

# The Municipal World

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

Vol. 4. No. 6.

ST. THOMAS, ONTARIO, JUNE, 1894.

Whole No. 42

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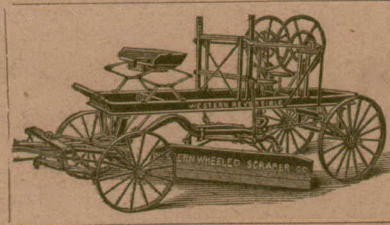
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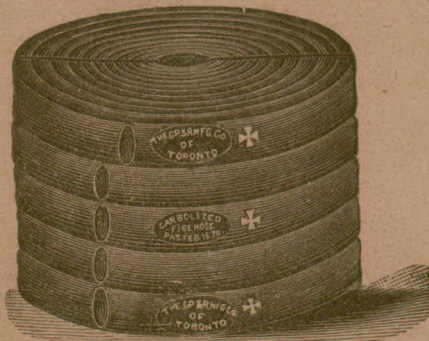
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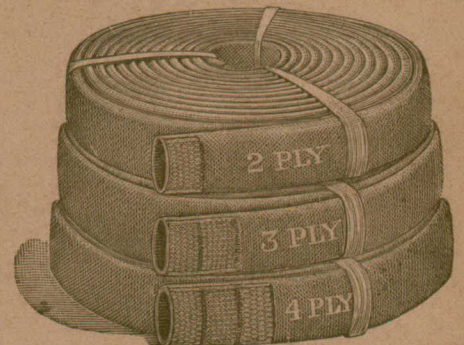


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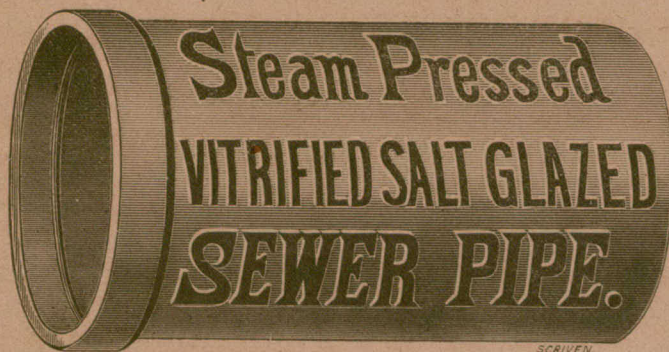
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## CALENDAR FOR JUNE AND JULY, 1894

### Legal, Educational, Municipal and Other Appointments.

#### JUNE.

1. Public and Separate School Boards to appoint representatives on the High School Entrance Examination Board of Examiners.—H. S. Act, section 38 (2).
20. Earliest day upon which statute labor to be performed, in unincorporated Townships.—Assessment Act, section 113.
28. High School Entrance Examinations begin. Public School Leaving Examinations begin.
30. High Schools close, third term.—H. S. Act, section 42. Public and Separate Schools close.—P. S. Act, section 173(1), section 173 (2); S. S. Act, section 79 (1).  
Semi-Annual Reports of High Schools to Department due.  
Semi-Annual Reports by Public School Trustees to Inspector due.—P. S. Act, section 40 (13).  
Rural Public School Trustees to report average attendance of pupils to inspector.—P. S. Act, section 206.  
Protestant Separate Schools to transmit to County Inspector, names and attendance during the last preceding six months.—S. S. Act, section 12.  
Semi-Annual Reports of Separate Schools to Department due.—S. S. Act, section 28 (18) section 62.  
Trustees' Report to Truant Officer due.—Truancy Act, section 12.  
Assessors to settle basis of Taxation in Union School Sections.—P.S. Act, section 95 (1).  
Last day for completion of duties of Court of Revision, except where Assessment taken between 1st July and 30th September.—Assessment Act, section 64.  
Balance of License Fund to be paid to Treasurer of Municipality.—Liquor License Act, section 45.

#### JULY.

1. Dominion Day.  
All wells to be cleaned out on or before this date.—Section 113, Public Health Act, and section 13 of By-law, schedule "A."  
Last day for County Council to pass by-law that nominations of members of Township Councils shall be on last Monday but one in December.—Municipal Act, section 113.  
Before or after this date, Court of Revision may, in certain cases, remit or reduce taxes.—Assessment Act, section 67.  
Last day for revision of rolls by County Council with a view to equalization.—Assessment Act, section 78.  
Last day for County Treasurers to return to Local Clerks amount of arrears due in respect of non-resident lands which have become occupied.—Assessment Act, section 143.  
Last day for establishing new High Schools by County Councils.—High School Act, section 8.

### \* NOTICE \*

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

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## Blank Forms Required by the Ditches and Watercourses Act, 1894.

"It shall be the duty of the Municipality to keep printed copies of all the forms required by this Act."—Section 7, sub-section 2.

For the convenience of municipalities we have prepared the following :

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| <b>Form D.—Agreement by Owners. (4 pp. F.Cap.)</b>               | 50 " "                     |
| <b>Form E.—Requisition for Examination by Engineer</b>           | 25 " "                     |
| <b>Form F.—Notice of Appointment for Examination by Engineer</b> | 20 " "                     |

Full explanatory notes are printed on each form. Price, 300 forms assorted, \$5.00.

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# The Municipal World.

PUBLISHED MONTHLY

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COMMUNICATIONS. Contributions of value to the persons in whose interests this journal is published, are cordially invited. Those for next issue should reach the office of publication not later than the 20th of the month. Address all communications to

K. W. MCKAY, EDITOR,

Box 1252, St. Thomas, Ont.

ST. THOMAS, JUNE 1, 1894.

In preparing the voters' list the easiest way for the clerk to do is to revise a list for the previous year. By so doing he is less liable to make mistakes, has only the necessary changes to make in number on assessment roll, the addition of new names, striking off all names of persons not appearing on this year's roll and any other alterations that are shown by the roll to be necessary.

No voters' list of a municipality in which appeals have been entered against the assessment should be placed in the printers' hands until the expiration of the time of appeal to the judge, and within forty days in cities, and in other municipalities, within thirty, after the final revision and correction of the assessment roll, the clerk is required to have at least 200 copies of the list printed in pamphlet form.

## High School Act, Amendments 1894.

Sub-section 1, of section 6, of the High Schools Act, 1891, is amended by adding at the end thereof the following words:

"Any change made as aforesaid shall not relieve the lands of a high school district or any portion thereof from any rates legally imposed for the issuing of debentures or for any other debts legally incurred prior to such change."

The section hereby amended refers to the power of county councils to change high school districts.

Section 30 of the said Act is amended by the addition of the following words:

"And shall pay the same without any abatement because of fees paid by county pupils."

This section refers to the payment of county grants to high schools.

The Assessment Amendment Act comes into force on the first day of August, 1894, except section seven, which is now in force and provides for the amendment of section 157, Consolidated Assessment Act, by adding thereto the following sub-section.

2. In every municipality where, by by-law, taxes are payable by instalments, and five per cent. has been added to such tax by reason of default in payment of any such instalments, the treasurer shall add to any balance remaining unpaid upon the first day of May in each year, five per cent. thereon, instead of ten per cent. as hereinbefore in this section provided, or a percentage sufficient to make not less than ten per cent. in all when less than ten per cent. has been added in the first instance.

## Ditches and Waterworks Act.

The Ditches and Waterworks Act is the result of the labors of the drainage commission combined with the best efforts of our Local Legislators. It contains in all forty-two sections and numerous sub-sections against twenty-eight in the old act.

Section 3 explains the meaning of the words, "engineer," "judge," "owner," "clear days," "ditch," "non-resident," "maintenance," "construction," "written," and "writing." The most important of these is the definition of the word "owner," which.

"Shall mean and include and owner. The executor or executors of an owner, the guardian of an infant owner, any person entitled to sell and convey the land, an agent under a general power of attorney, or a power of attorney authorizing the appointee to manage, and lease the lands, and a municipal corporation as regards any highways under its jurisdiction."

Section 4 provides for the appointment of the engineer and the oath to be taken by him, the fees to be charged by the clerk and engineer are to be paid by by-law.

Sec. 5 provides that every ditch constructed under the Ditches and Watercourses Act, shall be continued to a sufficient outlet, but shall not pass through or into more than seven original township lots, exclusive thereof, on or across any road allowance, unless the council of any municipality upon the petition of two-thirds of the owners of all the lands to be affected by the ditch shall pass a resolution, authorizing the extension thereof through or into any other lots within such municipality, and upon the passing of such resolution, the proposed ditch may be extended in pursuance of such resolution, but that no ditch shall be constructed under the provisions of this Act, the whole cost thereof, according to the estimate of the engineer, or the agreement of the parties, will exceed \$1,000.

Section 6, defines what lands are liable for construction, as the lands of owners lying within a distance of seventy-five rods from the sides and point of commencement of the ditch, but the lands through or into which the ditch does not pass, and which lands also adjoin any road allowance traversed by the ditch shall not be liable except when directly benefitted, and then only for the direct benefit. It is also provided that the council of any county lying east of the County of Frontenac, may pass a by-law declaring that within the said county the lands lying within a distance of one hundred rods from the sides and point of commencement of the ditch, are liable, instead of those within the distance of seventy-five rods as above mentioned.

The proceedings to be taken by an owner requiring to construct a ditch under this Act are first to file with the Clerk of the Municipality in which the land is situated, a declaration of ownership. This may be taken before a J. P., a Commissioner for Taking Affidavits, or the Clerk.

The owner shall serve upon the owners or occupiers of the other lands to be effected, a notice in writing, appointing a time and place of meeting, to agree if possible upon the apportionment of the work desired. These notices are to be served not less than twelve clear days before the time named therein for the meeting. In calculating the number of days, the day on which the notice is served, or on which the meeting is held must not be counted. If an agreement is arrived at it must be reduced to writing and signed by all of the owners, and filed with the clerk within six days. If the land effected is in two or more municipalites, a duplicate of the agreement shall be filed with each clerk. A form of agreement is given.

A clerk, in giving an applicant blank notices for the first meeting should also give blank form of agreement, so that the parties will be prepared to execute it without further trouble on day of meeting, and it is made the duties of municipalities to keep printed copies of all the forms required by this Act. These may be procured as required, from the Blank Form Department of the Municipal World.

If at the meeting for agreement, it appears that no notice has been served, or has not been served in time, or on the proper person, the owners present at such meeting may adjourn to some subsequent day, in order to allow the necessary notices to be duly served. The reeve or other head of the Municipal Council is authorized to act on behalf of the council and his signature will be binding upon the corporation. This is an important change which will be appreciated.

When an agreement is not arrived at by the owners at the said meeting or within five days thereafter, the owner requiring the ditch may file with the clerk a request that the engineer will attend and make an examination. The clerk is to enclose a copy of the requisition to the engineer. The engineer is to notify the clerk when he will attend; which time shall not be less than ten nor more sixteen clear days from the day in which he received the requisition. The clerk is to file the notice of appointment by the engineer with the requisition, and send a copy of the notice to the owner making the requisition, who, at least four clear days before the time appointed, shall serve upon the owners the notice (form F) requiring their attendance at the time and place fixed by the engineer, and shall, after serving such notice, endorse on one copy thereof the time, and manner of service, and leave the same with the endorsements thereon with the engineer, not later than the day before the time fixed in the notice of the appointment.

Notices may be served by leaving them at the place of abode of the owner or occupant with a grown-up person residing therein, and in the case of non-residents, upon the agents of the owner or by registered letter addressed to the owner, at the post office nearest the last known place of residence, and when that is not known it

may be served in such a manner as the judge may direct. Occupants are liable for all damages suffered by the owner if they neglect to immediately notify the owner upon receipt of notice. The clerk when notifying applicant of day engineer will attend, should see that he receives a sufficient number of notices (form F.)

The engineer examining the premises may, if he thinks necessary, or on the request of any owner take evidence under oath or affirmation, and if he is of the opinion that lands of owners who have not been served will be effected, he shall direct that the necessary notice shall be served by the owner making the requisition and adjourn the proceedings to a day named in the notice. The engineer may adjourn his examination and hearing from time to time, and if he finds that the ditch is required, he must make his award and file it with the clerk of each municipality in which the lands of parties interested are situated, within thirty days after his first attendance. It is then the clerk's duty to notify each of the persons effected by the award within the municipality of which he is clerk, by registered letter or personal service of the filing of the award and the portion of the work to be done and the material to be furnished by the person notified as shown by the award, and as formerly the clerk is required to keep a book in which to record the names of the parties to whom he sent notices, and the addresses to which the same was sent, the day on which the same was deposited in the post office or personal service. In addition to the entries required to be made in this book as herein mentioned, clerks will find it to their advantage to enter the names of all the owners, together with the amount of costs they are required to pay, and to afterwards enter therein, as often as may be necessary the dates on which they may have paid these costs to the treasurer or the number of the name on the collector's roll in which the costs are entered.

By Sec. 21 of the Act any municipal council may enter into an agreement with any railway company for the construction or enlargement by the railway company, of any ditch or culvert on the lands of the company, and for the payment of the cost of such work after completion, out of the general funds of the municipality.

The engineer is then required to make a supplementary award, showing how this amount should be assessed upon the lands mentioned in the original award. The cost of work on the railway lands is to be exclusive of the \$1,000 limit fixed as before mentioned. Any one dissatisfied with the award of the engineer, may appeal to the judge by serving the clerk of the municipality in which proceedings of the ditch were initiated, a notice in writing of his intention to appeal from the award shortly, setting forth therein the grounds for appeal. The clerk is required to notify the judge, and in doing so shall send him a copy of the notice of appeal, and a certified copy of the award, and also

the plans and specifications if any. The judge notifies the clerk of the time he appoints for hearing of the appeal and fixes the place at the town hall or other place of meeting of the council of the municipality which the proceedings of the ditch were initiated. The judge for the greater convenience of the parties and to save expense may fix some other place for the hearing, and he may order the appellant or appellants to deposit with the clerk a sufficient sum of money as indemnity against the costs of the appeal. When the clerk receives notice from the judge he is required to notify the engineer and all parties interested. The length of time for notice to be given is not mentioned.

An important change here made is that the clerk of the municipality to whom notice of appeal is given is to be clerk of the court, and it is his duty to record the proceedings. He has the same powers as the clerk of the division court as to the issuing of subpoenas to witnesses upon the application of any party to the proceedings. The fees to be allowed to witnesses upon an appeal shall be upon the scale of fees allowed to witnesses in any action in a division court. Within ten days after the expiration of the time for appeal or after appeal as the case may be, each municipality is required to pay to the engineer and judge and all other persons entitled to the same, their charges and fees or the portion thereof awarded or adjudged to be paid by the owners therein. And if the amounts are not forthwith repaid by the persons awarded or adjudged to pay the same, they shall cause the amount with seven per cent. added thereto to be placed on the collector's roll as a charge against the land of the person so in default. The addition of the seven per cent. mentioned is new.

The judge is required to hear and determine appeals within two months after receiving notice from the clerk. The judge on appeal may set aside, alter or affirm the award or correct any errors therein, examine the parties and witnesses on oath and inspect the premises, and may require the engineer to accompany him, and the costs of the appeal shall be in his discretion. If the award is set aside he shall have power to provide for the payment of the costs of the award mentioned and also the costs of the appeal either by the parties to the award or any of them.

The judge may deprive the engineer of fees when he finds that he has been guilty of misconduct. The judge is entitled to receive five dollars per day for holding court and examining premises, etc. The award as altered or affirmed, shall be certified to by the clerk, and the clerk shall send by registered letter to the clerk of any municipality interested, a certified copy of the changes made in the award by the judge, and each clerk shall forthwith by registered letter notify every owner within his municipality, of any change made by the

judge in the portion of work and material assigned to such owner. Every award made, unless appealed against within fifteen clear days, shall be valid and binding.

Section 28 and sub-sections thereafter refer to the examination of the work by the engineer at the expiration of the time limited, by the award, if required, in writing to do so by any of the owners interested. The engineer is authorized to issue his certificates for the payment of material supplied and the work performed, and the council are required to pay the sums therein mentioned at their next meeting after the filing of the certificate, and unless the owners within the municipality upon notice pay the sums for which they are thereby made liable to, the amount together with seven per cent. shall be placed upon the collector's roll.

In the case of rock-cutting, the engineer may cause the work to be done by tender or otherwise, instead of requiring each owner benefitted, to do his share of the work, and shall determine the amount to be paid by each of the owners benefitted.

Owners desiring to avail themselves of the ditch after construction, for the purpose of draining lands other than those contemplated by the original proceedings, can only do so under an agreement or award pursuant to the provisions of the act.

The maintenance of the ditch, whether covered or open, constructed, or of any creek or watercourse that has been deepened or widened, under the provisions of previous drainage acts, or under the act of 1894, shall be performed by the respective owners, in such proportions, as is mentioned in the original, or any subsequent award. The manner of enforcing the same is as follows:

If any owner whose duty it is to maintain any portion of a ditch shall neglect to maintain the same as provided in the award, any of the owners, parties to the award, whose lands are effected by the ditch, may notify the owner making default, to have his portion put in repair within thirty days, and if the repairs are not made, he may notify the engineer to inspect the portion complained of, and the subsequent proceedings are the same as in the case of the non-completion of work ordered by a new award. Awards may be re-considered at any time after the expiration of two years from the completion of the construction of any drain, and the proceedings are to be the same as in the case of the construction of the ditch.

This Act is substituted for all Ditches and Watercourses Acts previously passed, and all Acts and parts of Acts inconsistent therewith are repealed.

Clerks should not delay returns required to be made to county treasurer by section 141 of Assessment Act. It is very necessary that all errors in description of property as entered in statement received from county treasurer should be corrected and returns made as promptly as possible.

### The Municipal Amendment Act, 1894.

From the number of amendments proposed at the recent session of the legislature, we were led to believe that the Municipal Act was undergoing a reconstruction. Discussion and investigation, especially in the Municipal Committee, appears to have had a beneficial effect. The Municipal Amendment Act of 1894 consists of nineteen sections, the first of which provides for the separation of lands used wholly for farming purposes, and situated in cities, towns and villages. The procedure is for the council of a municipality in which a lot is situated, to make application to the Lieutenant-Governor-in-Council, and he may, by proclamation, annex the lands to an adjoining municipality.

*Section 2* amends sub-section 4 of section 79 by providing that a farmer's son may be occasionally or temporarily absent from home six months of the twelve instead of four as formerly.

*Section 3* provides for the remuneration of aldermen in cities of over 100,000 population to an amount not exceeding \$300 annually, with the exception of the chairman of a committee, who may receive \$400, deductions to be made on account of absence from meetings.

*Section 4* amends section 5 of the Municipal Amendment Act of 1893, by providing that the section shall apply and be in force in every township, the municipal council of which so enacts by by-law passed for that purpose. This relates to the manner in which treasurers' accounts should be kept, and is worthy of consideration by the council of every township municipality.

*Section 5* amends section 413 as enacted by section 10 of the Municipal Amendment Act, 1893, by adding two sub-sections, the first of which provides that the council of any municipality shall have similar borrowing powers as in sub-section 1 of this section mentioned with regard to moneys required by the trustees of any public school within such municipality, or by the trustees of a high school district of which such municipality is partly or wholly composed, provided always that such sums of money do not exceed the estimate submitted by such public or high school trustees as required by the Public or High Schools Act. The second sub-section provides that all moneys raised by the municipal council for the current expenditure of public or high schools, shall be paid to the treasurer of the school corporation entitled to receive the same in monthly instalments on the requisition of the school corporation concerned. This has for many years been thought to be a necessary amendment to the act. This is no authority allowing members of school boards to borrow money except for teachers' salaries, although it has often been done, the trustees giving their personal notes for the

moneys required. This amendment will allow municipal councils to borrow money for school trustees.

*Section 6* amends section 435 by an addition of sub-section 2a, which reads "The commissioners shall, annually, at their first meeting, held after the mayor of the municipality has taken his oath of office, elect a chairman."

*Section 7* amends sub-section 9a of section 489 by adding thereto, after the word "roll," in the third line thereof, the following words: "or who may be entered for the first time in the assessment roll of such municipality." Section 9a provided for the licensing transient traders who occupy premises in the municipality, and are not entered upon the assessment roll in respect of income or personal property. This amendment places those who may be entered for the first time in the assessment roll in the same position as those who are not entered.

*Section 8* amends sub-section 2 of section 495 by providing that by-laws passed by the councils of cities and towns separated from the county licensing and regulating auctioneers, may provide for prohibiting of granting licenses to an applicant who is not a good character or whose premises are not suitable for the business or properly located; these special qualifications to be determined by such means as the by-laws provides. We do not know that this amendment was particularly required except in the larger cities and towns. The possible difficulty we would look for in reference to it would be the means of determining the qualification of parties making application for the licenses. This should rest with the clerk or treasurer issuing the license, and be subject to an appeal to the mayor or warden of the municipality for which the license is required.

*Section 9* amends section 496 by the addition of two sub-sections relating to the setting apart, resumption, construction and maintenance of boulevards, and for making regulations for the protection of the same.

*Section 10* amends sub-section 25 of section 496, so as to provide that the council of every city, town or incorporated village may pass by-laws to provide for the cleaning of sidewalks and streets adjoining vacant property, or of persons who for twenty-four hours neglect to clean the same. The section as it formerly read applied to vacant property only. This amendment seems to be rendered necessary, as persons aggrieved have no action against persons whose duty it is under by-laws to remove the snow and ice, and the remedy so far as sidewalks are concerned, appears to be against municipal corporations, and not against individual proprietors. The amendment provides that municipal corporations may protect their interests where persons neglect to clean their sidewalks for twenty-four hours,

*Section 11* amends section 504 by providing that the council of every city may pass a by-law compelling Electric Railway Companies to provide shelter on cars for moter men.

*Section 12* amends section 340 by adding the following to the end of sub-section 3:

"Such annual rate to begin from the date when the Debentures are by the by-law directed or authorized to be issued, when whether in the year in which the by-law takes effect or in a subsequent year. And no by-law heretofore or hereafter passed shall be deemed or held to be invalid by reason only of such annual rate, commencing at the time subsequent to the year in which the by-law took or will take effect, or because the levy of such annual rate is not to begin until the fulfilment of conditions contained in the by-law."  
(2.) Nothing in this section contained shall prejudice or effect the question of costs of any action or proceeding now pending.

*Section 13* amends sub-section 1 of section 531 by adding the following:

"Provided, however, that no municipal corporation shall be liable for accidents arising from persons falling, owing to snow or ice upon the sidewalks, unless in the case of gross negligence by the corporation; and provided also that no action shall be brought to enforce a claim for damages under this sub-section, unless notice in writing of the accident, and the cause thereof has been served upon, or mailed through the post office to the mayor, reeve, or other head of the corporation, or to the clerk of the municipality within thirty days after the happening of the accident; and provided also that in case of death of the person by whom the damages have been sustained, the want of notice shall be no bar to the action if the court or judge before whom the action is tried is of the opinion that there was reasonable excuse for the want or insufficiency of such notice, and that the defendants have not thereby been prejudiced in their defence."

*Section 14* repeals the celebrated section 533a, which provided that certain municipalities might claim from county councils contribution for construction of bridges. The repeal of this section does not effect the costs heretofore incurred in any arbitration, action, suit or proceeding now pending, nor does it effect any contract or agreement heretofore made or entered into between any county, and one or more of the minor municipalities thereof relating to the construction and maintenance of any particular bridge or bridges.

*Section 15* makes an important amendment to section 487 by the addition of the following sub-sections:

23 (A) For directing the removal of any fence, timber, stone, firewood or any other obstruction placed upon any highway under the, the control of the council, excepting material that is to be used for roads or bridge purposes.

(A) For providing that the party or parties placing any such obstruction or materials upon any highway shall, after notice to remove the same and upon default for five days after such notice, be liable for the expense of the removal of the same.

(B) For providing that the pathmasters, in their several road divisions, or other officers appointed for the purpose, shall enforce the provisions of such by-laws.

(C) Provided always that unless the by-law otherwise expressly provides a worm fence, which is not for more than one half its width upon a road allowance, shall not be deemed an obstruction within the meaning of this sub-section.

Concluded next month.

**ENGINEERING DEPARTMENT.**

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

**Road Making.**

The question of roads and their improvements have received, within the last two years, a great deal of consideration, and while volumes have been written, tests made of materials, and samples of roads built, yet there is room for further discussion and consideration. The problem at the present, of vital importance, is not so much whether it is advisable to improve our roads in a permanent and systematic manner, but will, we profit by the investment? Will such roads pay their first cost and subsequent maintenance? As an illustration of this we submit an estimate which we have prepared for improving 175 miles, being the road mileage, at the present maintained, in the township of Yarmouth, in the county of Elgin, which is the closest to us.

|  |              |
|--|--------------|
| 175 miles costs \$1800 per mile.....                       | \$315,000 00 |
| Equal annual payments 4 per cent, 30 years.....            | 18,216 45    |
| Maintenance, \$20 per mile.....                            | 3,500 00     |
| Total yearly payment.....                                  | 21,716 45    |
| Present system including statute labor at \$1 per day..... | 9,000 00     |
| Thirty years actual yearly rate.....                       | 12,716 45    |
|  | \$ 21,716 45 |

Total acreage in township, 70,000 Assessed value \$2,700,000; per 100 acres \$3,850. Estimated actual value, \$4,000,000. Extra rate required for annual payment, 4 3/4 mills. Estimated increase in value of property, ten per cent., \$400,000.

In constructing 175 miles of stone road, fifty per cent. of \$157,500 would be expended for labor that could be performed by the ratepayers; this would equal \$225 per each 100 acres. The roads would cost \$315,000, of which \$157,500 would be spent in the township. The property would be increased in value \$400,000. Taking these figures into consideration, the township would be benefited to the extent of \$242,500 over and above the cost of construction of the road. In estimating the increased value, we are satisfied that we have placed it at a very low figure furnishing, as the roads will, sure means of transportation every day in the year, which must prove the profit of the investment to the farmer, to the merchant and to the commerce of the world.

The reasons for this are many and various. Fertility being constant, it is the accessibility to market that fixes the value of tillable land. It is the facilities for transportation afforded by her net work of railroads that has given Ontario her wealth of agriculture. Without such means the vast resources of our country would be almost valueless. And so we claim that the same law by which a railroad gives value to real estate will also hold when a hard road completes the transportation system from farm to shipping station. For all practical purposes, that piece of land has been moved several miles nearer

the markets of the world, and at times it has been rescued from the dead sea of desolation and anchored to a present civilization. Its fortunate possessor no longer at the mercy of the barometer, can go when he pleases and come when he gets ready. His produce he can sell when the prices are best, and is not like his mud-bound brethren, compelled to wait the pleasure of sunshine and shower, and then in some halcyon days, when the roads are good, is not like him compelled to force his produce upon an unwilling market at whatever price a crowded warehouse, elevator or railroad may dictate. His teams instead of being a heavy expense, and of little use from four to six months in the year can be profitably employed every day, and that too with less wear and tear of vehicles, less loss of time, and less danger of crippled horses than in attempting to fathom a bottomless something sometimes called a public highway. True, you can sometimes haul in winter on dirt roads just as well as any other, but the benefits to be derived from this are largely offset by the fact that such a state of affairs is so uncommon, so unlooked for that you are totally unprepared to take advantage of it. Besides, it is only a question of a few degrees of the thermometer, when the hard frozen dirt returns to its original plasticity, and the so-called road becomes neither a thing of beauty nor a joy forever, nor even a fit associate to the progress, the civilization and the christianity of the nineteenth century. But with the change to solid roads all uncertainty vanishes. The distance to market is a constant factor every day in the year. No paralysis of business, no stagnation of trade, no slow collections, because the farmer is stuck in the mud. He has taken his rightful place in the business world, and is increasing profits by decreasing cost of production. His hauling is done when crops do not need, or on account of the weather, cannot receive his attention. It is done at less expense as the loads are larger and are hauled in less time. He receives for the product of his skill and toil that price allotted by that supreme law of finance, supply and demand, and is no longer at the mercy of greedy speculators, and glutted markets. And if the cost of these roads be not in excess of what is absolutely necessary, and be at all fairly distributed among those benefited, it is our firm belief that many miles could be constructed at a direct financial profit to say nothing of the mental and moral improvement which might arise from the closer association of village and country life, to say nothing of the fact too often forgotten in this rushing age, that man is not a mere machine successful most, as most he gains, and hoards of gold, but is made to live in the fullest sense of that term to enjoy the sights and sounds of nature, to love the beautiful, to revere his Maker not alone with selfish aim, but with that broadened view which most rejoices when others are the most glad.

**Bridges.**

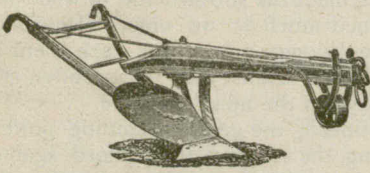
In building the substructure for bridges such material is generally utilized, as can be readily procured that will be inexpensive, and at the same time make a rigid foundation. Wood and stone, with cement, have formerly answered these requirements, but lately, iron has become to be used in the same way. The Latins used wood piling as substructure for their drawbridges before they had entrenched themselves as well on Roman soil as to be free from the attacks of the Barbarians at night. Later, these wooden structures were replaced by permanent stone arches. Caesar in his famous bridge across the Rhine, which was constructed in eleven days, made the sub-structure of wood bents, framed much as we erect false work for false bridges now. But each bent was protected against drift by wooden staves driven on the up-stream side.

Indeed, the great sustaining power of piling, the security they afford against a scouring current and the ease and rapidity with which they can be erected, have made this kind of substructure very popular, especially in soft ground and over wide and sluggish streams. It is well-known that if protected from the elements, and especially the air, timber will last many years, but if allowed to be wet and dry alternately, will very soon decay. Consequently, wood piling when left partially above water, is very short lived, and should only be used for temporary structures, where saving in first cost or time of erection is of more consequence than permanency of the structure.

Stone structures, when properly erected with good materials usually, fulfil every condition of permanency, and the merits of this substance are so well-known and well appreciated that it is useless to say anything in its favor. But stone masonry, however good the workmanship and materials may be, is very treacherous when built on an insecure foundation, and even when the soil on which it is built seems at first to be rigid and firm, the abrasions of the current often undermine it hastens its destruction. It is here that the merits of wood enable it to be brought to the rescue, for, on soft ground, it is the usual practice to use a grillage of timbers in the bottom of the trench, or better still to build the grillage on top of wood piling driven well into the earth, the whole being surrounded with rubber or concrete, the details of both methods being so well known and so universally practiced as to need but a passing glance. Where stone is expensive or poor in quality, hard burned brick laid in good cement mortar is often very successfully used as a substitute. The difficulties and expense often incurred in securing a good stone foundation, and the temporary character of wooden structures, together with the improved methods of the manufacture of iron and its decreasing cost, have led to the latter material being more and more employed.

## Road Making Machinery.

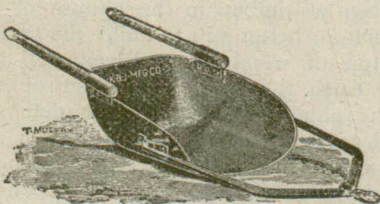
The question of whether good roads are advantageous or desirable is settled, and while the movement for permanent roads is being brought into definite form, and the people are being educated to the benefit of them, the attention of the public must be directed to the betterment of earth roads. In either case the question of cost is the most important consideration. When it can be shown that the benefit of these improvements will equal the outlay and that this outlay can be reduced so as to bring it within the reach of the farmers, the work will be undertaken. There is nothing which is doing more to reduce



this cost than the manufacture of machinery to do the work. In the view of the marvellous exhibition of human progress and especially that part of it which relates to applied mechanics, it is useless for us to assert that the history of this country is one of mechanical progression and as almost every conceivable, social, economical and commercial advantage which we enjoy is directly traceable to improved mechanical appliances, it requires no argument on our part to convince the intelligent road maker that improved appliances are, and will be a very important factor in bringing about a better condition of public roads and of greatly reducing the cost. A great many machines are now manufactured, and in successful use in the building of streets and roads in Canada and United States.

## THE PLOW.

In breaking up the surface of a long-travelled or partly macadamised road, it is very slow and expensive work when performed by hand, and to break this surface with ordinary plows is possibly more expensive on account of their not being able to stand the strain. Plows must be made especially for this purpose; the whole frame



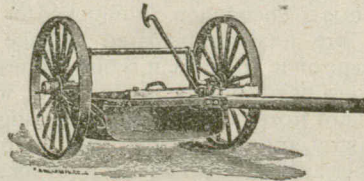
should be heavier, and certain parts upon which the strain is greatest must be increased sufficient to resist it, and it is necessary that these plows should be selected by seeing that the parts are sufficiently strong to resist the strain which will be brought upon them by the class of work for which they are intended to be used.

## THE DRAG SCRAPER

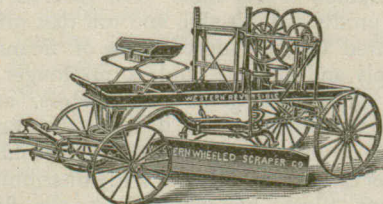
Experience teaches us that to excavate earth cheaply, the less it is handled the better, and where the fill and dump is not very far apart, the drag scraper is the proper implement to use, in this line the lightest, strongest and most durable should be chosen, they require to be of the best material, and to work in any soil, to enter the ground readily and be easy on man and team. The solid steel drag scraper will be found to be the best.

## THE WHEEL SCRAPER.

Where the haul is so great that the expense is increased by the loss of time in moving a small load on the drag scraper the proper implement for use is the wheel scraper which saves a large amount of labor necessary in filling and dumping the wagons. These scrapers can be procured to carry at least one half as much material as an ordinary wagon, and there is no loss of time in changing teams or unloading. With a wheel scraper the team can be constantly on the move, and one man will unload it with perfect ease. These im-



plements, like all other machinery, should be made with as few parts as possible, in order that there will be less to get out of order. The axle, tongue, braces or bale, cross truss, lever, hanger, bowl or box should be made of first class steel. They are constructed so that the team does all the lifting, and one man can easily fill, raise and dump the largest load by the operation of a lever. There is no strain on the horses necks. The scraper is usually operated by the lever, which, when disengaged, lowers the bowl to the ground in position to fill, and the operator, by the use of the handles of the scraper and the

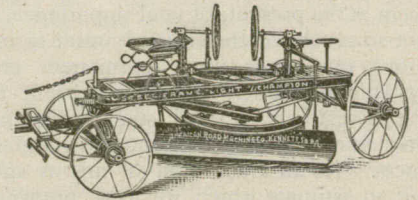


lever, can cut as deep or as shallow as required in order to fill the box. When filled the lever is simply lowered and hooked, thus raising the bowl with its load sufficiently high to escape the ground. When the dump is reached, the lever is raised until the point of the scraper catches the ground, this revolves the bowl, and the load is dumped. The ground before this scraper is used should be plowed deep and no part left uncut to make it work properly.

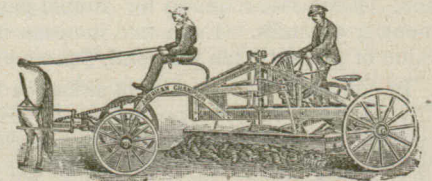
## ROAD MACHINES.

In improving earth roads or in preparing a road-bed, for gravelling or mettleing

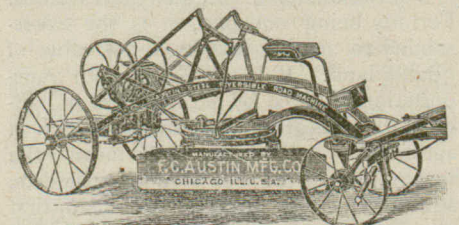
where the material does not require to be hauled from one portion of the road to the other, there is no implement more useful, labor saving, and money saving, than what is known as the reversible road machine. This is a fitting example of the possibilities of ingenuity in the construction of road machinery, it is simple, strong, durable and easy to operate, and so great in capacity, that it cannot fail to give entire satisfaction in every respect when properly managed. In all the products in the line



of road making implements, none have obtained a higher degree of popularity nor given more satisfaction to those who have used it than this machine. It is one implement which has added more than any other to the reduction of the cost of making and improving roads. The Steel Champion, manufactured by the American Road Machine Company, Hamilton, Ont., the Austin Steel Reversible Road Machine manufactured by the F. C. Austin Manufacturing Company of Chicago, Illinois, and the Western Reversible Road Machine, manufactured by the Western Wheeled Scraper Co., whose Canadian head-quarters



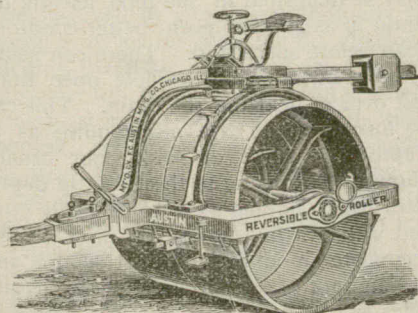
are located in London, Ont., are all of such manufacture and design as to leave no room for suggested improvement, and are well worthy of patronage. We all know how difficult it is, even after the earth road is properly graded, to preserve a regular grade and prevent sagging in the centre, and rutting up the sides with heavy traffic. Rutting of the best earth roads, if not properly and carefully attended to, will soon become as bad from constant traffic as it was before it was graded. The large annual cost of doing this work by hand is one reason why this cannot be attended to. The reversible road machine



fills this long felt want and where yards by hand can be repaired, rods by the use of the road machine can be done at the same cost—as the self-binder takes the place of the sickle, so does the road



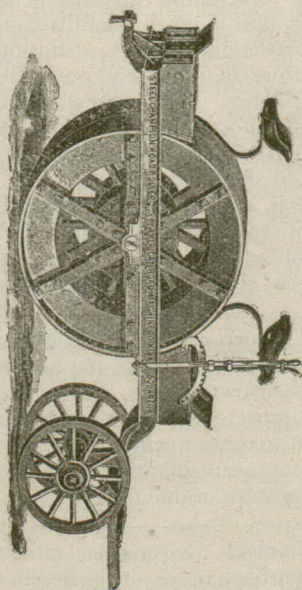
machine take the place of the spade and hoe. As this is true in the matters of repairs it is also true in grading present travelled roads or constructing new ones. Besides doing so much more work when properly operated it will be done in a more uniform manner. Of course these machines, like laborers, require to be properly managed in order to do the work economically, like all classes of machinery they may be condemned and discarded



without receiving a fair trial by having men to operate them who do not understand the machine, and who have no interest in the work beyond putting in their day. Men instructed especially in the use of the machine should be employed to look after it, and operate it. If this is done, and the instructions closely and carefully followed there can be no question as to their advantage.

ROLLER.

After the road machine has completed its work, the whole of the grade should be carefully and thoroughly rolled to a hard and unyielding foundation. This is as necessary for a good road as for a building, a bridge, or any other structure. Rolling is essential in making this foundation, it consolidates all the loose earth which the action of the scraper has left in the line of the roadway, and it packs the material so that it will shed the water and

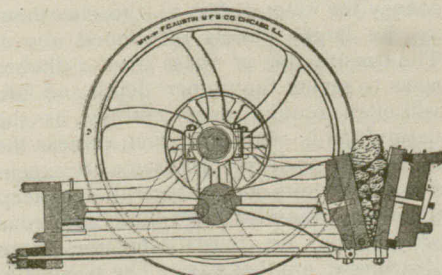


carry all loads to which the road is subjected without destroying its surface. Great difference in opinion at the present time exists as to the proper weight of a

roller to be used, but all who have studied the question of road making are united in its necessity. Some argue that the heavier the roller, the more effectual will be its work and the expense of repeating the operation will be saved. We are, however, convinced from experience that a roller weighing about five tons is the proper one to use in making road foundations for improving earth roads. The object is to bring a sufficient weight upon the material to compress it so that every atom will be gradually worked into its place; this can be more properly done by repeating the operation than by attempting to perform it by once passing over. Compression made a little at a time can be reasonably compared with the hammer at the forge, light blows contract the fibres of the iron more closely than heavy ones and increase the tensile strength materially. Light blows of the hammer in driving piles is the only known success. Heavier rollers tend to push the material in front of it instead of packing it. A five ton roller can be easily operated by four horses and two men; it can be safely moved over bridges, etc. Additional weight means expense out of proportion to benefit. Rolling should begin at the sides of the road and work towards the centre in order to preserve uniformity of the crowning.

THE ROCK CRUSHER.

Earth roads as main thoroughfares will soon be a thing of past, and the time will

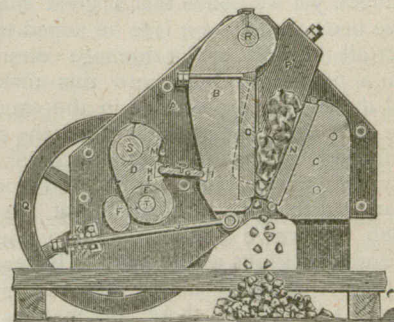


Austin Rock Crusher.

soon come, and now is, when such roads will give way to stone or macadam. They cost more in the first outlay, but are much cheaper in the end. In order to do this work, each municipality, where rock can be obtained, should have in their possession one or more rock crushers; without them the cost of stone roads will be too high, and the tax will be too heavy to undertake. These machines should be simple in construction, light in weight, yet possessing the important qualities of strength, durability, and efficiency. For the last fifteen years manufacturers have been making improvements on these machines, so that to-day those manufactured by the older companies whose addresses appear in our advertising columns cannot fail to give results which will prove their value.

The amount of product obtainable from any crusher is governed by the fineness to which the stone is crushed, the speed at which the machine is run, the diligence with which it is fed and the character or

quality of the stone used, varying from ten to twenty tons per hour. They are usually mounted on trucks for portable use, and are moved and operated along rivers and streams where boulders are abundant. A useful attachment to these crushers is an elevator which carries

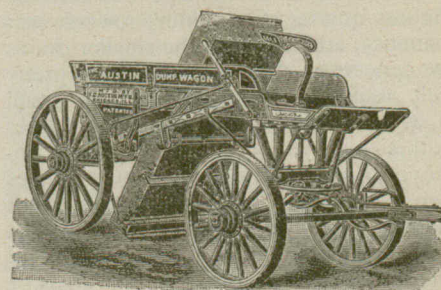


Rock Crusher m'fg'd by American Road Machine Co.

the material to the top of bins roughly constructed to hold the crushed material, and passes through a screen which divides the material into three grades of coarseness and deposits each in separate bins, these bins are provided with shutes, which are constructed at sufficient elevation above the ground to permit of a wagon passing underneath it to receive its load, the shute is opened and the wagon filled without any cost for labor in handling.

DUMP WAGONS.

Dump wagons are now being constructed especially for this purpose. They are built low, making them easy to load, coupled short, light draft, and have no reach, so that they can be cramped short, and turned in a short space. The hopper and box is made with a capacity from one to one and one-half cubic yards, and is encased in a frame. The axles are made especially heavy, and built to stand the wear and abuse, and are calculated to out-last three common wagons. They are arranged so that the driver can dump a load by pressing the lever with his foot without leaving his seat or moving his horses; the dump of the box stands at so steep an



angle that it is impossible for any material to remain in it. Besides crushed stone they can be used for hauling gravel, or in fact any kind of material, not of a liquid nature, that requires to be quickly done. The use of this wagon saves a great deal of time and expense in loading and dumping.

### Drainage.

A copy of the act to consolidate and amend the drainage laws as passed at the last session of the legislature has just been received by us, and while we have not had time to carefully look over it in order to give particulars as to the most important changes, yet we notice that a great many have been made and it is to be hoped that after all the work of the drainage commission appointed to look into this matter and the evidence produced in the expensive suits that have grown out of the old drainage laws, that the present act will be easy to operate, just in its provisions, clear, and that the future will not see as much expensive litigation, and so many different decisions as the past. However, let the act be as it may, experience will prove its worth, but there are matters in connection with practical work of constructing these drains that require as much consideration as the law under which they are made. Drainage, as well as all other public works should be constructed with a view to permanency. The practicability of drainage of land for agricultural and other purposes has long since ceased to be a question. As the population of the country has become more dense, the necessity for the drainage of the more unfavored portions became apparent, and as necessity is the mother of inventions, the good work was begun. Although their notions of drainage was crude at first, our ancestors' efforts were rewarded more or less. Marked improvements have been made from time to time. The system of dykes and drains of Holland produced one of the most fertile and populous districts of Europe; but the Romans were probably the first to employ covered drains. These were formed of wood and other substances and were highly praised by Roman agricultural writers. The progress of covered drains has been very slow until about the middle of this century. These were not at first constructed with earthen-ware but with wood, brush, straw and stone.

The tendency of drainage has been for the last quarter of a century towards permanency, and so far as the smaller drains are concerned, the object has been pretty well attained. The drainage of small areas is well understood in many localities in this country, but could be greatly improved, if at least the smaller outlet ditches were constructed in a more permanent manner. It is our object to chiefly treat of these smaller outlet drains varying in length from one to three or four miles or of still greater length owing to circumstances. These may be treated under two classes: First, those which empty into streams and outlets which do not afford sufficient outlet without improvement. Second, those which empty into streams which afford sufficient outlet without improvement.

With the first class nothing of a permanent nature can be done until a good

outlet is secured. This must be had at almost any cost unless we are still connected with the good old way of digging out in the fall in the upper course of the stream every three or four years. But with a view to permanency and economy this main outlet must be made one good and grand improvement. In doing this we must consider the factors of straightness, depth, width, flare or banks, and the removal of excavated earth as well as such portions of banks likely to slide into the ditch at such distances as to secure the best results. Each of these factors and others enter into the betterment of the outlet and must be duly studied with a view to permanency, for this outlet will cost something and must not require improvement every few years. It must and will stand for many years if properly constructed and cared for.

Having secured a good outlet for drains of the first class, and nature having provided for us outlets for those of the second class we should now devise some means to construct those shorter drains in such a manner as to get rid of the constant cleaning out of these direct outlet for farm drains. The latter should flow freely throughout their entire length at all times. The mouths of tile drains should not be obstructed by back water or by sediment allowed to accumulate in the outlet. This backing destroys a growing crop. Evidently to avoid this calamity, the outlet must be deep enough and have sufficient fall to convey the water as fast as it reaches them to the larger outlets mentioned above. The construction of these smaller ditches so as to secure the proper depth and fall, will often require deep cuttings, as the natural fall is often greater at, or near the outlet, and as deep open drains are expensive and require constant attention to keep them free from obstructions too numerous to mention, we must overcome these obstacles in another way. The use of tile or sewer pipe would certainly remove many of the obstacles to open drains. The depth would always be the same. The capacity when properly constructed would be a constant quantity. The sediment would be reduced to a minimum.

But there are some objections to tiling or sewerage these drains. The first and greatest of all is the cost of tile or sewer pipe. The incapacity to carry all the water at certain times, and other smaller objections will be raised. The expense of tile or pipe will vary of course with the size of the pipe, not exactly in proportion to the squares of their diameters, the larger being the cheaper according to capacity as may be readily seen by examining price lists of sewer pipe companies. But would it not be better to increase the cost of improvement considerably than to be constantly overhauling the old sluggish watercourse, and running the risk of losing a crop every few years? By increasing the depth we will increase the capacity so that the pipe need not be so large as if laid at the depth of open

drains. Let the pipe be laid from one to two feet deeper than the usual depth of these open drains, thereby allowing the farm drains to proceed slowly all the time. In case of an unusually heavy rainfall the water might possibly gather in faster than the pipe could discharge it, forming a head of a foot or more of water for a short time. But the pressure created by this head will increase the flow of water, and have a tendency to remove all silt that may be deposited in the pipe, leaving the drain in as good or even better condition than before such flood. There can usually be to advantage a shallow open drain left over or near the tile drain. This can be formed as the case may require as to depth and slope of banks, but usually should be from one to three feet in depth, with banks sloping so as to be easily crossed with wagon, mower or plow. The aggregate amount of cost of location and the amount of time attending hearings and sales will be no trivial sum in a period of twenty years. In the improvement of watercourses of the first class, as arranged above, no attempt should be made in piping until a good deep outlet is secured, or there will be a demand in a few years for the removal of pipe from the ditch and the annihilation of the engineer.

In the improvement of either class of drains with pipe, the most serious mistakes that can be made will consist in the want of proper care, in placing pipe and back fillings, and the neglect of the engineer in properly overseeing the work as it progresses. Each locality has its peculiarities, and has to be studied carefully by the engineer and parties interested before any final decisions are made.

### Roads and Road Making.

Earth roads should be kept smooth, hard, up to grade and cross-sections by the addition of suitable material at frequent intervals, and in small quantities at a time on all places out of grade, securing a surface such as shall quickly convey the water to side ditches. The latter should be kept open, of uniform and sufficient slope, free from rocks, ridges, depressions, and continuous to some natural or artificial outlet. Sprinkling and rolling are valuable adjuncts of repair, especially in dry weather, and a thorough rolling in spring after ground has settled, is a marked benefit.

Local boards of health should have an eye not entirely single to the health interests of their own towns. They can often restrain indiscretions that would transmit infection to other towns. They should do so, hoping meanwhile that their neighbors will reciprocate in due time.

A municipal reformer has proposed to use the garbage of his city as fuel to supply power to an electric plant. There is an element of economy concealed in this proposition, that should appeal to the taxpayer.

## LEGAL DEPARTMENT.

H. F. JELL, SOLICITOR,  
EDITOR.

## Municipal Councils.

THEIR POWERS AND JURISDICTION—  
HIGHWAYS.

Section 546 of the Consolidated Municipal Act 1892, lays down the formalities to be observed by a council preliminary to passing a by-law for stopping up, altering, widening, diverting, or selling any original allowance for road, or for establishing, opening, stopping up, altering, widening, diverting, selling, any other public highway, road, street or lane. Sub-section 1, of section 550, of the said act gives to municipal councils the powers which are by implication given to them by the first mentioned section. It was at one time contended, that municipal councils had only authority to change the direction of existing roads, and to widen or otherwise alter them, but not to make new roads; but it is now settled, that such councils have power to make new roads through any persons lands, not merely to substitute for other roads running near and between same points, but to afford a passage from one point to another, where there has been no passage before. As to stopping up, etc., it is not necessary for the council to do more than close, or abolish the highway by their enactment. They are not required to fence it in or to place any physical obstruction in the way of persons passing. They only put an end to the right of using it, and consequently to all obligation on the part of any person to respect it as a highway. Care should be taken in framing a by-law to close a road, to accurately define the road intended, as it had been judicially decided that, where there was more than one road across a lot a by-law closing one of them was void for uncertainty in not showing which road was meant. The provisions as to the posting up of notices mentioned, in sub-section 1, of said section 546, are conditioned precedent to the right of the council to pass the by-law. It is intended that the notices should be in the English language, and should state the day on which the council proposes to consider the by-law. It would be well that the corporation should in every case, preserve proof of regular notices by the affidavit of the person employed to put them up in the event of any question arising as to the sufficiency of such notices. It is not necessary, however, that these notices should be framed in a specially formal manner—a substantial compliance with the provision of the section making provision for posting up of same, being all that is required. The municipal council cannot validly bind itself to make a by-law for the opening of a street—it is discretionary with, and not obligatory upon such council to open a road allowance, and the fact that a by-law has been passed, does not

create such an obligation. It seems doubtful whether power is given to every municipal body to close a section of a road running through more than one municipality. It might be well to observe that said section 550, sub section 1, has no reference to the levelling, raising or lowering of streets as was the case in the old statute, but by section 483 provision is made for compensation to the owners, of lands taken or injured by the municipal corporation in the exercise of its corporate powers. It has been judicially stated, that it is within the general and incidental powers of a municipal corporation, to maintain, repair and improve the public streets of the corporation (town) placed under their charge and in doing so to raise or lower them as may be found necessary judicious or convenient for the public use, not exceeding what is reasonably, requisite and proper, and doing no unnecessary injury, to the property of others, but using due care and precaution to avoid injury to the same. But if the work cannot be justified on such grounds, then, in the absence of any by-law, the defendants would be responsible to the injured parties. Whatever is cast upon the corporation as executive duties under the statutes in relation to the maintenance and repairs of the roads, or whatever is fairly included in those terms, they may do without a by-law. When not so, and it is only within their discretion and the exercise of their legislative power it would be otherwise. No power now exists in expressed terms to change the level of the street to the prejudice of owners of land abutting thereon. The general rule is, that when private rights are interfered with for the public advantage, compensation is given. An interference with the enjoyment of property belonging to another, prima-facie, gives a right of action. This being so, the right to maintain the action exists, unless shown to have been taken away by Act of Parliament. The burden of showing that it has been taken away, rests with those who interfere with the enjoyment of the property of others, in all civilized countries, however, social duties and obligations are par amount to individual rights and interests, by which is meant the right of the public to appropriate private property for public uses. This right is generally subject, however, to the limitation that private property shall not be taken for public use without due compensation.

## Legal Decisions.

## BRYCE VS. LOUTIT, ET AL.

In this case the Court of Appeal for Ontario, recently held that one who dams up surface water upon his own land, is responsible for damage caused by the breaking of the dam, and the consequence escape of this water, but the municipal corporations who have built under a highway a culvert for the drainage of this surface water in ordinary course are not

liable, because the water when suddenly discharged, rushes through this culvert, and causes damage to lands on the other side of the highway.

## TORONTO VS. CONSUMERS GAS COMPANY.

This was an appeal by the Gas Company from the Court of Revision of the city of Toronto, which had confirmed the assessment for the year 1894, of the property of the appellants, the Consumers Gas Company as follows:

Land, \$45,750.—building and rent, \$653,000.—It was admitted on the argument before the county judge, that, as to the latter sum, \$153,000 was charged on buildings and plant and \$500,000 on gas main under public streets, and there was no dispute as to the assessment, except as to these mains. It was agreed that the buildings and plant instead of being placed at \$153,000 as specified, should be increased by adding to the buildings and plant \$64,950, making the total valuation of the buildings and plant, \$217,950.

It was held,—1 That gas mains are assessable as machinery forming an indivisible part of their plant, and appurtenant thing the land actually owned.

2. That sub-section 7, of the interpretation clause of the Municipal Act, is to be read into the Assessment Act, and in that case an easement is expressly named as a taxable interest; and if the Gas Company's interest in their mains is only an easement, it is expressly assessable.

3. That even if the above clause is not read into the Assessment Act, the words "real property" and "real estate," in the Assessment Act, covers and include an easement.

4. The interest or estate of a gas company, in the mains and soil, in which they are laid is a hereditament rather than an easement, and as such taxable as land.

5. Gas mains are not exempt from taxation, because laid on a public highway.

6. Exemption of highway streets from taxation should be directly construed, and confined to the interest of the crown and municipality therein.

## REGINA VS. WHITAKER.

In this case, it was held that, where a city by-law passed under sub-section 25 of section 489 of the Municipal Act, 1892, prohibited exhibitions of wax works, menageries, circus riding and other such like shows, usually exhibited by showmen, this would not support a conviction for exhibiting a machine called a "merry-go-round," as contributing no offence under the by-law, or clause. This was an application to quash a conviction of the owner of the "merry-go-round," under the city by-law, and it was judicially remarked that the conviction was bad, the evidence showing no offence against the by law or statute, there being no exhibition at all shown within the meaning of sub-section 25 of section 489 of the Con. Mun. Act, 1892.

## QUESTION DRAWER.

SUBSCRIBERS only are entitled to opinions through the paper on all questions submitted if they pertain to municipal matters. Write each question on a separate paper on one side only. When submitting questions state as briefly as possible all the facts, as many received do not contain sufficient information to enable us to give a satisfactory answer.—E.D.

ASSIGNACK.—1. Physician with salary from Dominion Government of \$1,000.00, and practice say \$2,000.00, of this how much assessable?

2. To whom are lots assessable that have been sold at last tax sale?

3. If lots are missed or wrongly numbered can council at present time order additions or corrections to be made?

4. Church building let as public hall and not used for church purposes, can it be assessed?

1. Sub-section 23, of section 7, of the Consolidated Assessment Act 1892, provides for the exemption from assessment of the annual income of any person derived from his personal earnings, to the amount of \$700.00. The thousand dollar salary received from the Dominion Government is exempt from assessment. In view of the above the person referred to will be liable for assessment on income to the amount of \$1,300, see note "u" to Sub-section 13, of section 7, of Assessment Act in Harrisons Manual.

2. If the loss referred to were sold prior to the making of your last assessment roll, they should be assessed to the purchasers at the tax sale.

3. If the court of revision on the assessment roll has not yet been held, the lots missed or wrongly numbered can be added, or changed on appeal made to the said court in the regular way. Otherwise the procedure laid down in section 154, of the said Consolidated Assessment Act will have to be observed.

4. We are of opinion that the building in question is exempt from assessment, for the reason that although it is not used as a place of worship, we assume from the language of your question that the building is used for public municipal purposes, and would thus be exempt from assessment, Sub-section 5, of section 7, of said act.

O. L.—Three of the township councillors are in favor of giving their services as councillors free of any charge to the municipality; the reeve and one of the councillors are opposed to this. Can the two latter be compelled to give their services free? the majority of the council being in favor of this measure.

Section 231 of the Consolidated Municipal Act 1892, provides that the council of every township and county may pass by-laws for paying the members of the council for their attendance in council, or any member while attending on committee of council, at a rate not exceeding \$3.00 per day, and 5 cents per mile necessarily travelled (to and from) for such attendance. Since a by-law of this description could be passed only by the votes of the majority of the members of the council, if the majority of such members be against the passing of such a by-law, the two members referred to by our correspondent will have to submit to the voice of the majority, and

go without remuneration for their services as councillors.

IN EXPERIENCE.—1. If A buys at treasurer's sale of lands one hundred acres in December, 1893 for \$2.50, and the assessor in April, 1894 assesses the same for \$125.00, and members of the court of revision in favor of assessment where no improvements are made on said lot. Where is A's remedy?

2. If township treasurer sells to B unpatented lands with no improvement thereon, contrary to law to the amount of 700 acres to one single man, and when B demands redress, who is responsible and what is the remedy?

1. The fact that A purchased the lands mentioned for \$2.50, at a tax sale is not conclusive as to its actual value, nor binding as such on the assessor or court of revision on appeal to them. If the assessors idea as to the value of the lands is \$125.00, and the court of revision on appeal to them confirm that idea, A's only remedy would be an appeal within the proscribed time to the county judge from the decision of the court of revision, and the judge's decision would be final and conclusive.

2. This question is somewhat indefinite, as it is not stated whether the lands referred to have been located or not. However, in any event we do not see what redress B would have, other than the recovery by him from the municipality of the amount paid by him for the lands at the tax sale, assuming that the lands were sold for taxes.

F. J. C.—In laying down a sidewalk on one side of a street under the local improvement plan, can both sides of the street be assessed for the cost thereof? If so, then must the petition for the walk include the owners on both sides of the street if the initiation of the work is by petition?

2. Is it necessary for the council to pass a by-law imposing a dog tax under chapter 62 statutes of 1890? or must the assessment be made even though there is no by-law?

I would draw your attention to sub-section 2 of section 2 of said act, where it says the council, upon a petition of twenty-five ratepayers, may pass a by-law that the tax or any part of it shall not be levied in said municipality. This would seem to imply that no by-law was necessary imposing the tax. Also see section 282, Municipal Act, 1892.

1. No.

2. The statute cited by our correspondent itself imposes the tax and by-law referred to in sub-section 2, of section 2, of said act is only necessary when pursuant to the preliminaries mentioned therein, the council deems it advisable to provide that the said tax, or any part of it shall not be levied in the municipality.

W. F. T.—Somewhere in the neighborhood of 1850, the government built a road from Sault Ste. Marie to Bruce Mines in Algoma; said road is reserved in the patents issued for lots through which road runs.

1. Have municipal councils power to close up said road or any portion of it?

2. If they have, what disposal must they make of the road so closed?

3. When it is a reserve can municipality give a deed for road if closed?

1. Our correspondent does not state whether the road referred to by him remains vested in her majesty as representing the Dominion of Canada, as a Dominion work or Dominion property, if it does, it cannot be interfered with by the municipal

council without the consent of the Government of the Dominion of Canada. See section 543 of the consolidated Municipal Act, 1892. If the road is under the jurisdiction of the municipal corporation in the ordinary way it is in the discretion of the council to close up said road, observing strictly the preliminaries required by section 546, and the general provisions as to closing up the highways contained in said act.

2. Sub-section 9, of section 550, of the Consolidated Municipal Act, enables township councils to pass by-laws for selling an original road allowance to the parties next adjoining, whose lands the same is situated when a public road is being opened in lieu of the original road allowance, and for the site or line of which compensation is being paid for selling in like manner, to the owners of any adjoining land, any road legally stopped up or altered by the council; and in case such parties respectfully refuse to become the purchasers at such price as the council thinks reasonable, then for the sale thereof to any other person for the same or a greater price.

3. If the road is under the jurisdiction of the municipal corporation in the ordinary way, such deed can be given, but if it is still a Dominion work, the corporation cannot legally so deal with it.

J. M. D.—A farm was cleared forty years ago, and fenced along the concession line, where the owner thought was the proper line. Two or three years ago it was surveyed and the fence proven to be near the centre of the road allowance. The owner has moved the fence to its proper line, but left a large quantity of stones that he had put in the bottom of the old fence. Whose duty is it to remove the stones off the road allowance, the municipality or the owner of the farm?

We are of the opinion that the person who placed and left the stone on the road allowance, is the person proximately responsible for the removal of same, the Municipal Act 1894, provides that by-laws may be passed to remove stone at expense of persons placing it on the road.

INQUIRER.—1. To what extent can a Municipal council borrow money without submitting a by-law to the ratepayers, for that purpose?

2. Do the reeve and two councillors form a quorum for the transaction of business or does it require three councillors?

3. Are not councillors personally responsible, should they vote away money contrary to law?

1. The statute authorizes councils to borrow to meet the then current expenditure of the corporation until such time as the taxes levied therefor can be collected. This means that the monies borrowed should be included in the estimates and paid out of the taxes levied the same year. No limit is mentioned except that maximum rate is twenty mills.

2. Three a quorum for a transaction of business, but all must vote together to carry a resolution, this is as provided by section 235 of the Municipal Act,

3. No. See section 338 Municipal Act.

H. M.—1. The Municipal Amendment Act, 56 Victoria, amends section 250, adding 250 a, making the treasurer deposit money as approved of by the council, to the credit of the municipality. The council approves of him changing from one chartered bank to another, but makes no resolution authorizing him to do so. Is the treasurer and his securities responsible for the money if the bank stopped payment? If so, and the council made a resolution that he deposit in said bank, who would lose?

2. The legislature this year has given councils power to pass by-laws to have fences, cordwood, etc., removed off road allowance. Was by-law passed before power given illegal? If so was council responsible for damages caused by the same being on the highway, they having no power to have the same removed?

3. Has a council power to pass a by-law allowing ratepayers to have their fence three feet on the road so as to protect a hedge, or would the by-law be illegal?

4. A county council for many years in equalizing the assessment, adds a certain percentage on the real property assessment for personal property. Is that legal? does it comply with 55 Victoria, section 82, Consolidated Assessment Act?

5. A resolution that the levy for townships be based on the assessment of real property only as farm stock was exempt, was met by recommending that 5 per cent. be added to the real estate for personal property, leaving the levy the same as before the exemption. Was the equalization legal?

1. If place of deposit is approved by resolution, treasurer's appointment or by-law, the municipality would be responsible for loss of monies on deposit.

2. By-law passed previously if properly worded would be legal. The by-law would not relieve council of responsibility. A new by-law should be passed in accordance with the act of 1894.

3. No by-law illegal. The customary plan is to pass a resolution, fence to be removed on notice from council.

4. Yes. See section 78 Consolidated Assessment Act.

5. Yes. See section 78. Equalization legal unless appealed against as provided in section 79.

T. S.—Some members of our County Council are agitating to do away with the June session of the county council. We meet three times a year now, but would like to try the two session plan. Could you inform us through the WORLD what counties in Ontario has adopted this plan and how it works?

We have no information as to what county, county councils, if any, have done away with the June session. Would recommend closer attention to business and short sessions, three times a year.

COM.—Re sub-section 2 of section 100, Chap. 48, Consolidated Assessment Act. In assessing a resident owning several lots in the township not adjoining, can the assessor join the said lots together, and apportion the statute labor on the whole when they amount to over 200 acres? Our former assessor thought he could not. Our present assessor joins the lots together, consequently reducing the amount of labor liable to be performed.

For statute labor purposes the valuation of 200 acres should be added together and the number of days ascertained. Over 200 acres should be treated in the same way. The Clerk should be guided by the statute in this respect when making out statute labor lists, no matter what the assessor may have done.

Inquirer.—Can an incorporated village, with an area of some 5,000 acres (having of course the necessary population) to constitute a town, and retain its full limit.

Yes. An incorporated village may be erected into a town, in accordance with provisions if section 19 Municipal Act.

SUBSCRIBER.—The Government built a road in order to make it as direct as possible, built it angling through a lot which was afterwards bought by another person. He wishes to change the road onto the sideline. Visits the council agrees or offers to get the by-law framed by a lawyer, build the road as good as the present one and leave ever ready for public travel, but has not kept his promise in any particular. Now he has built a fence so close on the old road as to make it dangerous, scarcely leaving road between fences so two teams can scarcely pass. The clerk notified him to move it, but he refuses as he had the land in crop. What way should the council proceed? Is he not acting illegal, and have the council power to open the road and charge him for it?

The Municipal Amendment Act 1894, authorizes councils to pass by-laws to remove fences on any highway, under the control of the council, see page 86.

### Fire Protection and Insurance.

#### II

##### CLASS A.

Waterworks of sufficient power and capacity to concentrate five streams each through 300 feet of 2½ hose and 1¼ inch nozzles, and to throw the same over any building in any of the business portions, but not less than 120 feet horizontally; the pump's boilers, turbines, etc., to be in duplicate and the whole of the works to be in all respects equal to standard. Satisfactory system of electric fire alarm with sufficient well placed boxes to be in charge of a competent man and regularly tested. Horses in readiness at all times in fire hall, sufficient to haul apparatus to fires and kept exclusively for fire purposes. Standard chemical fire engine or specified salvage equipment, with separately detailed company for either. Hook and ladder truck fully equipped with all proper appliances. Hose wagons or reels sufficient in number and capacity. Police force in sufficient number to patrol the place by day and night and give alarms. All other appliances sufficient for the requirements and effective protection of the place.

Where the population does not exceed 10,000, the brigade must not consist of less than five men, including the Chief, but excluding the steamer engineer where such is required, who shall all be fully paid and have no other duties except as policemen. There must be also a call brigade of four men to each steamer, or hose wagon, or reel, but in any event not less than fifteen additional men, who shall be paid a fixed sum annually to be divided in proportion to attendance at fires and drills, of which latter one shall be held monthly the year round with tests of all fire appliances, and dated records must be kept of attendance and work done, which must state particularly any defects that may be found. The minimum number of men on duty in the Fire Hall at nights shall not be less than five. Where the population

exceeds 10,000, the strength of the brigade shall be increased pro rata as required by the Fire Appliances Committee. Approved Chemical fire extinguishers of not less than five gallons capacity each, which must always be ready charged, shall be carried on reels to all fires, and a sufficient number of spare charges shall be constantly kept. In towns requiring steamers; there must be a fully paid engineer who shall have no other duty except that of caretaker of the fire station in which he must reside.

##### CLASS B.

The same as for "A", except as follows:

1. Waterworks requirements are four streams the same size, and under exactly the same conditions as for class "A".

2. Chemical engine or salvage equipment not required.

##### CLASS C.

Waterworks of sufficient power and capacity to concentrate and throw three streams of the same size, and under exactly the same conditions as those for class "A". Satisfactory system of electric fire alarm with sufficient well placed boxes in charge of a competent man and regularly tested. Approved arrangements by electric fire alarm or telephone communication at all times, with stables to secure sufficient horses to haul apparatus to fires. Hook and ladder truck fully equipped with all proper appliances. Hose wagons or reels sufficient in number and capacity. Night watchmen or policemen in sufficient number to patrol the place by day and night and give alarms. All other appliances sufficient for the requirements and effective protection of the place.

An efficient fire brigade consisting of not less than a chief who shall be fully paid, and six men for each steamer or hose wagon or reel, but not less than fifteen in all, who, except the fully paid chief, shall be paid a fixed sum annually to be divided in proportion to attendance at fires and drills, of which latter one shall be held monthly the year round, with tests of all fire appliances, and dated records must be kept of attendance and work done which must state particularly any defects that may be found. The minimum number of men on duty in the fire hall at nights shall not be less than three.

Where steamers are required, the engineer (unless he is a fully paid man), and his assistant, who must be equally competent to work the steamer, shall be paid a fixed remuneration per annum.

Approved chemical fire extinguishers of not less than five gallons capacity each, which must always be fully charged, shall be carried on reels to all fires, and a sufficient number of spare charges shall constantly be kept.

##### CLASS D.

Water supply and steam fire engine or engines as per standard. Hook and ladder truck fully equipped with all proper appliances. Hose reels. General alarm bell of sufficient size to be heard distinctly

over the whole town, shall be immediately accessible to the public at all times of the day or night, and shall ring automatically. Night watchmen or policemen in sufficient number to patrol the place all night and give alarms. All other appliances sufficient for the requirements and effective protection of the place.

Brigade the same as for class "C", except that the minimum number of men on duty in fire hall at nights shall not be less than two.

Arrangements for horses the same as for class "C".

Steamer engine and assistant, same as for class "C".

Approved chemical fire extinguishers of not less than five gallons capacity each, which must always be fully charged, shall be carried on reels to all fires and a sufficient number of spare charges shall constantly be kept.

CLASS F.

Water supply and steam fire engine. General alarm bell. Hose reels. Sufficient supply of hooks and ladders. Properly organized fire brigade.

CLASS F.

This class comprises all places having appliances less than before set forth.

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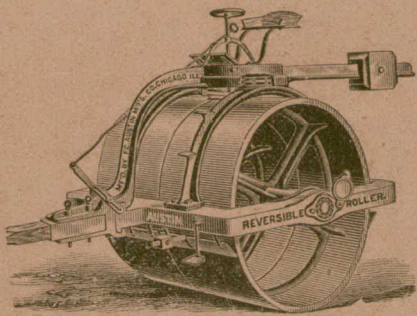
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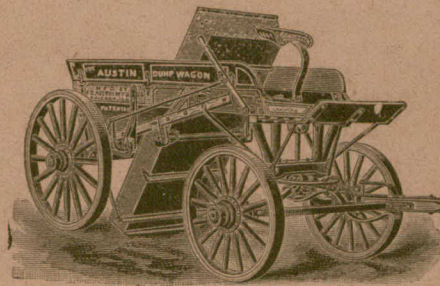
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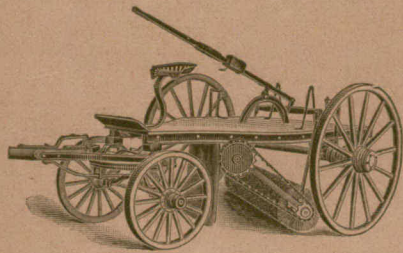
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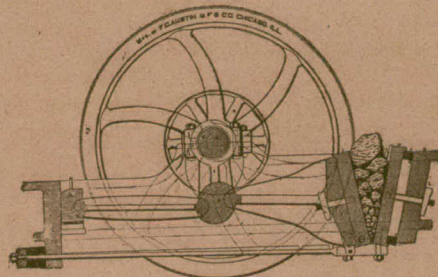
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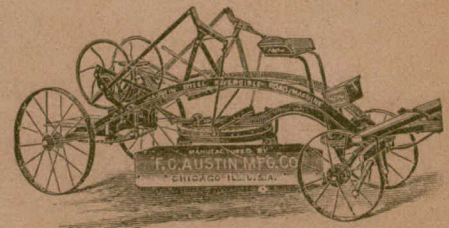
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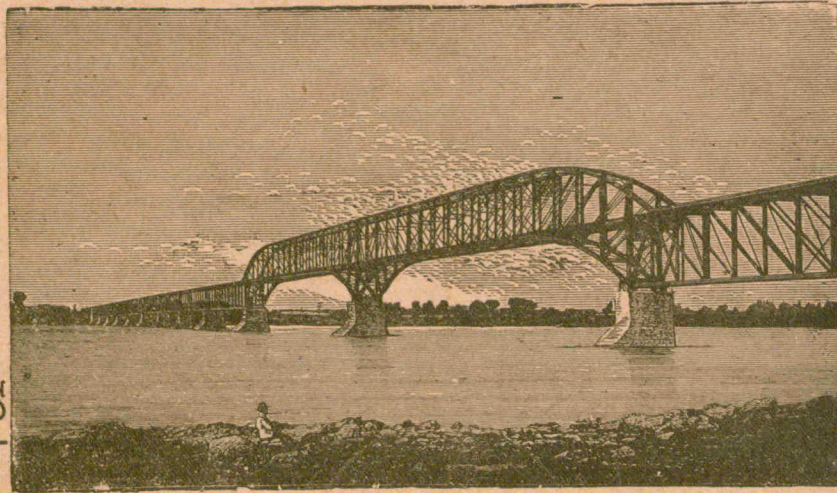
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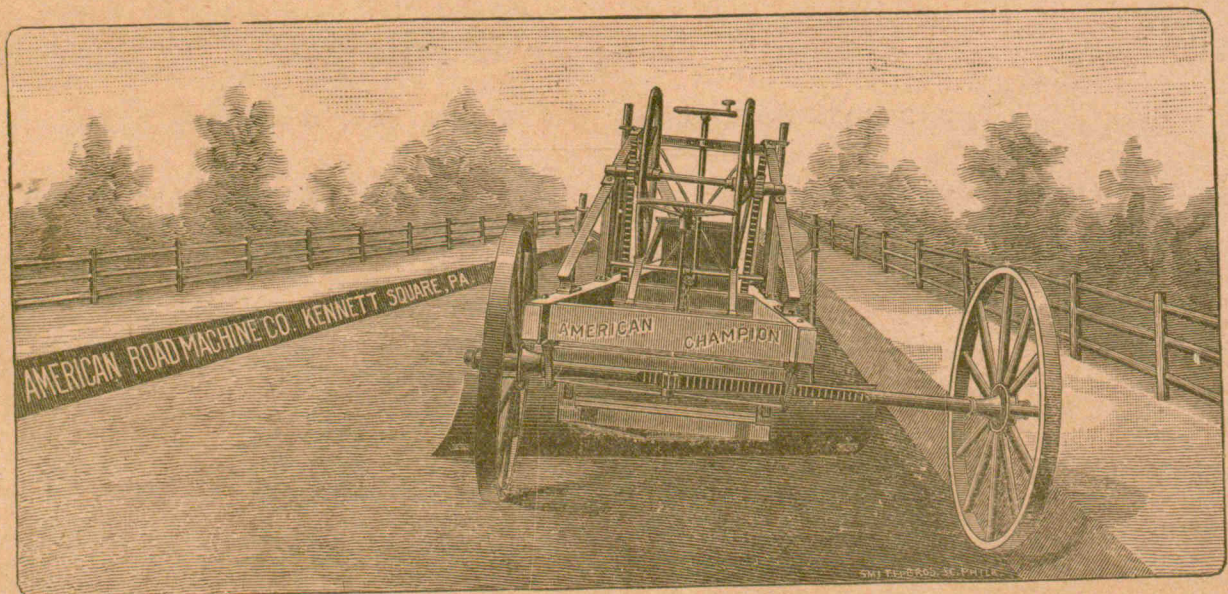
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