernible. In voting for members of a county council, admittedly a very important representative body, the principle of "one man one vote," prevails; that is, an elector can vote but once for as many county councillors as there are to be elected, notwithstanding the fact that his name may be on the voters' list, and he may possess the necessary qualification to vote for county councillor in several municipalities or wards within his county council division. See section 160, of the Municipal Act. The principle last referred to should be made applicable to the election of aldermen in cities and towns, where they are elected by a general vote of councillors in townships, and to voting on by-laws. Sections 158, (as re-enacted and amended by the Municipal Amendment Acts of 1899 and 1900, respectively,) 159 and 355 of the Act, should be amended accordingly.

COLLECTION OF DEFAULTERS' STATUTE LABOR,
(Sub-section 1.)

Section 110, of the Assessment Act, was amended by the Assessment Amendment Act, 1899, by changing the word "November," in the seventh line thereof, to "August." The instructions to the clerk, in the latter part of the sub-section appear to have been overlooked. He should be authorized to place the commuted statute labor on the collector's roll for the year in which it was returned. An amendment to this effect is desirable.

MINOR AMENDMENT.

By the Assessment Amendment Act, 1899, the figures "31st," in the twelfth line of sub-section 1, of section 58, of the Assessment Act, were changed to "15th." A similar change should be made in the second line of sub-section 2.

RAILWAY BONUS DEBENTURES.

When a portion of a township municipality grants a bonus to a railway as provided by section 696 of the Municipal Act, the debentures can only be issued therefore on the sinking fund plan. The Act should be amended to enable a municipality, passing by-laws under this section, to make the amount of the debentures repayable in equal annual instalments as provided by section 396. For this purpose we suggest the amendment of sub-section 3b of section 696 by striking out in the third and fourth lines the words, "to include a sinking fund."

LINE FENCES ACT.

There has been some doubt as to the duty of a clerk to give notice of fence-viewers award and to make this clear we would amend section 8 of Line Fences Act by inserting after the word "given" in the fifth line thereof the words "by the clerk of the municipality with whom the same has been deposited."

UNION SCHOOL SECTION IN UNORGANIZED DISTRICT.

There is now no provision for the equalization of assessments in union school sections composed of an organized and unorganized portion of said sections.

Sections 51 and 66 of the Public Schools Act should be amended by providing that the portion of the section in the unorganized district shall form part of the organized township for school purposes, the assessor to make a special roll therefor and that the provisions of the present law in reference to appeal against the assessment roll as to the collection and school rates in organized municipalities shall apply.

Wrongful Abuse of the Councillors.

The indiscriminate censure, and often even abuse, dealt out to councillors in many towns and townships at nomination meetings and throughout the year, should not pass, it is felt by many, without a protest from the press.

Taking council and committee meetings, and other duties, every member of a council devotes many hard days of labor towards helping on their municipality and its business. He acts according to his best light; he finds that he cannot always have his own way; either his fellow councillors have different ideas from himself, or money is lacking, or the public are snarling, or something else stands in his way. He may have come into the council pledged to many reforms, and yet the logic of circumstances is against him, and he learns a few lessons as to the unwisdom of making fair promises and loud assertions of what he would accomplish, when he is handicapped by some of the difficulties above stated. But because he has not fulfilled all his promises, or has not done all the ratepayers think he should have done, or just because he is a councillor, the public proceed to knock him down (metaphorically speaking) with sand bags. The whole thing is wrong. It is aptly illustrated by the remark of a recent writer, that if a soldier came back to certain towns or villages with a Victoria cross, his neighbors would say that he found it or got it through some error.

Of course, the ratepayers have a right to expect that councillors shall give an account of their stewardship; yet councillors have rights, too, and because a man happens to be a councillor he should not be subjected to abuse that he would not tolerate were he in private life.—Pembroke Observer.

Engineering Department

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

The Progress of Reform.

The movement in favor of better roads is now rapidly increasing, yet possibly no agitation for the public good was ever undertaken that was at first so cruelly treated, or so uncharitably received. There is not a man, woman or child in the country that would not be benefited by the best roads, and there is not a citizen in any community who should not appreciate to the fullest extent a good road. Certainly it should be the aim and object of all to strive as far as possible to improve our roads as much and as rapidly as our expenditure for this purpose will permit, and this is the aim, the object, and the sole desire of what is known as the Good Roads Movement. Such being the case, where should an opponent be found, and why should the campaign not receive the sympathy and the active support of every citizen?

That a matter of such vital importance, involving the expenditure of such an enormous amount of money and labor annually, should have been so absolutely neglected and treated in such a careless and indifferent way for upwards of a century naturally upon investigation reveals a state of affairs, the truth of which, those in authority hate to acknowledge; and those wronged, especially when they are themselves responsible, conceal the real facts even from themselves.

The most elementary study of the road question, not from an individual or sectional standpoint, but from a municipal and provincial one, forces even the most pronounced opponent of reform to admit that this is the case and that our system of roadmaking has been allowed to drift along through the century with little or no consideration, or effort to alter and improve it, as changed conditions and requirements would naturally render expedient. Such being the case universally, even to suggest improvement, means the exposure of such glaring irregularities and requires such sweeping condemnation and radical changes, as to lead to a natural resentment.

This paved the way for petty politicians, opportunists; or would-be statesmen and those of that ilk, to play upon sentiment, credulity and prejudice, and so successfully was this done that were it not for the timely assistance of the better class of people, regardless of personal advancement and political inclination, the movement never would have received consideration or practical recognition. Many otherwise first class people in every community have in this way been deceived and blinded to their true interests by that most dangerous of elements that causes people to deceive even themselves.

The ward schemer, the glib-tongued politician, the would-be, has nothing to recommend him, but his rudeness in pushing himself forward; but his indomitable persistence, based upon sheer ignorance, unfortunately, often gives him a place for a time in the management of the community's affairs. Such men are a menace to society and an obstacle to municipal advancement. Such men cannot be expected to rise beyond the petty sphere in which they move, and consequently can never be capable of inaugurating, or even supporting any measure for the public good, for the reason that to do so may mean criticism, or loss for the time, of the support of a few of those who, for the want of proper understanding of such matters, may oppose them.

Fortunately, however, we can always rely upon the common sense and good judgment of the people, and while, for various reasons, the success of an undertaking cannot be reached at one blow, if it possesses the elements of right, and advancement for reform, it only requires to be carefully laid before and receive the consideration of our people, to be successful.

This has been the experience of the road movement along its stormy journey. The wisdom and economy involved, and the great benefits to result are so clearly manifesting themselves, that the stormy clamor of those who have successfully sown the cruel seed of prejudice has been brushed aside by an active campaign of education. Prejudice has been turned into sympathy, opposition into support. Commercial, industrial and agricultural societies have been enlisted, municipal councils are taking the matter in hand, backed by public opinion, and even the legislature is willing to assist by the appropriation of surplus funds. The movement for better roads is now acknowledged as an economic and necessary part of a policy of progress, and while we have been following throughout the past one hundred years, almost unchanged pioneer methods adopted at the century's commencement, it is encouraging to know that the legislature, county and township councils and other bodies, are now uniting in behalf of a policy that will make our highways in keeping with the improvement of private property, and the development we are looking forward to as a nation.

The Fault of the People not the System.

A little more than one hundred years ago, the first parliament of Ontario (then Upper Canada) assembled at Niagara-on-the-Lake, with Lieutenant-Governor Simcoe presiding. There, under the spreading branches of an oak tree, the statute

labor law was passed which, with minor changes, has ever since remained a part of the Ontario municipal system.

That this should have been one of the first measures indicates the importance then attached to the opening up of roads. Not only did these men pass laws but they soon returned to their homes where, with their neighbors they proceeded right royally to carry them into effect. When statute labor was first introduced, the need of roads was most keenly felt, and for many years after the pioneers and their successors did honest and good work in opening road allowances, grubbing out stumps, grading and ditching.

For all this work, statute labor, when honestly performed, was the best possible means available. Not merely did the early settlers, their sons, and even their daughters, do the work required by law but they contributed a much greater time, in order that they might open for travel wagon roads through the forest.

Those days have gone, to return again no more in Southern Ontario. The roads which we now have are much better than the early settlers ever hoped to obtain; but for such roads as they did get they gave much more of their time, energy and anxious thought than the people of Ontario are likely to do again. In early days, their object was to do as much road work as they could. To-day many of their successors aim at doing as little as possible. It is this absence of the old-time earnestness with regard to roads which has done so much to render statute labor all but useless in the maintenance of our roads.

Following Ontario's Example.

The second meeting of the British Columbia Good Roads Association, held in Victoria, last month, was in every sense a success. There was an excellent attendance, and the utmost interest was taken in the proceedings. In addition to the main association several branch societies have been organized to awaken in all districts a healthy interest in the movement.

A number of important conclusions were reached as to the system to be adopted in carrying out roadwork, while among the important resolutions was the following:

"Whereas, It appears from expressions of opinion in this Association the time has arrived, or is near at hand, when better and more permanent work than any heretofore undertaken will be required upon the highways of this Province; and

"Whereas, There is a general lack of technical knowledge as to improved methods of highway construction adopted in other countries;

"Therefore Resolved, That this Association suggest to the Provincial Government the advisability of appointing a competent engineer as Provincial Inspector of Highways, for the purpose of carrying on an educational work, and such other duties as may be assigned to him."

Special By-Laws at the Recent Elections.

At the last municipal elections an unusual number of by-laws were submitted to popular vote. This means of reaching a needed end in municipal government is not always to be approved inasmuch as it may indicate, at times, a weakness on the part of the council, and a desire to shirk responsibility. At the same time a plebiscite is very frequently advisable, and the nature of the questions submitted at the last election would indicate a growing interest in municipal affairs.

TORONTO MUNICIPAL GAS PLEBISCITE.

In Toronto, the question of purchasing and operating the gas plant was submitted, and resulted in an overwhelming majority, 7,385, in favor of municipal ownership.

The promoter of the plan for municipal ownership, ex-Ald. Spence, was defeated in the mayoralty contest, however, by Mr. O. A. Howland. Unfortunately the will of the people is, therefore, not likely to be carried out, as the mayor-elect has declared himself opposed to such a measure, and in his inaugural address politely placed the matter on the shelf. The mayoralty campaign in Toronto was openly a party contest. That politics in municipal affairs should entail such a result at the very commencement is ample proof, if any were previously needed, that such a system will not work harmoniously with the best interests of the people. Why dominion and provincial politics should be introduced into local government is unexplainable, and is partyism run mad.

ELECTION BY GENERAL VOTE.

In Hamilton a by-law to elect aldermen by general vote was carried by 2,829 majority, in spite of the fact that it is felt that there are certain imperfections in the present statutes regarding this mode of election. It is believed, however, that these weaknesses will be remedied at the coming session of the legislature. In Guelph, a similar by-law was defeated by 163 votes.

ELECTRIC LIGHTING AND WATERWORKS.

A by-law in favor of the town doing its own street lighting was carried by a large majority in Lindsay.

In Parry Sound, a by-law for \$29,500 for the purchase of the electric light plant, and extension and improvement of the waterworks system, was carried, also a by-law of \$2,500 for the construction of a steel bridge across Seguin River.

In Thorold, a plebiscite for waterworks was submitted, which was carried by 16 majority. A by-law to issue \$40,000 debentures for street improvement was defeated by 11 votes.

The ratepayers of Oshawa signified their approval of the constructions of systems of sewerage and waterworks, harbor and road improvements, so that it is likely these works will receive a good deal of attention during the year.

A by-law to raise \$11,000 to extend the waterworks system, was carried in North

Toronto by a majority of 56. This step became imperative as the flow of water from the present source, springs in gravel, has decreased very much, and is insufficient to supply the needs of the village. It is intended to lay a line of pipe to springs at some little distance from the pumping station.

The ratepayers of Port Arthur sanctioned the development of the Current River water-power by a large majority.

A by-law to install a third pumping engine in the power-house at Niagara Falls was defeated.

WATER COMMISSIONERS.

In Rat Portage a by-law was carried to do away with the board of water commissioners, the works to be hereafter managed by the council. The town of Rat Portage is young, and their waterworks are of recent origin.

A by-law to do away with the water commissioners, in St. Catharines, was defeated. Boards of commissioners have certainly made for themselves a good record in Ontario, and there seems no reason why councils should be required to assume more responsibility than their ordinary duties place upon them.

BONUS BY-LAWS.

A by-law to grant a bonus of \$3,500 to a manufacturing company carried in Strathroy by 446 majority. In Tilsonburg, a canning factory by-law was carried. In Kingston, a by-law authorizing a change in the smelter bonus by-law was adopted by a vote of ten to one. Goderich approved of a by-law to exempt the mill from taxes for ten years, the result being 575 for and 32 against.

A by-law to assist Firstbrook Bros. in building a box factory received the sanction of the ratepayers of Penetanguishene. Bonus by-laws were defeated in Belleville and Gananoque.

IN BRANTFORD.

Brantford ratepayers approved of the purchase of a steam road roller, and the appointment of a commissioner to have the oversight of their splendid parks. A by-law to expend \$56,000 on special street improvements was defeated. Brantford is a beautiful city but is in need of better streets. With a steam road roller, some good work can be done during the coming summer, and with a few object lessons before them, there is no doubt but that the citizens will see the wisdom of appropriating whatever sums may be needed to properly construct their roadways.

ANOTHER CITY.

Woodstock citizens approved of the proposal to incorporate as a city. Such a step will not be one of ambition, but rather are we led to admire the modesty which has characterized their remaining so long in the list of towns. One of the brightest and most substantial towns in the province, Woodstock will take a similar place among the cities.

OTHER BY-LAWS.

A by-law to provide a free library in Hespeler carried by a good majority. In Chatham a cemetery by-law was defeated. The ratepayers of Etobicoke township carried a by-law to raise \$5000 for steel bridges.

By-laws to commute statute labor were carried in Fullarton, Perth county; South Norwich, in Oxford; and South Dumfries, in Brant.

Gravel Roads.

Gravel is very plentiful in many parts of Ontario and where it can be obtained of a good quality, within reasonable hauling distance, makes a cheap but good road surface. It should, however, be clean, containing little sand and clay, since it is the stone, not the earthy materials, which is needed on the road. Nor should large stones and boulders be mixed with it, as they will work up and roll loosely under the feet of the horses and the wheels of vehicles.

In the preparation of gravel it is frequently advisable to place a stone crusher with screen attachment in the pit. By passing all the gravel through, the sand and clay are removed and the large stones broken by the one operation. If the gravel is fit to be placed on the road without such treatment, in nearly every case it will be necessary to send a man over the road and rake off large stones and break them by hand.

Much carelessness is exercised in taking gravel out of the pit. In the pit we may find, for example, the surface layer of four or five feet of good gravel, then a stratum of coarse sand one or two feet thick, and underlying this another stratum of fairly good gravel. The common practice followed by teamsters is to scrape down the face of the pit, causing the soil, clean gravel and sand to mix together at the bottom. This is put in the wagons and taken to the road.

Very few gravel pits provide material fit in its natural state for use on the road. Screening and crushing are often necessary, particularly the former, to remove sand and clay from among the stone. It is the stone which is wanted on the road, not the sand and clay. There is enough sand and clay already on the road without drawing it several miles from the gravel pit. Dirty gravel, while it unites readily and forms a good roadway in dry weather, dissolves, turns slushy and ruts with equal readiness in wet weather, whereas, with clean materials the stones assume a mechanical clasp the one to the other that will not yield to the same extent in wet weather.

Earth and sand attract moisture and after a few hours rain the road becomes softened. In this, slight ruts are formed which hold water, the whole structure becomes saturated, weakening the bond and permitting each successive vehicle to churn the ruts deeper until the gravel is cut through.

Management of Town Streets.

It is impossible to condemn in a manner too pointed, the inefficiency of the common system of providing for the improvement of streets, a fact made apparent by their wretched state. It is difficult to find a township, with a scattered and scant population, which has worse roads than the average town, notwithstanding the greater ability of the latter to pay for the proper construction of a comparatively short street mileage. A good system of street management must embody two ideas :

1. Capable oversight, so that work will be performed on proper principles of construction and in accordance with carefully prepared plans.

2. The concentration of funds so that work of a permanent nature can be undertaken.

In accordance with the foregoing, the first requirement, in the most of towns is a capable street overseer. He should possess a good knowledge of the principles of road and street construction. Whenever work is to be undertaken, he should first report on it to the street committee, or Board of Works, with plans and specifications. The committee having rejected, accepted or amended this report, the council should sanction or discard it. Work should be carried out under the direct supervision of the street overseer, preferably by contract labor, if the extent of the work warrants it. The overseer should be in constant touch with the chairman of the Board of Works, and should be available at all times for consultation, attending all meetings of the board for this purpose. The necessity of such an officer has been felt even in connection with township work. His position should be secure as that of the average clerk or treasurer. Work left to the direction of councils and councillors, with their conflicting interests and ideas, cannot be efficiently performed.

If the system of making annual appropriations is adhered to in carrying on street improvement, the disposition of the money should be such that a certain amount of permanent roadway will be built every year, devoting the smallest sum possible to repairing unimproved streets. This, however, is not the business-like policy, the policy on which great enterprises and improvements have been most successfully and economically brought about.

The principle of paying for a public work immediately on its completion is not a just one. The benefit derived from improved streets, a town hall, a sewer system, has only commenced when the work is completed. This benefit extends over a term of years and the only fair system is to ask payment from the citizens as the benefit of the work is received by them.

Nor is the full benefit of street improvement derived when only short sections of street are constructed annually. It is not

until the whole town is provided with well designed thoroughfares that the full benefit commences. Short sections are merely scattered links of a chain ; the usefulness of the chain is not realized until all the sections are joined, to the full length required. The "pay as you go" system is not the most profitable, if under it the work can be performed in limited sections only.

In assessing the cost of these improvements the annual payments may be met by the general funds of the town, in which case, in order to render justice to all, it would be necessary to raise sufficient money to suitably improve at least the most important street of the town ; or a local improvement by law may be adopted, this being usually framed on the frontage assessment system.

Water Pipes.

The quantity of water required by a town or locality is subject to numerous circumstances. The number of factories, and the amount they are likely to consume is an important consideration. For small towns, the quantity of water required for fire protection, and the pipe capacity for delivering it will, as a general thing, be sufficient to meet all requirements.

A four-inch pipe is required to supply a single hose stream of about twenty cubic feet per minute. A six-inch pipe will furnish two such streams. For the smallest town, therefore, a four-inch main is the absolute minimum, while for towns of any considerable size, six inches is the smallest pipe that should be laid on any of the streets. As a rule, each street main should be sufficient to furnish enough water for at least one ordinary fire on the street.

For large towns, in which the domestic supply exceeds the possible demands of fire protection, it is customary to estimate on a necessary water supply of one hundred gallons per capita per day, to be consumed in ten hours, with a liberal allowance for future growth of the municipality. This is a safe but not extravagant estimate.

The flow of water is very greatly influenced by the smoothness or roughness of the interior of the pipe. In general, this friction is the chief factor in determining the velocity of the flow of water in mains. A water main is made up of separate lengths of cast-iron pipes, the spigot end of one pipe entering the hub or bell end of the other. These joints are then calked ; that is, yarn, gasket or lead is first driven in, and the proper depth being secured, lead is then poured in.

It is exceedingly important that these joints shall be such as to create the least possible friction. To this end, the joints must be well fitted and securely calked, the alignment must be straight and the grade regular.

The grade requires much attention, as sags and depressions in the line occasion deposits of impurities in the low points, and accumulations of air at the high ones.

The line should be perfectly straight and even between changes of grade and direction.

At each summit, or point where the grade falls both ways, there should be placed a hydrant, or an air-vent, to discharge accumulated air from time to time. At each low point from where the grade rises both ways, there should be a special "blow-off" and stop-cock to clear it of sediment.

Changes of horizontal direction should be joined by as easy curves as can be obtained. In general, curves are got in with straight pipe, using all short pieces on hand, and, if necessary, cutting a whole pipe and joining the straight pieces with sleeves.

Pipes of large diameter, particularly those of twenty inches and upward, are laid on wooden blocks, the pipe being held in place by wooden wedges. When pipes are laid and calked, they should be covered as soon as possible by back-filling to prevent the joints from drawing in consequence of expansion and contraction, due to changes in the temperature of the air. In back-filling, after the pipe is laid in the trench, the earth should be well tamped in under the pipe, so that it may have a solid bearing throughout its entire length. Particular care should be taken to see that no stones get under the pipe, as in case of sudden jar, occasioned by "water hammer," the pipe may be cracked, or a hole punched through it.

Locating an Electric Power House.

In establishing an electric lighting system, one of the first matters for consideration is the site for the power house. This is not merely one of the first in point of time, but it is of first importance. The success of a great many electric plants is seriously handicapped by poor judgment in this simple detail. The site is an essential part of such a system, and before any decisive steps are taken it is as important that the expert employed to work out the details shall advise regarding this, as it is that he shall give advice respecting subsequent electrical installation.

Where steam power is to be used, it is advisable that the power house be located adjacent to a railway siding, or to a wharf, if water-borne coal can be had, or where these facilities for handling coal can be readily constructed. The expense of hauling coal is, in many cases, a very appreciable item, one which is perpetual in the operation of the plant.

The location of the site will materially affect the class of machinery and equipment to be employed and the cost of wiring. It is advisable, of course, that the power-house be situated near the centre of distribution, especially if a large area is to be covered.

A good supply of suitable water for condensing purposes is very valuable and the source from which this is obtained will influence the location.

The site should be such that it will not be offensive to surrounding property owners. Municipalities have to guard their citizens in this respect, but the creation of a nuisance in some degree cannot always be avoided.

Facilities should be had for obtaining machinery and supplies of a heavy nature as the cost of cartage may create a considerable annual outlay.

Provision must be made, in obtaining a site, for future extensions. A successful plant is very apt to grow beyond original expectations, and a large lot, permitting additions in any direction, is very essential.

It is advisable to have the employees living near the works, so that in case of fire in the town, accident to the wiring, or breakage at the power-house, assistance can be had without difficulty. Cottages near the works are frequently erected, or they can be purchased by the corporation in the immediate vicinity.

In selecting a site, these important considerations together with others which local conditions will create, must all be consulted, and a judicious selection made of a location which will include as many of the most favorable points as possible, in order of their importance.

Statute Labor Plebiscites.

Votes favorable to the commutation of statute labor were given in several townships at the last municipal elections, among others, in the townships of South Norwich, Fullarton, Goulburne and South Dumfries. In other townships where a numerical adverse vote was given, the result was really favorable, inasmuch as many who voted for councillors did not vote on the statute labor plebiscite. In such cases it is not unlikely that many who did not vote, were giving the question more real thought than those who did. Returns from townships where adverse votes were given, also indicate that the reason of this was that the people did not thoroughly understand the plan proposed in place of statute labor.

With these results before us it would appear that the best way of effecting a reform in statute labor is not to submit the question to a plebiscite, but rather to hold public meetings for the purpose of agreeing upon a change, the council to then pass a by-law on its own initiative, without submitting it to popular vote. The best way to explain to the people the new system, is to give them one year's practical example of its work. This has worked satisfactorily in Pelham, Nelson and other townships, where the new system has been efficiently managed. Other municipalities where the councillors are willing to devote their energy and thought to this much needed reform, can accomplish equally successful results.

The opposition to a commutation system arises, in many cases, from the fact that the people are dissatisfied with

the present methods of expending money in the township, and do not see wherein a system abolishing statute labor will remedy matters in this respect. They object to providing any more money until they are assured that it will be applied by the council to better advantage than is the present expenditure. When once the councils earn the confidence of the people in this respect, progress will be rapid.

Road Meetings.

A good deal has been said regarding the importance of holding public meetings throughout the townships for the purpose of explaining to the ratepayers the meaning of the good roads movement. Very frequently these meetings are called for the express purpose of advocating a change in the system of road management, generally the commutation of statute labor.

The securing of a good attendance at these meetings is largely a matter of good and energetic management on the part of the township clerks and councillors interested in placing the matter before their people. There are some districts where the people have already grown much interested in the road question, and where very little is necessary to ensure a large gathering.

In other districts, however, and they are still in the majority, a considerable expenditure of energy is necessary. It is not sufficient to put a short notice in a local paper a few days before the meeting. It is not enough to send out a few handbills a day or two in advance.

Handbills and newspaper advertisements can be made to do good work, but they should be issued two weeks before the meeting, and three weeks will be better, as this will enable the ratepayers to engage in some discussion on the subject, and in this way spread an interest in it. These handbills and notices should state definitely the object of the meeting, and the exact question to be discussed. They should state under whose auspices the meeting is called, usually the municipal council. It is well if the main address is to be made by some one from a distance, to include the names of a few of the more prominent local men who have been asked to express their views in short speeches.

These handbills should be sent to one hundred or more of the local ratepayers by mail, in order to convey to them a personal invitation, and make them feel that their presence will be looked for, and that the meeting is not one arranged for any favored few. These special invitations should be coupled with the request that they ask their neighbors to accompany them. In many cases full notices of the meeting or meetings are printed on post cards, and these mailed to a couple of hundred ratepayers.

In addition to this use of handbills, or special invitations, large bills, placed in conspicuous places, are used in a great many places with good effect. Announce-

ments may be made, too, through the churches and schools.

A poor meeting is worse than wasted time, for its influence is apt to be hurtful rather than beneficial to the cause of good roads. A large and representative meeting, on the other hand, will result in a full and enthusiastic discussion, and whatever expression is given by the meeting, is one upon which the council may rely for support in whatever action, in accord with the feeling of the meeting, they may see fit to take. One thoroughly good meeting in a township will have a decided influence upon every part of the municipality as an after result, through the reports of it which will be carried to their neighbors by those who attended, whereas a dozen slimly attended meetings may have little, if any, such influence. If the road meetings are worth holding in a township, they are worth the time and effort necessary to make them a success on the part of councillors and clerks.

Good Roads in Ontario.

The good roads movement in Canada has been frequently misunderstood, owing to the reference made in the Canadian press to the class of roads advocated by many road reformers of the United States, who take as their point of reference States such as Massachusetts or New Jersey, where macadam roads almost of the character of city streets are being built through the country districts. These states, however, are manufacturing rather than agricultural, with numerous large cities and towns, the population is more closely congregated, and the traffic over the roads is greater in every way, so that expensively built roads are needed and can be afforded.

In Ontario, a distinct type of road is needed, and here the question resolves itself merely into a matter of making the most of what the people can afford to spend on roads; that is, the present expenditure.

That we need good roads there is no need to argue, nor to present elaborate statistics which may or may not be correct. The average farmer of Ontario knows full well the benefit that good roads would be to him in making his occupation more remunerative, and more agreeable. The farmer does not enjoy driving or hauling loads to town over roads axle-deep in mud, any more than other human beings. He knows what good roads would mean to his family in going to church, school, or the public meeting. He is very willing to adopt any new plan of road management that will be to his advantage in this respect and it remains only for the township councillors to do their duty in studying up this problem, and place before their people for their consideration the most effective scheme possible.

The appointment of one auditor by the mayor or reeve, is still the practice in some places notwithstanding the amendment of 1898, making it the duty of the council to appoint both auditors.

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.

Voters in Newly Incorporated Villages.

45.—R. S.—Do newly incorporated villages come under section 90 or 91, chap. 223?

Section 91. See also section 150.

Separate School Taxes.

46.—D. B. G.—In the year 1889 A forms a contract with B to work her farm on shares for a number of years, A getting two-thirds of profits for his work; also agreeing to pay all taxes, getting the privilege of paying schooltax to Separate or Common school as desired. B resides on the farm, but has no children going to school. A notified the township clerk before the first day of March, 1899, that his school tax should go to the separate school system, as the farm was within the limit of the separate school house, that is, three miles in a direct line. A also owns a farm in separate school section where he resides. The school section where B's farm is located has been undergoing improvements to the amount of \$1,000 during the past year, and the trustees have raised part of that amount this year, and intend to raise the balance next year to pay it. The school-tax has been paid to the common school section the past two years, as the clerk failed to act on the notice he received from A.

1. Now the question arises, is the separate school section entitled to the school tax?

2. Will B's farm be exempt from paying anything towards said improvements on the school house?

3. Will the ratepayers of common school section have to refund the amount of taxes illegally paid?

1. The separate school is entitled to the whole tax.

2. No.

3. The school trustees who received the tax should pay it over to the separate school trustees. See sections 42 and 53 of the Separate Schools Act.

Statute Labor Defaulter.—Council's Duty.

47.—T. R. K. S.—In this township a pathmaster returned his statute labor list for 1900, with two days unperformed against a ratepayer. This ratepayer has ten days' work. The pathmaster gives him credit for eight days done and two days undone. The ratepayer claims to have performed the ten days, and has asked the council to give him credit for it, and claims he can produce sufficient evidence to prove that he has performed the whole amount of work.

1. Can the council hear the evidence of this party, and if satisfied the work has been performed give him credit for it?

2. Have the council power to interfere with the return of the pathmaster? In your November issue, question 393, J. O. J., you imply that the council have no control in the matter.

1. No. 2. No.

Reeve Can Move Resolution.

48.—S. R.—Is it in order for the reeve to move a motion without vacating the chair? Refer me to law on the matter.

Yes. Section 274 of the Municipal Act gives the reeve the right to vote on all questions submitted to and disposed of

by the council, and he is entitled to move a resolution whether he has vacated the chair or not. See also questions number 239, 348 and 409, 1900.

Sale of Animal Detained.

49.—J. D.—What shall I do with a stray steer that came to my premises some time last summer and I advertised the steer on November 22, 1900, in one of our local papers. How long after it is advertised should it be until it is sold, and after the steer is sold does it become municipal money?

We can only refer you to the Pounds Act, chapter 272, R. S. O., 1897. See sections 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19. We cannot say from the information you have given us whether you have given all the preliminary notices required by the Pounds Act or not. If you have you will be entitled to have the steer sold under section 19 and in that case the surplus must be paid to the owner or, if not claimed by him within three months from the sale, it must be paid to the treasurer of and for the use of the municipality.

Payment of Medical Health Officer for Disinfecting.

50.—SUBSCRIBER—Has the council the right to pay the attending physician (he being the M. H. O. of the township,) for disinfecting a house after a case of contagious disease?

Section 81, of The Public Health Act, makes it the duty of a Local Board of Health to notify the owner or occupier of infected premises to disinfect the same to the satisfaction of the medical officer, within a time specified in such notice. If the owner or occupier makes default in complying with the terms of this notice, section 82 empowers the local Board of Health to cleanse and disinfect the premises, and recover the expenses incurred from the owner or occupier in a summary manner. The physician has no right to disinfect the premises, unless the owner has made default, and not even then unless he has been requested to do so by the Board of Health, and in that case the expenses are payable by the owner.

Requisites of Road By-Law.

51.—J. A.—The township council passed a by-law on Sept. 15th, authorizing and instructing the reeve to sell part of lot 14, concession 1, not now used as a public road. He has since done so. Is it necessary to pass a by-law to confirm the sale of said land?

Section 637, of the Municipal Act, subsection 1, provides that the councils of every county, township, city, town and village may pass by-laws for opening, making, preserving, improving, repairing, widening, altering, diverting, leasing,

selling or stopping up roads, streets, alleys, lanes, bridges or other public communications within the jurisdiction of the council. Before this by-law can be passed, however, the preliminary proceedings mentioned in section 632 of the Act must be taken and the provisions of this section should be strictly observed. One by-law is all that is necessary for all purposes.

Voter Can Vote More than Once.

52.—G. M. D.—Our town has carried the by-law of representation by population. Has a voter under this by-law more than one vote?

We presume you mean that your town has carried a by-law pursuant to the provisions of subsection 3 of section 71a of the Municipal Act (enacted by section 2 of the Municipal Amendment Act, 1898.) This subsection provides that the by-law is to be "submitted to the vote of the electors according to the provisions in this Act (that is the Municipal Act) in regard to by-laws requiring the assent of the electors." These provisions are contained in section 338 and following section of this Act. Section 355 enacts that "where a municipality is divided into wards, each ratepayer shall be so entitled to vote in each ward in which he has the qualification necessary to entitle him to vote on the by-law." Therefore, if your town was divided into wards at the time of the election, a voter having the requisite qualification in more than one ward, would have more than one vote.

Qualification for Councillor of Member of Council of Health.

53.—W. D. M.—I notice in THE MUNICIPAL WORLD, of January, the question asked as to whether a member of the local Board of Health, for 1900, would be qualified for election as a member of the township council, for 1901. In your answer you state that such a person would not be qualified unless he had first resigned his position as member of the Board of Health and that such resignation had been accepted by the council previous to nomination day. Kindly quote your authority for this statement.

Section 48 of the Public Health Act, provides that the local Board of Health should be composed of the reeve and clerk, who are ex-officio members, and three ratepayers, but it does not say that these ratepayers must not be members of the municipal council. It, however, is stated in section 51, where a district board is appointed, the board should consist of three members of each municipality one of these to be a ratepayer not a member of the council.

It seems to me, I asked your opinion on this matter some few years ago, and you gave me as your opinion then, that for township boards a member of the council was not prohibited from being appointed as such.

Although the Municipal Act does not in specific terms disqualify a person under the circumstances set forth in your enquiry, still, in order to avoid all difficulties and complications, we have hitherto advised, and do now advise, the resignation of a member of a local Board of health, intending to be a candidate for councillor before nomination day, as a matter of precaution. As a general rule a council should not appoint one of themselves to a position, but we think the Public Health

Act contemplates that such an appointment may be made for the following reasons: There is no legal reason why a council should not appoint one or more of its members, other than the head thereof, to membership of the Board of Health, and if so, sec. 48 of the Public Health Act provides that "there shall be a local Board of Health in every township and incorporated village, to be composed of the reeve, clerk and three ratepayers, to be appointed by the municipal council." If this section stood alone it might very well be contended that the general rule applied, but sec. 51 of the same Act seems to imply that a member of the council may be appointed under sec. 48, because it expressly provides that the ratepayer to be appointed in the case of district Boards of Health is not to be a member of the council.

Persons Within Two Miles of Corporation is Eligible for Election if Qualified.

54—F. J. G.—Is there anything in the Municipal Act to authorize a person living within two miles of a corporation to be elected as a member of the council, provided he owns sufficient property in such corporation to justify his being elected?

Yes. See section 76, of The Municipal Act, sub-section 1, sixth line.

Duties of Collector.

55—J. K.—Has the township collector a right to call once at every house and demand taxes, or can he stop around hotels and give the bills to those he meets there? Some are finding fault, as they do not know where to leave taxes for him, he having handed them the bill on the street.

Your municipality, being a township, the collector is required by sub-section 3, of section 13, of The Assessment Act, to 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, or, if so empowered by by-law of the municipality, he shall leave with the person taxed, or at his residence, or domicile, or place of business, a written notice specifying the amount of such taxes, etc. The collector's demand or service of the notice on the person liable for the taxes is therefore sufficient if made on such person wherever he may be at the time, in a hotel, on the street, at his place of residence or business, or elsewhere.

Treasurer's Bond.

56—SUBSCRIBER.—Kindly give your opinion, or in legal municipal terms, as to municipal bonds of treasurers.

1. Is it necessary to renew treasurer's bonds annually?

2. In the event of the removal or decease of one or more of the bondsmen, does it require a new bond for the whole?

3. Would the signature, interlined of a new bondsman, on an existing bond be sufficient?

1. In the case of a treasurer it is not necessary to have a new bond if the bond is so worded that it is to endure so long

as the treasurer holds the office; but if the bonds were made, say for one year, it would expire at the end of the year, and a new bond would be necessary.

2. No; but it would be better to require a new bond.

3. No.

Voters with More than One Vote for Aldermen.

57—G. M. D.—Your reply to the 15th received. I beg to say that your answer does not fill the bill to the question I sent you. What I would like to know is this: Our town passed the representation by population by-law, on Jan. 7th last. What our electors want to know is, have the voters, who are properly qualified, a right to vote in more than one ward for councillor, or if, under the representation by population by-law, it is one man one vote, same as if you were voting for mayor. Our electors voted for the by-law upon the advice of our town solicitor that it would be one man one vote. It has since been learned that Deputy Attorney-Gen'l Cartwright has given his private opinion that representation by population does not do away with the voting in the various wards. So that a voter having property in five wards can vote five times for the same councillor. Now, as you are the recognized authority on municipal law I would be pleased to have your opinion.

You did not make the object of your Question No 52 clear. If you had, we would have answered it in the first instance as we do now. Under the by-law your town has passed, you are entitled to elect one alderman for each 1,000 of your population to be elected by *general vote*. (See sub-sec. 3 of sec. 71a of the Municipal Act, as enacted by sec. 2 of the Municipal Amendment Act, 1898) Section 158 of the Municipal Act, as re-enacted by sec. 13 of the Municipal Amendment Act, 1899, and as amended by sec. 6 of the Municipal Amendment Act, 1900, provides that "In towns and cities, in which the councillors or aldermen are elected by wards or in two divisions, or by a *general vote*, every elector may vote in each ward in which he has been rated for the necessary property qualification for councillor or aldermen, but the elector shall be limited to one vote for mayor of a city or town." The by-law you have passed does not, therefore, do away with the voting for *aldermen* in the various wards. A voter may vote for aldermen in each and every ward in your town in which he possesses the necessary property qualifications.

Rights of Private Telephone Company.

58 R. C.—1. Can a private grain-buying concern erect poles and run a telephone wire twelve miles across a township, and four miles along a townline, for their own private use exclusively, without asking permission of either township, and not offering any consideration whatever?

2. Would the grain-buying concern be relieved of responsibility of accidents caused by the poles by the municipalities accepting taxes on the plant, or accepting any other consideration?

1. The Bell Telephone Co. has the right under Acts of both the legislatures of Ontario, and the parliament of Canada, to erect poles along public highways, but we are not aware that any such power has been conferred upon these private individuals; and if no such power has been

conferred upon them, the council should notify them to remove the poles.

2. The payment and acceptance of taxes does not affect the liability of the parties in case of accident. If any accident happens, the municipality will be liable. The municipality may have a remedy over in case it has to pay damages, but these parties may not be responsible, in which case the remedy over would be valueless.

Assessor Should Add up his Roll

59—G. S.—Which is it the duty of the assessor or clerk to add together the totals of the several columns in the assessment roll, and place the same in the recapitulation column in the back thereof? Our assessor claims that it is not his duty to do so, and returns his roll with the recapitulation column blank.

Section 36, of The Assessment Act, provides that, "Subject, etc., every assessor shall, on or before the 30th day of April, deliver to the clerk of the municipality such assessment roll, completed, and added up, with the affidavits attached." This, certainly, means that the assessor must add up every column in his roll before the terms of the section have been complied with, and, we take it, it goes still further, and requires the assessor to shew on his roll, before it is complete, the aggregate totals of all the columns on his roll, which is the equivalent of the recapitulation you refer to.

Council Appoints both Auditors.

60—A. B.—I have been told that auditors are now appointed by municipal councils instead of one being appointed by the reeve and another appointed by the council but I have so far failed to find authority for the statement, that both auditors are appointed by the council.

Sec. 8 of the Municipal Amendment Act, 1898, (chap. 23 of the Ontario Statutes for that year), amends sub sec. 1 of sec. 299 of the Municipal Act by striking out the words "one of whom shall be such person as the head of the council nominates," in the fourth and fifth lines thereof; therefore councils, since the date of the above amendment, shall, at their first meeting, appoint both auditors.

Cannot Electioneer in Polling-Booth.

61—H. A.—At our municipal election yesterday, in voting for public school trustees, two very decent fellows were running in the east ward of our town. One of them, from the time the poll opened until the close of the poll, was electioneering, or, in other words, buttonholing the electors in the polling-place as the electors came in, and the other one did not do so. Now I am of the opinion that this had the effect to elect the one who was buttonholing, and would like to enquire whether or not this should be allowed. I cannot find anything in the Act forbidding it. The buttonholer received 186 votes, and the other one 178. In enlightening me on this subject, I would be pleased to know whether you are giving me your own opinion, or whether your information is based on a case decided in Court, or by some good authorities in matters of this kind. You will please bear in mind that many electors are somewhat indifferent how they vote for school trustees, especially here in our town.

Sec. 173 of the Municipal Act provides that "during the time appointed for polling, no person shall be entitled or permitted to be present in the polling-place, other

than the officers, candidates, clerks or agents authorized to attend at the polling-place, and the voter, who is for the time being actually engaged in voting." Sub-section 2 of section 198 provides that "No officer, clerk or agent and no other person shall interfere with, or attempt to interfere with, a voter when marking his ballot-paper, or shall otherwise attempt to obtain at the polling-place information as to the candidate or candidates for whom any voter at such polling-place is about to vote or has voted." These sections apply also to the election of a public school trustee. See sub-section 3 of section 58 of the Public Schools Act. In "button-holing" or soliciting the votes of electors in the polling-booth, the candidate you refer to was violating the provisions of the section last quoted, and is liable to the penalty mentioned in sub-section 6. The deputy-returning officer should have commanded the candidate to desist from his objectionable and illegal tactics, and if he still persisted in indulging in them, should have had him ejected from the polling-booth if he refused to leave of his own accord. See the latter part of section 173 of the Municipal Act. We may say, however, that the election cannot be avoided for what was done.

Illegal Vote for School Trustees.

62—H. A.—Do you know how to prevent Separate School supporters from voting for public school trustees?

Sub-section 3 of section 58 of the Public Schools Act provides that where the election of school trustees is to be held by ballot, it shall be held at the same time and place, and by the same returning officer or officers, and conducted in the same manner as the municipal nominations and elections of aldermen or councillors are conducted." The Municipal Act authorizes the appointment of agents by the candidates to represent them at each polling-place. Candidates for school trustee, therefore, can and should also do this. If an unqualified voter presents himself at a polling booth for the purpose of voting, before he receives his ballot, he should be objected to by the candidate or his authorized agent. When the objection is made, the deputy-returning officer must administer the oath contained in sub-section 5 of section 58 of the Public Schools Act, clause 4 of which is "that you are a public school supporter." A separate school supporter can not take this oath without rendering himself liable to a prosecution for perjury.

Can the Same Person be Assessor, Chief Constable and Sanitary Inspector?

63—S. H. G.—Is it lawful for the office of assessor, chief constable of town and medical health inspector, to be held by one and the same person?

We assume that by "Medical Health Inspector" you mean "Sanitary Inspector," appointed under the provisions of the Public Health Act. There is nothing to prevent the filling of these offices by the same person. The performing of the

duties of one of the offices would not in anyway interfere or clash with the discharge of the duties of the other.

Insufficient Separate School Supporter's Notice.

64—D. C. M.—Revised statutes of Ontario, chapter 294, section 47. A supporter of a separate school in March last, 1900, when being visited by the assessor, on making his tour of assessment, asked the assessor to place him on the roll as a public school supporter. The assessor declined, giving as a reason that he had not been notified of the change by the clerk. The party wanting the change wrote me complaining of the action of the assessor in not placing him as requested as a public school supporter. This would be about the 1st of May, last year. I immediately replied to his letter, and referred him to section 47, and copied the words of the section, and sent them to him. Nothing more was heard of the matter until yesterday, (he being rated as a separate school supporter,) when he appeared before the council to give notice of his withdrawal again from the separate school, and I told him he was too late again for this year, as I should have received his notice before last Wednesday, the 9th inst. He contends that his notice of last year is sufficient for this year. Is he right?

No. Sub-section 1 of section 47 provides that the notice of withdrawal must be given to the clerk of the municipality before the second Wednesday in January in any year. The notice given in May, last year, will not answer for this year. To be legal and effectual under the above sub-section the notice should have been given this year, prior to the 9th January last.

Township Clerk and Treasurer Cannot be Assessor.

65 SUBSCRIBER. Is it lawful for a township clerk and treasurer to be assessor for the same municipality in the same year? Please state the section in statute which permits or forbids the same.

The Act respecting the establishing of municipal institutions in the territorial districts, does not, in terms, prohibit the appointment of the clerk or treasurer to the office of assessor (see section 40) as does section 295, sub-section 1, of the Municipal Act, but wherever the clerk and assessor are mentioned in the former Act, they are referred to as separate persons; for example, section 40 provides for the "return of the roll to the clerk." The same person could not, as assessor, very well return the roll to himself as clerk. In view of this section we think that the two offices of clerk and assessor are incompatible and in view of the duties of a treasurer, under section 53 of chapter 225, R. S. O., 1897, the offices of treasurer and assessor are also incompatible.

Repeal of Tax Exemption By-Law—Owner Should Pay Surveyor—Mail Carrier's Rights on Highway.

66—SUBSCRIBER.—1. A by-law was passed by this council in 1897 to exempt a firm from the payment of municipal taxes, and statute labor on a sawmill for two years. Can the council repeal the above by-law and pass a new by-law to collect municipal taxes and statute labor in the future?

2. There was a road opened about four years ago, with the government money, between two lots. One owner of one of the lots claims that the road is not very straight, and he wants to make his line fences, and to make it straight he requires a surveyor to run the line. Who has

to pay the surveyor, the owner or the corporation?

3. Is the council obliged to keep the road in a good shape for the mail, or is the mail bag to suffer in stormy weather, from the bad road as well as the rest?

1. As to section 411 of the Municipal Act (which is now repealed and replaced by the provisions of sections 8, 9, 10 and 11 of the Municipal Amendment Act, 1900. Mr. Harrison says in his note (b) on page 278 of the fifth edition of his Municipal Manual, that, "It is a question whether the by-law can be repealed within the period of exemption mentioned therein, after its terms have been accepted and acted upon by the persons in whose favor it is passed. In other words the question is whether the by-law is to be looked upon simply as a local law or a contract. If the former, it may be repealed, if the latter it cannot be repealed; for, one party to a contract cannot rescind it against the will and to the prejudice of the other." Whether there was a contract in this case or not we cannot say because the circumstances under which the exemption was granted are not given. Exemptions are usually granted as an inducement to the establishment of a business in a municipality and if that can be shown, we think there would be a sufficient consideration to make a binding contract to continue the exemption, at all events, as long as the business continued.

2. The owner.

3. The county is legally compelled to keep the road in a reasonably safe condition for public travel, taking into consideration the nature of the locality, the volume of traffic, and the means it has at its disposal.

Cannot Revert to Ward System.

67 A. B. C.—Our township was formerly divided into wards before 1898, when all townships were put out of wards by act of parliament. A large number of the ratepayers now wish to have the township put back into wards again.

1. What steps will they have to take in order to do so? Will they have to present a petition to the council, signed by a majority of the ratepayers?

2. Will the council have power after such petition is presented to put the township back into wards again? If not, what will be the proper course to pursue?

1. Neither the amendments to the Municipal Act of 1898 nor subsequent legislation have the effect of abolishing wards in townships. Section 4 of the Municipal Amendment Act, 1898, amended section 73 of the Municipal Act, in such a way that thereafter the reeve and all councillors of a township should be elected by a general vote. It did not, however, abolish wards existing at the time this legislation came into force. By subsection 4 of section 8 of the Municipal Amendment Act, 1899, section 101 of the Municipal Act, which made provision for the dividing of townships into wards, or abolishing or altering existing wards, was repealed. Under the existing statutes, there is no provision made for dividing a

township into wards, or electing its council in any other way than by a general vote.

2. In view of our answer to question No. 1, it is unnecessary to reply to this.

Council Can Sell Timber on Road Allowance.

68 H. D.—Has the municipal council the right to sell timber on road allowance, it not being needed for building roads? Said road allowance is not needed for road above, being concessions and sideline allowance.

It is in the discretion of the council to sell the timber on road allowances in the municipality. Sub-section 7 of section 640, of the Municipal Act, authorizes the councils of townships, etc., to pass by-laws "for preserving or selling timber, trees, stone, sand or gravel on any allowance or appropriation for a public road," subject to the provisions of the Act respecting timber on public lands." (R. S. O., 1897, chap 32)

These Arrears Cannot be Collected.

69—R. M. T.—Can the tax collector collect this year taxes which were returned to county treasurer in 1898, and placed on collector's roll in 1900 for collection? Can collector collect, by levy or distress of chattels, when there were chattels in 1898 to distrain on?

These taxes having been returned to the county treasurer as uncollectable in 1898 could not legally be placed on the collector's roll of the local municipality until 1901. Only taxes that have been in arrear for three years next preceding the first day of January of the year in which the collector's roll is prepared can be placed on the roll. See section 152 of the Assessment Act. If these taxes could be legally placed on the roll for 1900, and the collector for 1898 could, by the exercise of reasonable diligence have collected, them by distress of the goods and chattels of the person assessed for the premises in 1898, payment could not now be enforced.

When Should Assessor Commence his Work?

70—R. W. M.—What is the earliest time the assessor can get or demand the roll, so as to start his work?

Section 55 of the Assessment Act provides that "subject to the provisions of section 58, etc., every assessor shall begin to make his roll in each year not later than the 15th day of February, and shall complete the same on or before the 30th day of April, etc. Your municipality being a township, your assessor should have his roll and the necessary supplies, and should start his work not later than the 15th February. He can start his work earlier than this date, if he is prepared, and sees fit to do so.

Nominee Need not be Present at Nomination Meeting—Proposer and Seconder Should.

71—J. A. M.—Will you kindly inform me if there is a new municipal law which says that the nominee, his proposer and seconder must be present at all nominations, or they will not be accepted by the returning officer.

It is not necessary that the nominee should be present at the nomination meeting, but the mover and seconder who sign the nomination paper should be present, and be electors of the municipi-

ality. If a nomination paper, written or printed, or partly each, stating the full name, place of residence and occupation of the candidate, purporting to be signed by a mover and seconder, is handed to the returning officer, he should accept them and leave it to the courts to say, in case the election is contested, as to whether they are sufficient or not.

Council Cannot Pay Moneys, or Enter into Contract After 31st of December.

72—J. F.—Would it be legal for a council to pass any ordinary accounts after the 31st of December, supposing these accounts could just as well have been passed before that date? Could any accounts passed after that date be collected?

Sec. 328 of the Municipal Act provides as follows: "No council of any local municipality shall, after the 31st day of December, in the year for which its members were elected, pass any by-law or resolution for the payment of money, or which involves, directly or indirectly, the payment of money; nor shall they enter into any contract or obligation on the part of the municipality, nor shall they appoint to or dismiss from office any officer under the control of the council, or do any other corporate act after said day, except in case of extreme emergency; but the council may before the 31st day of December, do any necessary business which, having regard to the circumstances, may be done at such time, and which they are authorized to do at their last meeting."

Can Councillors who are Directors of Agricultural Society Vote for Grant to Same?

73—S. H. K. F.—In our township council we have a vice-president and a director of the township agricultural society. Every year a deputation applies to the council for a grant. Can the members who are officers of the society applying for grant, legally vote any sum from township monies? Is it necessary for them to withdraw from the council while grant is being discussed? If they do not vote on the question it is possible only two of the remaining members will favor the grant. What course would you advise?

We are of the opinion that the vice-president and director of the Agricultural Society, who are also members of the council, can legally take part in the discussion of, and vote on the question of making a money grant to the agricultural society. Neither as members of the council nor as directors of the agricultural society are they acting in a personal capacity, but as members of a representative body.

Police Village Trustees Can Levy Dog-Tax Under Certain Conditions.

74 F. H.—In answering 29, R. M. F., 2nd January, you must have overlooked Vic. 63, section 52, sub-section (2.) It seems to me that police trustees have power to levy a dog-tax, provided the township in which the police village is situated has no by-law in force levying a dog-tax.

Yes. In answering clause number two of the question you refer to, we overlooked sub-section 2 of section 52 of chapter 33, Ontario Statistics, 1900, which

provides that "The police trustees of any police village, may pass by-laws applicable only in the police village for any of the purposes mentioned in paragraphs 1, 2, 3 and 4 of section 540 of the Municipal Act, provided there is no township by law in force for any of the purposes mentioned therein." Clause 3 authorizes the imposing of a tax on the owners, possessors or harborers of dogs.

Collection of Arrears of Taxes on Unassessed Property.

75—C. I. H.—Can a council legally collect arrears (three years' arrears) on property that has not been assessed heretofore and is in the municipality.

No. If the property has not been assessed, the council has no basis for the levying of taxes on it.

Assessment of Branches of Chartered Banks.

76—ASSESSOR.—We have a chartered bank in our corporation, and would like to know what basis is adopted in assessing branches of chartered banks. Can they legally be assessed?

Chartered banks are not liable to be assessed in each municipality in which a branch office is situated. Sub-section 2 of section 39 of the Assessment Act provides that "the personal property of a bank, etc., shall, as hitherto, be exempt from assessment, etc."

Proceedings on Division of School Section.

77 J. B. M.—At our last council meeting a petition was presented, signed by a large number of ratepayers of a certain school section, asking that the section may be divided, and two new schools erected. At the same meeting a contra petition was presented, signed by equally as large a number of ratepayers, opposing the division, and asking that a two-roomed school be erected on the old site. This petition is largely signed by villagers with adjacent farmers, while the first one is altogether farmers. About four or five of the neighboring school sections would also be interested by requiring some more land from each section. What steps should the council take, or what should their procedure be in this matter?

The Public Schools Act does not require a petition in a case of this kind, and, therefore, the petitions are of no consequence. If the requirements of section 38 of the Public Schools Act are complied with, the council may pass such a by-law as in their discretion they may deem proper, in the manner and within the time therein limited.

Conduct of Business at Council Meetings.

78—CLERK.—1. Has a councillor the privilege of inserting the name of another in a resolution as a mover or seconder, without first getting the said councillor's consent.

2. As the names of councillors, voting either for or against a resolution, are required to be noted in the minutes in the event of a resolution carrying unanimously, would it be necessary to write all the names, or would the word "unanimous" be sufficient, showing all are agreeable to resolution?

3. When a resolution is drawn up at council board, and the mover fails to get a seconder, should the minutes of council be taken to that effect, that is, should copy of said resolution appear in the minutes?

1. No.

2. Section 274a of the Municipal Act makes no distinction as to the clerk's duty

to record the votes of the members of a council, as to whether a motion is carried unanimously, after opposition, or defeated, the votes in each instance should be open, and recorded by the clerk.

3. Councils usually have a by-law regulating their proceedings, and the usual rule is that a motion shall be in writing and seconded, but if your council has not passed such a by-law or there is no rule regulating the manner in which questions are to be brought before the council, we do not think a motion or resolution need be seconded and that it is the duty of the chairman to submit such a motion or resolution to the council, and if he does that, it then becomes the duty of the clerk to enter it in the minutes. If the presiding officer does not, however, submit it, the clerk should not enter it in the minutes.

Collection of Arrears of Taxes in Districts.—Three Year Assessment not Authorized.

79—PARRY SOUND.—1. Does council in township in Parry Sound District forfeit claim and power to collect taxes if not returned to sheriff yearly? If so, when do they lose the power to collect?

2. May arrears be legally carried over to collector's rolls, and not returned to sheriff?

3. Does the Municipal Act give councils power to adopt a three years' assessment? If so, please quote the section giving authority.

1. If the officers of the local municipality fail to perform the duties imposed on them by the Assessment Act, and section 56 and following sections of R. S. O., 1897, chap. 225, the municipality cannot enforce payment of the arrears of taxes by sale of the lands or otherwise.

2. No.
3. No.

Limit of Taxable Property in School Sections.

80—H. L. B.—Please state whether the "three-mile" mentioned in school law as between residence and school means

1. In a direct line, as the crow could fly, or as direct as a scholar could go by road?

2. If a farm all in one lot or piece be partly within the three-mile limit and partly in unorganized territory, or in no other section for school purposes, can the property be all taxed for school purposes?

3. In reckoning the termini for above three-mile line it starts between residence and school, does it mean his house or the nearest part of the property on which his house stands?

1. The words "direct line" mean a straight line, "as the crow flies."

2. No, only such portion of the property as is within the limits of the school section can be taxed for school purposes.

3. Subsection 1 of section 11 of the Public Schools Act, provides that no section thereafter formed shall include any territory distant more than three miles in a direct line from the school-house. Under this sub-section, no portion of a ratepayer's property, that is more than three miles in a straight line from the school-house, can be included in the school section. Sub-section 3 of section 24 makes special provision for the taxation of lands liable to taxation for school purposes located within a distance of three miles in a direct line from the site of the school-house.

Payment of Collectors' and Assessors' Postage—Protestant Separate School.

81—G.—1. At our last meeting of council a discussion arose as to whether the council should pay their officials, (assessors or collectors) postage for transmitting assessment notices and tax notices to non-residents, (of which there are a good many in this municipality.) The council have paid this postage heretofore. Are the assessors and collectors entitled to pay for their outlay?

2. Can a school section, who are protestants, excepting one Roman Catholic, form a Protestant Separate School, the teachers employed being Protestant, no others engaged.

1. This will depend upon the terms of the contract between the council and the assessor or collector, at the time of his hiring. In arranging his salary, the assessor or collector is presumed to know that in performing the duties of his office, he will have to disburse the moneys you mention, and take this fact into consideration. If the officer simply accepts or agrees to take a certain sum for performing the duties of his office, he cannot require the council to pay these disbursements in addition to that sum.

2. If the teachers employed in this school section are protestants, the formation of a protestant separate school therein is not allowable. This is permitted when the teacher is a Roman Catholic. See section 7 of the Separate Schools Act, R. S. O., 1897, chapter 294.

Payment of Claims for Sheep Killed—Assessment of Personality.

82—SUBSCRIBER.—1. Is the council of a township liable if a person has rented a farm and buys sheep for speculation, and has at times some two hundred or three hundred at one time on the place, if dogs get in and destroy them?

2. A person having a brick and tile yard on his place, and has burnt \$1,000 to \$3,000 worth, all paid for, the assessor puts him on the roll, assessed his farm the same as neighbor's. Should he be assessed extra for the extra brick and tile?

1. Assuming that the council has not passed a by-law under section 2 of chapter 271, R. S. O., 1897, dispensing with the levy of a dog-tax or a by-law under section 8 of the same Act, dispensing with the application of the tax, the owner, in this case, will be entitled to receive two-thirds of the amount of damage sustained by him upon presentation of his claim to the council, and proof of it in the manner provided by section 18 of the Act.

2. The brick and tile manufactured and stored in this person's tile yard, are assessable at their actual value and should be assessed in addition to the lands on which they are located. Being over the value of \$100, no part of the value is exempt from assessment under sub-section 25 of section 7 of the Assessment Act.

Closing of Old Road and Opening New—Duties of Collector and Treasurer—Commendable Way of Opening Council Meetings.

83—J. K.—1. Two brothers occupy farms with a government allowance for sideroad between them. Sideroad which would be used by number one is not opened and would be expensive to make. The father gave a deed of

road to one through the other's farm. It is not a public road and there are gates to open. We are trying to exchange government allowance for 40 feet across and through farm No. 2, giving the difference. If No. 2 is not satisfied can we take the road and leave it to arbitrators? What steps will we take to make it a public highway? No. 2 would use forced road. Is using it now. Council are willing to get No. 1 a road somewhere.

2. Our council passed a by-law to have the funds that were in the hands of treasurer put in bank in the name of the municipality. There is another bank in town, and both the treasurer and collector seem to favor it. Collector puts money in it for two weeks when he pays it over to treasurer. There seems to be no stated time for him, treasurer, to put it in our bank and sometimes our account is overdrawn and we have to pay interest although our money is in the collector's or treasurer's hands. Our bank manager wants collector to leave money with him as he collects it and he will give him a receipt for, or to treasurer. Can collector do that or must he give it into the hands of treasurer? Can we force treasurer to put it in our bank as soon as received or had we better change collector and treasurer?

4. Has the reeve the right to open the meeting of council with a few words of prayer or must the council pass a resolution? None of them object but there has been no resolution passed.

1. Section 637, of the Municipal Act, sub-sections 1 and 2, give township councils power to pass by-laws for opening, making, selling, stopping up, etc., road allowances, and for entering upon, breaking up, taking or using any land in any way necessary or convenient for the purpose, subject to the restrictions contained in this Act. Before passing a by-law under sub-section 1, the council should take the preliminary steps mentioned in section 632, and should strictly observe the provisions of this section. If the owner of the land required for the new road and the council cannot agree on the amount of compensation, (which by section 437, of the Act, the council is required to give,) to be allowed the former for the land taken, the matter shall be determined by arbitration under the Act. See the latter part of the section.

2. So far as the collector is concerned, he appears to be doing what the law requires him to do. Sub-section 3, of section 144, requires him to pay over to the treasurer of the township once in every two weeks, until the final return of the roll, the total amount collected during the preceding two weeks. It does not matter, therefore, if he keeps the taxes during the two weeks. So long as he pays them over to the treasurer at the end of every two weeks, he is complying with the law. The treasurer should pay moneys as they are received by him into some chartered bank as the council directs. He has no right to select a bank which the council does not approve of. We refer you to sections 290 and 291, of the Municipal Act, and particularly to sub-section 5, of section 291, and also section 20, of chapter 228, R. S. O., 1897.

3. There is no law authorizing the reeve to do this, nor is he prohibited by statute from doing so. Since the act is a laudable one, and can do no harm, he should be allowed to gratify his wishes in this matter.

Collection of Taxes from Owners and Tenants of Block.

84—R. C.—A owns a block and has it rented to three tenants, B, C and D. B is assessed as tenant to A, as owner, and also for \$500 personal on stock belonging to B. B has failed and stock was sold before the collector got his roll. A comes and pays the taxes of B, \$400 on building and \$500 on personal of B. B is not worth anything and cannot pay. A refuses to pay taxes on C and D and he claims that the collector should give him credit on C and D of the amount paid by him on B, personal, as he claims that he is not liable for and should not have paid for B personal. Can the collector collect by distress on C, he being still a tenant of A? D has moved out, and the place is occupied by E. D is still in the village. Which should the collector distraint, A, C, D or E? Can the collector credit A with amount paid on B, personal, to C and D? A's name appears on the roll for three assessments as an owner.

We assume that B, C and D are all on the assessment roll as tenants, and A as owner of the block. This being the case, A was legally liable to pay the taxes on B's portion of the premises. If he paid the taxes on B's personal voluntarily and without protest, he cannot now recover them, nor is he entitled to have them credited on taxes due from C and D. The collector can collect C's portion of the taxes by distress, and also D's if he can find any distrainable goods of the latter within the county. If the taxes payable by C and D cannot be collected by any of the other methods provided by the Assessment Act, the amount should be returned against the lands of A, and in due time they should be offered for sale to realize the amount unless previously paid. E is not liable for the taxes or any part thereof, unless he comes within the provisions of sub-section 4, of section 135, of the Assessment Act, to which we refer you because the provisions are too long to set them forth in full. In answering these questions we are assuming that the taxes payable by A, B and D are taxes payable in respect of the premises.

Clerk Can Hold Office of Treasurer Also.

85—O. M. H.—Is it legal for a clerk of a municipality to hold the office of treasurer of the same municipality?

Yes.

Statute Labor Default.

86—CLERK.—In making out the list for pathmaster, last season, I omitted to put the number of days after the name of one of the ratepayers. He saw the list with the blank after his name, and would not, or did not do any work. Can I add the days he should have done to next year's labor? Would I be responsible if he cannot be made to do the work?

The pathmaster had a right to and should have placed this man's statute labor on his list, after he had ascertained the number of days for which he was liable. If the pathmaster gave the party liable the notice to perform his work required by the by-law of your municipality regulating the performance of statute labor (if any,) and he refused or neglected to perform it, but was returned to you as a defaulter, the amount of his statute labor should be placed by you on the collector's roll for this year, to be collected in the same way as ordinary taxes. You cannot add it to the defaulters' statute

labor for this year. We do not see that any responsibility attaches to you in the matter.

Enforcement of Dog Tax—Of Poundage Laws.—Meaning of "Legal and Equitable."

87—W. H.—1. Can the law imposing a tax on dogs be enforced without a by-law being passed by the council?

2. In passing a by-law can the council change the amount of tax imposed when passing the by-law?

3. Can the Act, restraining certain animals from running on public highways, be enforced without a by-law?

4. What is the meaning of the terms "legal and equitable" in the Municipal Act, as regards qualification for reeve or councillor?

1. Section 1 of chapter 271, R. S. O., 1897, provides that, "subject to the provision in the next following section, there shall be levied annually, in every municipality in Ontario, upon the owner, harbinger or possessor of each dog therein, an annual tax of \$1 for a dog and \$2 for a bitch." The above provision of the statute is in force in every municipality in Ontario, without the passing of a by-law in such municipality, unless and until a by-law has been passed pursuant to the provisions of sub-section 2 of the Act.

2. Yes. We presume you mean the passing, by the council, of a by-law pursuant to sub-section 3 of section 540 of the Municipal Act.

3. Chapter 272, R. S. O., 1897, is in force in every township, city, town and incorporated village in Ontario, until varied by by-laws or other provisions passed under the authority of section 546 of the Municipal Act. Until restrained by by-law of the municipality, all animals can legally run at large, but the owner or owners will be liable for damage caused by them, and the animals are subject to be impounded for trespassing and doing damage.

4. Wharton in his "Law Lexicon" defines a "legal" estate as one opposed to an equitable estate, and an "equitable" estate or interest, as one for which a court of equity affords the only remedy. And of this nature, especially, is the benefit of every trust, express or implied, which is not converted into a legal estate by the statute of uses. The rest are equities of redemption, constructive trusts and equitable charges. If a man owns a farm or piece of land, in fee simple, he is the legal owner thereof, but if he has mortgaged it the legal estate is in the mortgagee and the owner in that case has only an equitable estate.

Should Pay the Taxes.—Changing Road Allowance.

88—D. C. M.—In 1891, A surveyed and laid out part of his property in building lots. B bought a lot from A; paid part, and built a house, but got no conveyance from A. B lived on the place five years, and paid taxes and performed statute labor. At the end of five years B left the house and moved fifteen miles away, but he left household stuff in the house, with the intention of coming back. A year after this A comes before the municipal council and wished to have the property assessed to him. The council refused to do so till A would

produce an order from B that he wished the property to revert to A. A did not get any order from B, but in 1890 our assessor assessed the house and lot to A as a building lot. A objected, and wishes lot to be assessed as part of his other property, of which, at one time, it formed part. A's plan of village is registered. Can A be sued for taxes on village lot which he refuses to pay?

2. Government made a road through my property twenty years ago, and has been used for such since. Statute labor has been put on every year. I want the council to consent to change the road on another part of my property. They have given me liberty. I have made and graded the road, but it will be one mile longer for the public to travel than the old one. My neighbors object to council giving permission to change the road, and threaten proceedings in case the original road is closed. Can council give permission legally? Can neighbors or the public interfere?

1. The premises were assessed to A in 1900 and A did not apparently appeal to the court of revision for that year as he had a right to do under the provisions of the Assessment Act, and the assessment cannot now be altered. A is liable for the taxes and if they cannot be realized by any of the other methods provided by the Assessment Act, the premises can, in due time, be sold to realize the taxes.

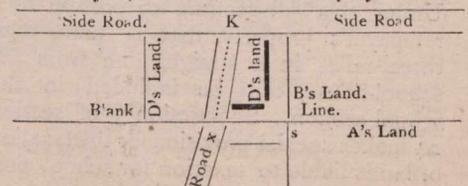
2. The old road cannot be closed nor the new one opened and established until the council of your municipality has passed a by-law pursuant to the authority of section 637 of the Municipal Act. (Sub-sections 1 and 2) after the preliminary proceedings mentioned in section 632, have been strictly observed and carried out.

Illegal Levy.—Election of Chairman of School Meeting.—Closing Old Road and Opening New.

89—CLERK.—In August, 1900, our council passed a by-law entirely abolishing statute labor. Council also passed a by-law authorizing a rate of four mills on the dollar of the total assessment of the township, to be placed on the collector's roll, and collected by him (collector) in 1900, to be used in constructing and improving roads and bridges in 1901, in lieu of statute labor abolished. Some of the ratepayers refuse to pay said rate, claiming it is not legal to collect rates in 1900 to make roads in 1901, and they did their statute labor in 1900 too. What is your opinion of above excuse? We see no other way to have money to pay men next June for work on roads unless we borrow it.

2. At an annual school meeting it is moved and seconded, that A be chairman; an amendment is moved and seconded, that B be chairman. A vote is taken and results in a tie, each having an equal number of votes. How is above to be decided on, or how will the meeting get a chairman?

3. From X to S is a private road for the accommodation of A. B is going to close it up. Council proposes to close road from X to K, and open a road on heavy black line from X to sideroad. Can council compel B to sell a piece of land at post where corners of four lots meet in order to get a road for A, who at present has no road only a private road from X to S, which is owned by B, and is to be closed up by B?



1. We are of opinion that the council has no legal authority to make this levy.

Section 402, sub-section 1, of the Municipal Act, provides that, "The council of every municipal corporation, etc., shall in each year assess and levy upon the whole rateable property within its jurisdiction, a sufficient sum to pay all valid debts of the corporation, whether of principal or interest, falling due within the year." The levy you mention is to pay debts to be incurred in the next following year, and cannot be made. If necessary the council for 1901 can borrow the money required for this purpose, pending the collection of taxes, pursuant to sub-section 1 of section 435.

2. There is no provision made for a casting vote in a case of this kind, either in the Public Schools Act or in the rules generally accepted for the government of public meetings. Neither motion carried; so each should be dropped and some other qualified person proposed and voted upon until some one obtains a majority of the votes of the ratepayers present.

3. Section 637 of the Municipal Act, sub-section 1, authorizes the council to pass a by-law closing this portion of the road and opening and establishing the new road, after having taken the preliminary steps set forth in section 632. The provisions of the last mentioned section must be strictly observed. Sub-section 2 of section 637, authorizes the council to pass by-laws for entering upon, breaking up, taking or using any land, in any way, necessary or convenient for the said purposes. Section 437 makes provision for the payment of compensation to the owner of lands taken by the corporation in the exercise of its powers. If the amount of such compensation cannot be mutually agreed upon between the owner and council, it shall be determined by arbitration under the Act. See the latter part of section 437.

Enforcement of Dog-Tax By-Law.

90—L. R.—Our council is putting the dog-tax law in force this year.

1. When can the tax be collected, and what is the proper way to proceed, if they do not buy tags for their dogs?

2. How are those to be sold, and at what price, and what officers of the council should handle them?

1 and 2. We presume that your council is proceeding to enforce a by-law, passed under the authority of sub-sections 1, 2 and 3 of section 540, of the Municipal Act. This being the case, provision should be, and probably is, made for all the matters you enquire about, in this by-law, and we cannot answer your questions until we have before us a copy of the by-law.

Mode of Assessment.—Court of Revision.—Arrears of Taxes.—Proceedings at Elections.

91—UNPAID TAXES.—The same council that was elected for 1900 is the same this year, and went back into office on a distinct pledge that the assessment would be the same as last year. Those resident taxpayers who live on what is known as front of township, and have been, in a number of years, having from twenty acres up

to one hundred acres cleared, claim that they have no right to pay more taxes than a new settler who has just taken up land. Also claim that there should be no equalization of assessment. I claim that wild land should be assessed alike, and improved land at the actual cash value.

1. Council, for year 1900, recorded on the minute book that all land in the township be assessed at \$12.00 per acre. Assessor evidently followed these instructions, as all land was assessed at said value. Assessor, sometime previous, sold land at \$3.00 per acre, yet he took his oath that land was worth \$12.00.

2. Is land situated in a township where there are good roads, and along the line of communication, (viz., railroad,) worth no more than land situated in rear of said township having no road?

3. There were fifteen appeals made to the Court of Revision, and the clerk gave no written personal notice, stating date of said court, and "Unpaid Tax" did not attend. No alteration was made; no appeal was carried to the Judge. Is the assessment made in 1900 legal?

4. May the unpaid taxes be registered in treasurer's books as arrears of taxes under this assessment and proceeding, as "Unpaid Tax" refuses to pay his taxes?

5. In holding municipal elections is it necessary for scrutineers to be appointed on nomination day? Is it necessary for a poll-clerk?

6. In the absence of scrutineers or poll-clerk, (a) Should not returning-officer call two of the candidates to assist in counting said ballots at close of the poll?

(b) Is it enacted by law that all persons should be excluded from poll-room?

7. What is your opinion? would you classify land of the following description good or waste land?

(a) Land that is covered with tamarack, spruce and cedar—said tamarack and cedar timber is worth seventeen cents per tie, and six cents per cedar post. Water lies on said land, but can be easily drained.

(b) Small muskegs, having from one to two feet of moss, but have good clay bottom, small timber thereon, and can be easily drained.

(c) Land where stream runs through said property.

1 and 2. Sub-section 1 of section 40 of "The Act respecting the establishment of municipal institutions in territorial districts," (which applies to municipalities in the District of Rainy River,) provides that the assessor to be appointed by the council, as soon as convenient after its first meeting, shall state on his roll the amount of all real and personal property owned by persons in the municipality and the actual value thereof. The council has nothing whatever to do with fixing the value or rate at which their assessor shall assess lands in the municipality. A competent man should be appointed to the office of assessor, who, without and regardless of any interference on the part of the council, should assess all rateable property in the municipality at its actual value according to the best of his judgment and ability. If parties are dissatisfied they can appeal from the assessment as provided by section 43 and following sections of the Act. We would not presume to place any value on land, relative or otherwise, unless we had a personal knowledge of the locality and actually viewed the land.

3. There appears to be no provision made by the above Act, for service of notices of the holding of the court of revision. See section 44 of the Act. In any event parties filing appeals are not

entitled to be served with such notice. It is their duty to inform themselves as to the date of the sittings for the hearing of appeals. We are of opinion from what you state, that the assessment made in 1900 is a legal assessment. We also refer you to section 72 of the Assessment Act, which makes the roll final notwithstanding errors in it or in the notice sent to persons assessed.

4. Yes.

5. No.

6. (a) No. But any or all of the candidates may be present at the counting of votes or in the polling-booth at any time while polling is in progress. See sections 173 and 174 of the Municipal Act.

(b) Section 173 provides that "During the time appointed for polling, no person shall be entitled or permitted to be present in the polling-booth, other than the officers, candidates, clerks or agents authorized to attend at the polling-place, and the voter who, for the time being, is actually engaged in voting.

7. (a, b) It would not appear possible to cultivate these lands, so we would classify them as waste lands.

(c) If these lands are arable they cannot be considered waste lands. The mere fact that a stream runs through them, does not make them such.

Deputy-Returning Officer Leaving Booth on Polling Day. Can He Vote for School Trustee?

92—S. C.—I am clerk. We elect school trustees by ballot. I have a vote, or rather have the property qualification to entitle me to vote in wards Nos. 1 and 2. A by-law was passed appointing me Returning Officer, also deputy for ward No. 2. I acted as such deputy in No. 2 at the last general election. During the polling a voter came to record her vote at No. 1, and was told by the D. R. O. that her name was not on the list. She left without voting. A candidate for trustee came to me at No. 2, and complained to me that one of his supporters was deprived of her vote—(the above person.) I always take the Judge's revised list to my polling-station, in order to be prepared for any error or emergency such as the above. I said to the candidate "I will go and see to the matter." Told my clerk if any one came to vote, to keep him until I would return. I went, pointed out the error the D. R. O. had made, (the voter came back and voted after I had left,) and was back at my station within five minutes of leaving. There had not been any person there to vote during my absence or for some time before or after. I had voted for county councillor in No. 2, and while at No. 1 I voted for trustee, both candidates being present, and no objection taken. I am threatened with two suits. One for leaving No. 2, and the other for illegally voting in No. 1. I expect the papers any hour. I left No. 2 when there were very few votes coming in, and none offered while away. My clerk and an agent, (not the parties complaining, they had none,) were sworn in the usual way. It is claimed that in case of a tie for trustee I had the casting vote and no other. Am I liable in either of the above cases? I cannot see where my vote has been taken away for trustee, or where I have the right to give the casting vote. The Manual appears to sanction leaving the poll for a short time if no injury is done.

We are of opinion that you did not act wisely in leaving the polling-booth, under your charge, for the purpose you mention, as your absence was an

unnecessary one. However, since nothing happened during your absence, that would effect the result of the election, and no person interested could be aggrieved by such absence, the penal sum mentioned in section 194 could not be recovered from you in proceedings taken under the Act. The Act does not appear to impose a penalty on the deputy-returning officer for absenting himself from the polling-booth, in terms.

We think you had a right to vote for school trustee if you had the qualification required by section 12 of the Public Schools Act. Section 58 entitles the Board of School Trustees, of any urban municipality or township, to have the election of school trustees held by ballot and sub-section 3 of the same section provides the mode of conducting elections by ballot. The people who are threatening you with proceedings are, no doubt, of the opinion that because the election, in this case, was by ballot, you had no right to vote because a municipal clerk has no right to vote for a councillor at a municipal election, except in the case of a tie. We do not, however, agree in that view and in addition we may say that even if you did not have the right to vote for trustee, you are not liable to an action.

Dismissal of Municipal Officers.—Form of By-Law Commuting Statute Labor.

93—P. G. T.—1. Can municipal officers appointed by by-law at the first meeting of the council be removed from office at any time before the end of the year?

2. Would you kindly print a form of by-law for a municipal council to commute statute labor and remove pathmasters from office?

1. Assuming that the officers were hired for a year, we do not think the council can dismiss them in the absence of sufficient cause, without rendering the municipality liable for damages.

In *Broughton vs. Brantford*, 19 U. C. C. P., p. 434, a municipal officer was held entitled to damages for wrongful dismissal. He was dismissed in month of September. Hagarty, J., at page 437, said "Assuming then that plaintiff, in 1867, continued an officer of the corporation appointed under their seal, and that his office was such as was usually the subject of a yearly hiring, could he be dismissed during the year at the defendants' pleasure?"

My impression is, that unless he held the appointment at the yearly salary under the corporation seal, he could be so dismissed, and that his claims would be limited to compensation for services actually rendered. As I consider that plaintiff remained up to the date of his dismissal the defendants' officer under their corporate seal, I think he is entitled to compensation for a wrong dismissal, in like manner as if employed by an individual. Again, in the case of *Davis vs. Montreal*, 27 S. C. R., p. 539, it was held, under a statute substantially the same as the above provision, that when the engagement has been made indefinitely as to duration, the council has power to

dismiss summarily and without previous notice, upon payment only of the amount of salary accrued to such officer up to the date of such dismissal. The language used indicates that such power does not exist in the case of a definite engagement, and we think that a contract with municipal officers, engaging them for a year, is a definite engagement.

2. On pages 68 and 69, of the May issue of MUNICIPAL WORLD, 1900, we published such a by-law as you enquire about. It was passed by the council of the township of Pelham.

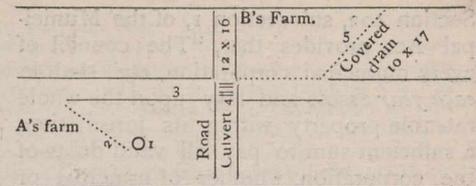
Collection of Deficiency in Amount to Pay Drainage Debentures.

94—C. W. B.—The municipality of —, on a petition from a number of ratepayers, borrowed money on debentures for drainage purposes. A certain number of lots were included in the by-law. The engineer, in laying out the work, made a distribution of the taxes to be paid by the owner of each lot. Shortly after the drains were completed some of the applicants abandoned their land. Their lands were not patented. We are unable to recover the tax on those lots, consequently a deficiency occurs yearly in the amount of money we should pay to the government. It seems that Crown Lands cannot be sold for taxes. The municipality is at a loss what steps they should take to recover the deficiency.

Assuming that your council borrowed money from the government for drainage purposes, under the provisions of the Act respecting municipal debentures issued for drainage works, (chapter 40, R. S. O., 1897,) the debentures "shall not be questioned and shall be deemed to be valid to all intents and purposes." See section 7 of the Act. If the council, for any reason, cannot collect from the parties originally assessed for the construction of the drainage works, the annual sum necessary to meet the debenture payments, the deficiency will have to be made up from the general funds of the municipality, and levied against and collected from the ratepayers generally. See section 8, sub-section 1. A laying out of the facts of the case before the government might result in the relief of the municipality.

Can Council Initiate Proceedings Under the Ditches and Watercourses Act.

95—J. M. D.—A requests the council to put in a large culvert on the road at (4) as the present culvert is not large enough to take the water as fast as it comes in the spring, or during heavy rains, sometimes flooding his lands and the road for three or four days. The road is graded up higher than his land. The natural outlet for the water before he dug the ditch (3) was along the line (2) to basin (1) which has a sand and gravel bottom, allowing the water to soak away very rapidly. A won't take action under the Ditches and Watercourses' Act, but threatens council with an action for damages if they don't enlarge the culvert. On the other hand, B will enter an action for damages if a larger culvert is put in, as it would let the water through faster than his covered drain (5) would take it. Can the council initiate and adopt the Ditches and Watercourses' Act? Would A, under it, be liable to pay part of the cost of enlarging B's covered drain? What course would you advise the council to adopt under the circumstances?



A does not appear to us, to have any right of action against the municipality. The council was not bound to put in a culvert at all for his benefit, and the fact that there is one now does not give him any right to have it enlarged. The law is, that an owner of land has no legal right to an easement for drainage purposes, over adjoining lands, in the case of surface water, that is, water which does not flow in a channel having defined banks. We understand this to be a case of surface water, and if that is so, A has no right to conduct water either on to the highway or B's land, so as to cause damage. Either B or the municipality have the right to erect an embankment to keep the water off their land. If the council enlarge the culvert and assist A in bringing down water upon B's land, we have no doubt but that the municipality would render itself liable to B for such damages as could be shown he had sustained. Unless the council really find it necessary to drain the highway to keep it in proper repair, we would advise it to leave things as they are and perhaps A will then find it necessary to take proceedings under the Ditches and Watercourses Act. With regard to this Act we have considerable doubt whether a municipal council can initiate proceedings under that Act. "Owner" includes a municipal corporation as regards its highways, but it seems anomalous that a municipality should bring in its own engineer, as an arbitrator, to act as judge in a matter which is the municipality's own affair; and the language of section 7 of the statute seems ambiguous. The first subsection of that section may mean that a municipality has the right to initiate proceedings without first filing any declaration of ownership, or the sub-section may mean that any owner "other than a municipality" may commence proceedings by filing this declaration of ownership and that a municipality shall not commence such proceedings at all. The point has not, so far as we are aware, been decided by any high court judge, but we understand that the county judge of Welland, has held that a municipality has no right to commence proceedings under this statute.

Some townships in the county of Brant will petition the legislature to fix a maximum sum to be paid for registered sheep destroyed by dogs. Legislation of this character would discourage high-class sheep breeding in the province and should not be considered. A higher dog-tax regulation to be properly enforced would be in the best interests of both rural and urban municipalities.