The Municipal Miscellany.

VOL. I. ARNPRIOR, ONTARIO, SEPTEMBER, 1891. No. 9.

The Municipal Miscellany, devoted to the dissemination of useful information relating to Municipal and other local Institutions published monthly, at $1 per annum; six copies for $5. Address all communications to G. E. NEILSON, publisher Municipal Miscellany, Arnprior, Ont.

Calendar for October, '91.

1. Last day for returning assessment roll to clerk in cities, towns and villages where assessment taken between 1st July and 30th October.
   Last day for delivery by clerks of municipality to collectors of collector's roll, unless some other day be named by by-law of the municipality.
   Last day for notice of trustees of city, town, village or township boards to municipal clerk, requiring Public School trustee elections to be held at the same time and in the same manner as municipal elections.
30 Last day for passing by-laws for holding first election in junior townships after separation.

QUESTION DRAWER.

In your March number you state that it is not compulsory to appoint municipal clerks deputy returning officers at local elections. If you read section 61 of the Election Act you will see differently.—R. A., Cornwall Centre.

R. A. is right. We were misled by reading section 58 only of the Ontario Election Act, which says the returning officer shall "appoint some suitable person to be deputy returning officer for every polling sub-division in which a polling place is to be opened and kept." This did not say that the township clerk must necessarily be appointed, and knowing that the Dominion Election Act did not require the appointment of township clerks as deputy returning officers, we too hastily concluded that both the Provincial and Dominion Acts were the same in this respect. We find, however, by a reference to section 61 of the Ontario Election Act that in townships divided into polling sub-divisions "the township clerk shall be appointed by the returning officer for the sub-division in which the Town Hall is situate," or if there be no Town Hall in the township, then for the sub-division in which the council for that year held its first meeting. Thus it would appear that township clerks may be said to be *ex officio* deputy returning officers for provincial elections, and in case of the absence, sickness or death of the township clerk, the assessor or collector shall be appointed deputy returning officer. It will be seen that sections 58 and 61 of the Election Act do not quite agree. Section 58 gives the returning officer full control of the appointments, whereas section 61 curtails his selection in so far at least as one of the appointments in each township is concerned. In some of the newer townships not divided into polling sub-divisions, it is doubtful under the wording of section 61 if the clerk must necessarily be appointed a deputy returning officer. It is clear that the law contemplates the appointment of the clerk in any event, and we think a returning officer who would ignore the clerk in his appointments without good reasons would be unnecessarily providing grounds for contesting the election.

I notice a change in regard to equalization of value of union schools which perhaps had escaped the notice of some of our clerks. As I read the statute, the equalization as now made every third year is to be filed with the secretary of the union school board; not with the clerk unless there has been a disagreement between the assessors and an arbitration held, and the result of the finding of the arbitrators is to be filed with the clerks.—H. J. L., Cambray.

The above is a change that escaped our notice in referring to the new School Act, and we are pleased that attention has been called to it.

I should be much obliged if you would kindly give your opinion on the following matter in your next issue of THE MUNICIPAL MISCELLANY. I am clerk for two municipalities, viz., a township and an incorporated village, the latter being wholly contained within the former. The township municipality was organized under cap. 185 R.S.O. (1). Can the township council legally designate by by-law some place within said village as the place where the nomination *and election* (if a poll is demanded) is to be held? (2) Would sec. 111, cap. 184, R. S. O., apply to said township municipality, and if so could the provisions of this section be construed to apply to the polling as well as to the nomination? (3). If a poll be demanded in the case of both the village and township can I legally act as returning officer for both and hold both elections at the same time and place? I imagine there must be many clerks similarly situated to whom this matter will be one of interest, Your paper so far has been replete with valuable information, and I read it with much interest.—E. B., Burk's Falls.

In answer to above, we are of opinion that it would be competent for the township referred to to pass a by-law as provided by section 111 of the Municipal Act to hold a meeting for the nomination of the reeve and councillors within the adjoining village. But we would not advise such a course unless it could be clearly shown that doing so was for the greater convenience of a majority of the ratepayers. The law does not contemplate holding a nomination outside of the municipality in order to suit the convenience of the council or of the returning officer. The whole tenor of the law as to nominations and polling places is so decidedly explicit in favor of holding them within the municipality to which they relate, as shown by sections 95, 96, 107, 109, 110 of the Municipal Act, and by 42 and 43 of the Municipal Institutions Act of Algoma, etc., that the exception provided by section 111 can have no other construction put upon it than that the interest of the ratepayers must be best served by holding the nomination in an adjoining city, town or village, otherwise it should not be done. Nor does this exception give power to hold polling places outside of the municipality. The fact as stated by our correspondent that the village is situated wholly within the township makes no actual difference, except as to deciding the question of convenience. For all municipal purposes the village is as separate and distinct as if it lay in another adjoining township. If it is necessary that the same person act as returning officer for both village and

township, the better way perhaps would be to have the village council pass a by-law to hold their nomination meeting in the evening as provided by sub-section 4 of section 107. The usual course pursued where the same person is clerk in more than one municipality is to name in the by-law appointing polling places some other person to act in the capacity of returning officer for one of the municipalities.

Is a municipality obliged to keep and support a person born in the municipality, and who for some years has been blind? He is an able-bodied man and is quite able to support himself. Since becoming blind he has learned the trade of basketmaking in the Asylum for the Blind at Brantford. Now the question is, is the municipality obliged to support a person of that description? It is well-known that his blindness was caused by his own indiscretion, and he and some others imagine that his being born in the municipality makes the ratepayers of the same obliged to support him.—W. C., Lowbank.

No; the council are to be the judges of who are worthy of charity. Councils have the the power to assist indigent persons, but are not compelled to do so.

A person threatens to bring action for damages to buggy by being upset on a load of stones left on the road for repairing same. The council is willing to pay actual damage to buggy, but the person claiming damages is not satisfied and threatens to take legal proceedings. What is the proper course for the council to pursue? W. G.

The council of any municipality, upon any claim being made or action brought against them for damages for alleged negligence on the part of the municipality, may tender, or pay into court, such amount as they may consider sufficient compensation for the damage sustained, and should the amount so tendered or paid not be accepted, and the action proceeded with, and no greater amount being obtained by a verdict, the costs of suit shall be awarded to the defendants, and set off against any verdict which shall be obtained against them. Thus if no greater amount be obtained than the amount tendered or paid into court, the claimant would lose his costs, and the costs of the municipality would be deducted from the amount paid into court. If a tender is made it should be before an action is brought, and in that case it would be better to make the tender direct to the claimant himself, unless a solicitor has been employed by him in that particular matter, when it might be made to the solicitor. A tender should be made by the production of the money and offering it openly, and should be in specie, but if in bank notes it would be a good tender unless objected to at the time because of being bank notes.

A by-law was passed by a municipality in accordance with sub-section 2 of section 53 of the Assessment Act (see chap. 29, 1888) to add five per cent. to all taxes unpaid on the 14th December. The collector called at the residence of a taxpayer to make a demand for taxes, and having rapped loudly at the door two or three times without being admitted he turned away. Afterwards on the same day he called on the son of the taxpayer, a young man over twenty-one years of age who lived with his father but who was engaged in an office in the same village, at which latter place the collector saw him and told him the amount of his father's taxes, and entered the date on the roll. The taxes were not paid on or before the 14th Dec., so the additional five per cent. was added to the ratepayer's taxes. After some time the taxes, including the five per cent., was demanded from the taxpayer personally, and he paid the original amount of the taxes but refused to pay the five per cent. added, on the ground that the demand which was made in the manner above described fourteen days before the 14th Dec. was not a legal demand. 1. Can a personal demand be made on the taxpayer anywhere—for instance, on the street? 2. If the collector calls at the taxpayer's residence or place of business and he is not there, can the demand be made upon any grown person belonging to the family or in the employ of the taxpayer? Having called at the residence of the taxpayer and not gaining admittance, would a demand made elsewhere on a member of the family or other person in his employment be sufficient?

Our opinion is that the demand would hold good if made upon the taxpayer at any place he might be found, but if not so made personally that it could only be made on some grown-up inmate or employee at his residence or place of business. The law requires, where it is other than a personal demand, that the collector "call at least once" at his usual residence or domicile or place of business, and "shall demand payment of the taxes payable by such person." The meaning evidently is intended to be that the collector shall not only call but must see some person there when he calls of whom to demand taxes. We hardly think the wording of the Act would bear out the contention of the collector that it was a call at the house, so long as he did not gain admittance or see any person belonging to the family at the time from whom to demand the taxes. Neither would a personal demand made after the 14th December, although legal enough for the regular tax, comply with the statute authorizing the levy of five per cent. additional, for it is a condition of the Act that in order to add five per cent. there must have been fourteen days' demand previous to the 14th December. We are inclined, therefore, to believe that the taxpayer cannot be compelled to pay the five per cent. added for that reason.

Can a poundkeeper who has been appointed to that office by by-law, but who has not a proper enclosure on his own premises, impound cattle on any other premises, the council not having mentioned any particular place or enclosure to be used for a pound? W. R.

We have some doubts as to what power the poundkeeper may have under such circumstances. While sub-section 2 of section 479 of the Municipal Act gives power to appoint poundkeepers, it will also be noticed that section 490 provides that the council may also pass by-laws for providing sufficient yards and enclosures for the safe-keeping of such animals as it may be the duty of the poundkeeper to impound. And also by sub-section 2, for restraining and regulating the running at large or trespassing of any animals, and providing for impounding them; and for causing them to be sold in case they are not claimed within a reasonable time, or in case the damages, fines and expenses are not paid according to law. Section 3 contemplates that the by-law shall stipulate as to the amount of damages to be paid by the owners of cattle impounded, while section 4 gives power to the council to determine the compensation to be allowed the poundkeeper. There is no doubt that apart from cattle running at large, they may be liable for damages through trespassing on private property, but it is a doubtful question if cattle can be impounded anywhere except in such place as stated in a by-law. The words of the Act are "may" pass by-laws for these purposes, and not being imperative, it is quite possible that a poundkeeper duly appointed may have the power so select a suitable place or yard for a pound, but if the place were mentioned in the by-law there could be no doubt on the point.

CORRESPONDENCE.

I have read each number of THE MUNICIPAL MISCELLANY with interest, and I trust your undertaking will meet with an unprecedented success. As THE MISCELLANY supplies a want that has been much felt by municipal officers. None should be without it. I see in your last number that you are advocating the formation or a Provincial Association for Municipal Clerks. The move is a good one, and I trust that your efforts in this direction will be successful, as the meeting and exchange of views by the municipal officers would not only be an individual benefit, but would also of necessity be of great service to the several corporations represented, as it would no doubt tend to improve and perfect their mode of transacting the public business entrusted to them. J. H., Collingwood.

I have regularly received your little welcome visitor THE MUNICIPAL MISCELLANY. Every number seems to be filled with a budget of general municipal information. The statutes imposes so many and varied duties for municipal clerks that it requires considerable time to investigate and keep posted, but the Calendar in THE MISCELLANY fills this bill, and saves time to the often worried and ill paid servant of a municipality. A municipal clerk to properly fill the various requirements must now be an encyclopedia of municipal lore. The statutes being interpreted under so many various ways by the legal profession, that it is no wonder the poor clerk is worried over filling such an important position with any credit to the municipality and himself. THE MISCELLANY is a boon to aid him in his duties and may it continue and prosper. I have one of Lytie's Tables and I find it simplifies and aids me very much in compiling collectors' roll, especially for school rates, and I would not be without it for four times its price. I can nearly equal Mr. Hughes of Tottenham. H. W., Clearville.

Please accept my thanks for the favorable notice of my little work and through your columns to thank Messrs. W. M., of Rockton, and T. R., of South March, for their letters in your last issue. I desire to explain why the price was raised from $1 to $2. The circulars at the former price were put out before the book was printed and it was found that the cost of printing, binding, etc., was greater than at first anticipated and the purchasers being necessarily very limited that to give the compiler anything for his labor the price would have to be doubled. Hart & Co. are not to blame. I can assure my friends that I have not grown wealthy from the proceeds of the sale of the book or from the salary I receive as township clerk.—H. J. Lytle, Cambray, compiler of Lytle's Rate Tables.

You are supplying a much felt want in publishing THE MUNICIPAL MISCELLANY. There is no doubt of the good you will accomplish but I am somewhat apprehensive of the results for it is notorious that municipal officers whom you are unquestionalby serving are like the proverbial printer "out at elbows" on account of the inadequate salaries the poor fellows are in possession of. Be that as it may, I herewith bank a dollar in your enterprise for which send me all the back numbers except those of June and August and enter me on your "list of friends" until further notice. I learned something from the August number as to how to compile voters' lists worth more than a dollar to me, and I apprehend worth a dollar to every municipal officer into whose hands your excellent journal for August fell. I refer to your reply to G. P. H., of Tottenham. The calculations of G. S., of Bosanquet, interested me. At first glance I thought your readers were invited to examine an original method, but closer investigation led me to recognize an old friend, and if you procure one of Sangster's Arithmetics and turn to page 361 you will see the following formula which is G. S's. method in more formal style. This is the orem to which I refer:

$$\frac{A = vr(1+r)l}{(1+r)t-1}$$

Herein A stands for yearly payment; V for present value, or $1,000 in question cited; R for rate per unit or .05, and T for number of terms or years or 5. By subtraction:

$$\frac{A = 1{,}000 \times .05(1.05)5}{(1.05)5-1} = \frac{50 \times 1.2772815 =}{.2762815}$$

$230 90 or annual payment (not annual interest) observe VR is interest on $1,000 (1.05)5 is amount of $1 for 5 years at C. Int. and (1.05)5—1 or .2762815 is C. interest of $1 for 5 years. However formulas are not of much account unless we understand the first principles underlying them, and I propose to show your readers (always provided I have your consent) how Sangster and others reach this formula. The amount of an annuity consists of a geometical series, the last payment in which being paid when due, is without interest, and is say A the last but one (1+r)a (r being rate per unit) the last but two a(1+r)2. Now the rates here is 1+r, 1st term a and No. of terms say n, now the sum of a geometrical series a is

$$\frac{(r\,n-1)a}{r} = \frac{\{(1+r)t-1\}a}{r-1} = \frac{\{(1+r)t-1\}a}{1+r-1}$$

in which t stands for the number of terms. Now the present value of an annuity is that sum which put out at c interest for the given term, will equal the amount put at v for present value $v(1+r)t = a = a\frac{\{(1+r)t-1\}}{r}$

clearing of fractions

$$vr(1+r)l = a\{(1+r)l-\} + a = \frac{vr(1+r)t}{(1+r)l-1}$$

the formula I give for the solution and what G. S. properly interprets. As to finding the annual payment at compound interest at say five per cent. per annum for a given sum when the interest is payable yearly, the simple fact is, it can't be done. If the interest were say 2% every four months you would have 16 terms, and the payment at the end of every term would be found to be $124.87. But as G. S. put it this problem is a *prima facie* absurdity for if it is as he says annual payments they are to be made in either 5 or 6 years. If in 5 years there is no interest and no principal for the four months; if in 6 years, we must add the complement (8 months) to four to complete the sixth year. I am afraid G. S., Bosanquet, is inclined to be facetious. J. C. H., Alliston.

SINCE last issue we have received remittences from the following: J. H., Collingwood, $1; D. H., Calabogie, $1; W. H., Seaforth, $1; P. C., Kinmount, $1; J. C. H., Alliston, $1; T. H., Whitby, $1; R. C., Merritton, $1; W. B. H., Perth, $1; J, McG., Burnstown, $1; W. J. P., Streetsville, $1.

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WHEN roads or streets are opened upon private property under authority of a by-law, the by-law must be in duplicate and duly registered in the registry office.

* * *

THE proper corporate name of a municipal corporation should be used in by-laws, documents or accounts, as "The Corporation of the County, City, Town, Village or Township of (giving the name as the case may be) This is the proper method, as it is the name given by Section 5 of the Municipal Act.

It would be a good thing if the officials of municipalities which may have gone through the experience of a law suit, would give the benefit of their experience to others by sending us a concise report of the facts, and point out the shoals on which the ship-wreck occurred. Such information would be useful as beacons to others of hidden dangers.

* * *

The 10th October is the day set down for selecting jurors in the various local municipalities throughout the Province. There are four distinct sets of jurors to be selected. Grand and petit jurors for the superior courts, and the same for the inferior courts. Very properly some latitude is given the selectors in retaining or rejecting, and in classification. They should select the most intelligent and cleverest headed for sitting on cases of greatest magnitude that come before the highest courts. In no case should men wanting in natural or ordinary intelligence be retained for the position of a juror in any court, even if drawn in the ballot. The same remark applies to persons known to be deaf, or who are otherwise so infirm that they could not be serviceable as jurymen. The jury Act is clearly expressed, and should be followed closely. In some localities it will be found inconvenient to procure a J. P. before whom to make the declarations, and we see no good reason why this part of the requirement should not be simplified. Clerks in making out the voters' list are apt to omit the letter J after the names of members of council thinking these persons entirely exempt from jury service. They are only exempt as to service for the inferior courts and therefore should appear as jurymen on the voters' list and be balloted the same as others, but if drawn could only be put on the lists for the superior courts.

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We are indebted to James Woodyatt, Esq., city clerk of Brantford, for a copy of the auditors' financial report of that city, and also details of the funds of the schools, library, hospital, police, water, and other public departments for the year 1890. The pamphlet also contained in tabulated form a statement showing the progress made from a financial and statistical standpoint of that city since 1877. The figures show marked progress both in wealth and population during the past fourteen years. The assessed value of property in 1877 being less than three and a half millions, whereas it has increased to very nearly six millions in 1890, while the population had grown during the same period from 10,631 to 14 470. Mr. Woodyatt has officiated as clerk of the municipality for over thirty-one years, and must have seen many changes during that time, and no doubt has had a considerable share in developing the latent possibilities of the embryo city on the banks of the Grand River. The writer has a very kindly recollection of a visit made by him to Brantford about twenty years ago in company of members of the Canadian Press Association, and of the royal welcome extended them by the city fathers of that day, including the present city clerk. The splendid meeting in the city hall, the charming and picturesque drive to Bow Park Farm then owned by the late Hon. George Brown, and other pleasurable incidents of that visit have not been effaced from his memory, and he takes this opportunity of having a hearty though distant handshake with Mr. Woodyatt.

* * *

In looking over a leading newspaper lately we noticed an article headed "Law-making reduced to a science," which interested us. The views there given were those of an old and experienced ex-parliamentarian, Dr. Ferguson of St. Catharines. He thinks that much of the time of our legislators is taken up in considering the details of bills or laws both public and private. He says that a majority of the members are not qualified to draw up laws properly, so as to have the enactments plain and specific, and not to conflict with existing legislation, and that this is the cause of much discussion and delay in patching and amending their crudely prepared bills that might be avoided. He advocates the appointment of a court of three able lawyers as experts in such matters, whose business it would be to prepare the bills before presentation to Parliament, the author or introducer having given them the leading principles he wishes to be embodied in them, and which would be all that Parliament would require to discuss. We have often thought that there was room for reform in this matter, for some of our laws are so loose in expression and so complicated and mixed up with other laws that it is no wonder that ordinary readers find it hard to comply with their terms, or that the cleverest lawyers and ablest judges disagree in their interpretation of them. The scheme proposed by Dr. Ferguson, if workable, might help in some measure to bring order out of the present chaos.

* * *

It is provided by the Municipal Act that in the case of convictions made under and by virtue of any municipal by-law, it shall not be necessary to set out the information, appearance or non-appearance of the defendant, or the evidence of the by-law under which the conviction is made, but all such convictions may be made in the following form:

Province of Ontario, } Be it remembered
County of } that on the
To wit: } day of A. D.
189 , at ,

in the County of , A. B., is convicted before me the undersigned, one of Her Majesty's Justices of the Peace in and for the said County, for that the said A. B., (stating the offence, and time and place, and where and when committed) contrary to a certain by-law of the Municipality of the of , in the County of passed on the day of , A. D., 189 , and entitled (reciting the title of the by-law), and I adjudge the said A. B., for his offence, to forfeit and pay the sum of , to be paid and applied according to law, and also to pay C. D., the complainant, the sum of , for his costs in this behalf. And if the said several sums are not paid forthwith (or on or before the day of as the case may be), I order that the same may levied by distress and sale of the goods and chattels of the said A.B., and in default of sufficient distress, I adjudge the said

A. B., to be imprisoned in the common gaol of the said County of , (or in the public lock-up at) for the space of days, unless the said several sums, and all charges of conveying the said A. B., to such gaol (or lock-up) are sooner paid.

Given under my hand and seal, the day and year first above written, at , in the said County.

{ L. S. } J. M.

J. P.

COLLECTORS' DUTIES.

The new rolls will, no doubt, be in the hands of the collectors on or before 1st October. The first care of the collector on receiving his roll is to see that it has been properly certified and signed by the clerk. This certificate over the signature of the clerk may be said to form the collector's warrant for proceeding to enforce payment of the rates therein contained. It may not be absolutely necessary to attach the corporation seal, as the Act is silent in respect of that matter, but we are of the opinion that while it can do no harm it is the safer course to attach the seal to make the roll authentic, and even if it has no actual merit the seal makes the roll appear more imposing and authoritative. As a rule it is safer to overdo than underdo such things.

Section 122 of the Assessment Act reads: "The collector, upon receiving his collection roll, shall proceed to collect the taxes therein mentioned." This language implies that no unnecessary delay is to be made by the collector in the performance of his duties.

Section 123, sub-section 1, says: "In cities and towns he shall call at least once on the person taxed, or at the place of his usual residence or domicile, or place of business, if within the local municipality in and for which such collector has been appointed, and shall demand payment of the taxes payable by such person or he shall leave or cause to be left with the person taxed, or at his residence or domicile, or place of business, or upon the premises in respect of which the taxes are payable, a written or printed notice, specifying the amount of such taxes, and shall at the time of such demand or notice, or immediately thereafter, enter the date thereof on his collection roll opposite the name of the person taxed, or cause the same to be so entered; and such entry shall be *prima facie* evidence of such demand or notice." It will be seen by the foregoing that collectors—in cities and towns—have the option of either making a verbal demand, or may "leave or cause to be left" a written or printed statement of the taxes at the residence, place of business, or on the premises. The demand might be made personally on the person taxed anywhere, but otherwise it could only be made verbally or by leaving a notice with some grown-up person at his residence, domicile, place of business, or on the premises for which the taxes are payable. The usual way is to leave a statement of the taxes at the residence or place of business, which is now sufficient in cities and towns. It would appear not to be sufficient in villages and townships, for sub-section 2 of the above named section says: "In places other than cities and towns he shall call at least once on the person taxed, or at the place of his usual residence or domicile, or place of business, if within the local municipality in and for which such collector has been appointed, and shall demand payment of the taxes payable by such person, and shall at the time of such demand enter the date thereof on his collection roll opposite the name of the person taxed; and such entry shall be *prima facie* evidence of such demand." It will thus be seen that in villages and townships no provision has been made for other mode of demand than a verbal one by the collector in person. As the demand is a most essential part of the collector's duty, and his after proceedings to enforce payment from delinquents depend for their validity upon the fact of a proper demand having previously been made for the taxes, it may be well to understand and know what constitutes a legal demand. Usually collectors merely call on the person or at his residence and leave a statement of the amount of taxes due, or it may be that the amount of the taxes are merely announced verbally. One would think that either of these methods would be considered as sufficient, but such would seem not to be the case. By the remarks of the judge at the trial *Chamberlain* vs. *Turner*, where it was shown the collector had called at the taxpayer's place of business and in the latter's presence had placed the tax bill on the counter and walked out without saying anything, the judge in referring to it said it was more than doubtful whether or not this could be held to be a proper demand, but he said that "if the collector in delivering it had said to the ratepayer 'come hand me the amount,' or if anything took place between them from which it could fairly be inferred that something of the kind was said, we presume that would be a good demand." It would be well, therefore, that collectors in villages and townships make a formal demand for the amount of the taxes when they call to inform the taxpayer of the amount due. The trial referred to took place in Toronto in 1881, at which time the law was the same in the cities and towns as at present in villages and townships. The clauses giving permission to the collector to leave or cause to be left a notice of the amount of taxes as a sufficient demand has been since added, but refers only to cities and towns. Why villages and townships were not included in the change we cannot understand, and think they should have been.

Section 124, sub-section 1, says: "Subject to the provisions of section 53 of this Act (having reference to payment of taxes by instalments, and to adding a percentage on taxes unpaid on 14th Dec.) in case a person neglects to pay his taxes for fourteen days after demand, or, in the case of cities and towns, after such demand or notice as aforesaid, the collector may, by himself or by his agent subject to the exemption provided for by sections 27 and 28 of the Act respecting landlord and tenant, levy the same with costs, by distress of the goods and chattels of the person who ought to pay the same, or of any goods and chattels in his possession, wherever the same may be found within the county in which the local municipality lies, or of any goods or chattels found on the premises the property of, or in the possession of, any other occupant of the premises; and the costs chargeable shall be those payable to bailiffs under the Division Courts Act." In computing

the time care should be taken to see that fourteen clear days are given before proceeding to seize. The day of giving notice or the date of seizure must not be counted in the fourteen days. As to the property liable to seizure, if there be no goods or chattels on the premises, the collector is authorized to seize anywhere in the county the chattels of the person who ought to pay the taxes, that is the person who had been assessed. A tenant who having removed after being assessed is still liable to pay the taxes. The owner having been bracketed with the tenant, could the owner's own chattels situated in another house and which had never been on the premises in default be liable as well for the taxes of the premises where situated as for the premises lately occupied by the tenant in default, and could the collector properly return in default the vacant premises lately occupied by the tenant so long as either owner or tenant resided in the county and had chattels liable to seizure for taxes? We should like more light on this phase of the question. Of course if the premises are occupied the goods and chattels of the occupant whether his name appears on the roll or not would be liable, and in that case the collector would not likely trouble himself to follow the goods removed elsewhere. As some collectors may wish to know what are the costs chargeable by bailiffs under the Division Courts Act, we append the same below.

Sub-section 2 of section 124 has reference to the manner of dealing with goods and chattels about to be removed out of the municipality after demand has been made for the taxes and before the expiry of the fourteen days' time. In cases of that kind the collector makes an affidavit to that effect before a J. P. or the mayor or reeve, and a warrant will issue authorizing the collector to seize.

Section 125 provides that in case any person whose name appears on the roll is not resident within the municipality, the collector shall transmit to him by post a statement and demand of the taxes charged against him on the roll, and shall enter the date of such notice in the proper column of his roll. It is important to notice also that the law requires that the statement sent by post shall in addition contain the name and post office address of the collector written or printed on some part of it. This notice by mail is no doubt intended for non-residents who had requested their names to be placed on the roll, but the wording of it might also include those who had been assessed as residents but who had afterwards removed from the municipality. Unless such persons requested this and left their address with the collector we do not think he would be required to notify them, as in other cases he could not be expected to know the address of persons who had removed from the municipality. In fact we cannot believe the law was intended to include others than those actually assessed as non-residents.

Section 126 requires that "in case of the land of non-residents, who have required their names to be entered on the roll, the collector, after one month from the date of the delivery of the roll to him, and after fourteen days from the time of such demand as aforesaid has been so transmitted by post, may make distress of any goods and chattels which he may find upon the land; and no claim of property, lien or privilege shall be available to prevent the sale, or the payment of the taxes and costs out of the proceeds thereof." It would appear from this that the collector would require to examine the lands of non-residents to see if there is anything on it liable to be sold. Cattle that might be running at large and stray upon the vacant land of a non-resident might thus become liable to seizure for the taxes no matter who owned them, or if any person happened to place even temporarily any chattels on a non-resident's lot, such chattels would be liable to be seized for the taxes due by the non-resident. This would be a great hardship on the owner of the chattels, but fortunately the law is not imperative as it uses the words "may make distress," and no collector would surely wish to be the instrument of such wrong by enforcing the right he might have in such a case. The writer as deputy-sheriff many years ago when lands in default for taxes were sold by the sheriff, was notified by the owner of a vacant farm at some distance from the county town that there were cattle on the premises and requiring him to seize them and make the taxes, and thus free the land. There was no other recourse but to visit the property, no matter what injustice the owner sought to place upon his neighbors, for if there were chattels on it to distrain out of which to make the taxes the land could not be sold. Having arrived in the vicinity of the land, which was an open commons and a sort of run-way for all the neighbors' cattle, we halted at a farm house to make enquiries as to the situation of the land in question, and during the conversation we were not guarded, as was our wont, in relating our business to that section. The farmer took in the situation and offered to point out the property, but could not do so until after dinner as he was busy. We consented to the delay—the inducement of a dinner and a guide being our justification—and having visited the property nothing could be found upon it, the cattle having betaken themselves to pastures new. The taxes were afterwards paid by the owner before the sale of the land came off. We doubt not collectors if called upon to seize the property of innocent persons would find some means of informing them of their jeopardy before doing so.

Section 127 requires in case of default and goods have been distrained, that the collector shall, by advertisement posted up in at least three public places in the township, village or ward wherein the sale of the goods and chattels distrained are made, give at least six days public notice of the time and place of such sale, and of the name of the person whose property is to be sold; and at the time named in the notice the collector or his agents shall sell at public auction the goods and chattels distrained, or so much thereof as may be necessary.

Section 131 provides that if the taxes payable by any person cannot be recovered in any special manner provided by this Act, they may be recovered with interest and costs, as a debt due to the local municipality. Before the corporation could recover on a suit for arrears of taxes, it would have to be shown that there had been no other recourse by which they could be made, the manner in which the collector had performed his duty would therefore have an important bearing on the case.

Section 132 requires the collector in towns, villages and townships to "return his roll to the treasurer on or before

the 14th day of December in each year, or on such day in the next year not later than the 1st day of February as the council of the municipality may appoint." On reading this carefully it will be seen that the collector is bound in law to return his roll on the 14th of December, provided the council do not make provision to extend the time. And taking the wording of this section as it stands, even the council would not be authorized to extend the time beyond the 1st of February. However, the next following section covers this difficulty for it says that "in case the collector fails or omits to collect the taxes or any portion thereof by the day appointed as in the last preceding section mentioned the council of the town, village or township may by resolution, authorize the collector, or some other person in his stead, to continue the levy and collection of the unpaid taxes in the manner and with the powers provided by law for the general levy and collection of taxes." A good collector will endeavor to have his roll returned not later than the 1st of February, as he has no certainty that the council will agree to extend the time, and he and his sureties would be liable.

The council of towns, villages and townships may extend the time for the return of the collector's roll by a mere resolution duly passed, but a city council is required to fix the time or times by by-law.

Section 135 provides that if any of the taxes mentioned in the collector's roll remain unpaid, and the collector is not able to collect the same, he shall deliver to the treasurer of his municipality an account of all the taxes remaining due on the roll; and, in such account, the collector shall show, opposite each assessment, the reason why he could not collect the same by inserting in each case the words "non-resident," or "not sufficient property to distrain," or "instructed by council not to collect," as the case may be, and such collector shall at the same time furnish the clerk of the municipality with a duplicate statement of such account. The clerk on receiving this account from the collector must mail a notice to each person appearing on the roll with respect to whose land any taxes appear to be in arrear for that year.

Section 136 provides that the collector upon making oath before the treasurer that the sums mentioned in such account remain unpaid, and that he has not by diligent enquiry, been able to discover sufficient goods or chattels belonging to or in the possession of any occupant thereof, whereon he could levy the same, or any part thereof, he shall be credited with the amount not realized. In other words the collector and his sureties are liable for the full amount of taxes on the roll, and gets credit and a discharge for such sums as he pays to the treasurer, but in order to be discharged from liability for the balance uncollected he has to make the affidavits as above described.

The fees to which bailiffs of the Division Court are entitled for making seizures on executions, where the amount claimed does not exceed $20 is 50 cents, over $20 and under $60, 75 cents, exceeding $60, $1. In addition he is entitled to charge for a bond when necessary, 50 cents; for notices of sale not exceeding three, 15 cents each. The mileage going to seize is 12 cents per mile where money is made or the claim is settled after seizure. In addition, if the goods are sold the bailiff is entitled to five per cent on the amount of the claim, but if the claim is settled after seizure and before sale he would only be entitled to three per cent He may also claim pay for actual disbursements if the claim for disbursements is a reasonable and necessary one. Where a seizure is made the collector should retain possession of the goods either by removal of them, or by placing some person in charge for him, or he may take a bond that the goods will be forthcoming when required.

We have on one or two previous occasions urged the advisability of forming a Municipal Clerks' Association for Ontario, and we have reason to believe that many of our clerks are favorable to such a project, but as yet the movement waits some one to take the initiative. The county of Haldimand has a local association, or at least the clerks of that county have been in the habit of meeting together annually for the discussion of matters connected with the routine work of the office. They have found such meetings very pleasant and helpful, and their annual gathering has also been the means of bringing about uniformity in the best methods of office routine. It would be well for the clerks in each county to follow the example of Wentworth and hold an annual meeting in some central place, at which among other things they could appoint a representative to attend the provincial convention when such has been called, as we doubt not it will be in the near future. That a provincial association would be beneficial to clerks as well as to the public we fully believe, for there are many improvements which might be suggested tending towards greater simplicity of work and lessened expense to the municipalities if the suggestions of those whose business it is to carry the laws into practice have due weight with our legislators. No class has a better right to know what is necessary and workable in municipal matters than the officials who have to put the laws into practice. Isolated as individuals, municipal clerks are without the influence which the important position which they hold entitles them to, and we are confident that the discussions and practical suggestions of an association would have much weight with the Government when changes in municipal laws are contemplated. As it is, the annual sessions of Parliament never pass by without some changes in these laws, and generally in the direction of adding work to the municipal clerk. It is a fact that the laws affecting the municipalities have by frequent changes become so complex that it takes a very large portion of the clerk's time to keep himself posted on his duties. No clerk, we venture to say, undertakes any of his various duties such as preparing debenture by-laws, attending to drainage matters, or the thousand and one other things that periodically crop up, without devoting hours to the study of the various clauses of the statutes bearing on the matter in hand, and he is happy if even then he can form a clear conception of his whole duty in the premises. Even the most experienced of clerks have to devote much time to unlearning what they had already thought they had at their finger ends, so many and constant are the changes made in our local laws. It is not as if our municipal laws were fixed and unchanging, for then the lesson once learned would be sufficient. The public do not take this phase of the matter into account in estimating the value of the clerk's services, or the time necessarily devoted to carrying on the work of the municipality in a proper and efficient manner. With the practical experience of the clerks to aid them, and being as a body a most intelligent class, there can be no doubt that they could offer many valuable suggestions from time to time in relation to simplifying the present municipal methods, and of decreasing the municipal burdens in other respects.

REPORT OF COMMISSION ON MUNICIPAL INSTITUTIONS.

(EXTRACTS CONTINUED.)

In the third session an "Act was passed for regulating the manner of licensing public houses" which virtually placed the granting of licenses under the control of the magistrates. It repealed the Quebec ordinance, and provided that "no license should be granted to any person to keep an inn or public house . . . . unless he shall first have obtained a certificate of his being a proper person to keep an inn or public house from the magistrates of the division wherein he resides, or is about to reside;" and that "no certificate to obtain such license shall be granted to any person not licensed the year preceding unless such person shall produce to the justices at the said meeting, should they require it, a testimonial under the hands of the parson and church or town wardens, or of four reputable and substantial householders and inhabitants of the said division wherein the said inn or public house is intended to be kept, setting forth that such person is of good fame, sober life and conversation, and that he has taken the oath of allegiance to our Sovereign Lord the King." If any person holding a license died or removed, the person succeeding in occupation of the licensed house might continue to keep the said inn or public house on fulfilling the conditions specified.

Very much was done in the five sessions of the first Parliament to complete the organization of the government, and establish a system which could easily expand as the population increased. Most of the Acts passed by subsequent legislatures were but the complement and outgrowth of those passed at Newark.

And now it became necessary to change the seat of government. The fort at Niagara held by the British at the close of the war was found to be within the boundary of the United States as settled by the Treaty establishing the independence of that country, and was surrendered to the United States government. The guns of the fort commanded the ground on which the Upper Canada Legislature had met. It is said that Governor Simcoe regarded London as for many reasons the best place for the permanent government establishment but it was then almost inaccessible, and although there was not a single house on the ground on which Toronto now stands, he wisely selected that as the most convenient site then to be found. Lord Dorchester, the Governor-General, urged that Kingston should be chosen, but Governor Simcoe thought that place was too close to the United States. "The country near the ruins of the old French Fort Rouille, was an unbroken forest, but a peninsula of land in a semicircular form, shuts out the troubled waters of the vast lake from a beautiful bay of two miles in length by one in its greatest with . . . . The choice of this site was probably caused by the singular felicity with which the French had uniformly chosen their principal stations, and by the fact of its being removed by the whole breadth of Lake Ontario, at that part upwards of thirty-six miles wide, from the shores of the American Union. It also commanded a great portage of about the same length, by which Lake Simcoe communicated with Penetanguishene and the Georgian Bay of Lake Huron, whilst the intervening country between these lakes possessed a fertile and virgin soil." At that time, it should be remembered, Upper Canada was only partially opened from the banks of the junction of the Ottawa and St. Lawrence to Kingston and the Bay of Quinte; the French occupied partially the shores of the Detroit; there were a few farms along the Niagara river, and a village or two along the shore of Lake Ontario, from Niagara towards Burlington Bay. Governor Simcoe appears to have contemplated the removal for some time, as in 1793 the ground was occupied by troops drawn from Kingston and Niagara, and the name changed from Toronto to York. He dwelt during the summer of that year and the following winter in a canvas house, which he imported expressly for the purpose. It is said that this at one time belonged to the famous navigator, Captain Cook. The Parliament Buildings erected in the eastern part of the present city, were "humble but commodious structures of wood." Gourlay, describing the city some years after, said "the town plot more than a mile and a half in length, is laid out in regular streets, lots and squares, having the garrison and the site of the Parliament House on its two wings, and a market near the centre." The growth of the town was very slow at first. Bonnycastle says "it was long ere York reached even the extent of a large village; for in 1826 I saw it consisting of one long straggling street and about 2,000 inhabitants. In 1837, when I last lived in it it was a well-built city with 11,000 people dwelling where General Simcoe on his first landing to explore its dense forest found only an Indian wigwam or two. It is now a splendid place, containing [in 1847] 23,000 inhabitants, and is lit with gas."

Dr. Scadding, in his work "Toronto of Old," gives a racy description of the town in its earlier days, and of its growth for some years. On November 3rd, 1803, Governor Hunter issued a proclamation establishing and appointing a public open market to be held on Saturday in each and every week of the year within the said town of York. In 1824 the market square was, by the direction of the county magistrates, closed in on the east, west, and south sides with a picketing and oak ribbon. The digging of a public well in 1823 "was an event of considerable importance in the town." The whole cost of well and pump was £28 1s 3d. The stocks set up in the market place were used for the last time in 1834. Upper Canada College, then called Minor College, was founded by Sir John Colborne in 1829. In 1833 the wooden market was replaced by a brick structure. In 1834 a gallery that ran round this building being crowded when an election meeting was held gave way. Three persons were killed and several severely injured.

The Second Parliament passed an Act for the more easy barring of dower; an Act for the regulation of fines; an Act authorizing the persons then practising law to form a law society, and providing that none but members of the society should thereafter be permitted to practise; and Act to ascertain and establish the boundary lines of the different townships; an Act to extend the provisions of the Act for making certain marriages valid, which authorized regularly ordained ministers of any congregation of persons professing to be members of the Church of Scotland, or Lutherans, or Calvinists to solemnize marriage on condition that each minister appeared before the justices of his district in Quarter Sessions assembled, with seven respectable members of his congregation who would declare that he was their minister or clergyman, produced proofs of his ordination, constitution or appointment, took the oath of allegiance, and obtained a certificate under the seal of the court; an Act authorizing the town wardens to apprentice orphans and deserted children; an Act for the further introduction of the criminal law of England which authorized the substitution of whipping or of a pecuniary penalty for burning on the hand; and a number of Acts amending or continuing those passed in previous sessions. An Act was also passed for the better division of the Province.

To be Continued.

Printed for the Publisher by JOHN A. MACDONALD, Arnprior.