THE MUNICIPAL WORLD

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

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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.

VOTERS' LISTS BOOKS.

AS REQUIRED BY THE ONTARIO VOTERS' LISTS ACT, 1898.

3 The Ontarie Voter's Lists Act was amended at last session by adding thereto the following section :—

9a.—(1) The clerk of the municipality shall keep a book in which he shall enter particulars showing the day on which the copies of the alphabetical list were posted up by him and were transmitted to each of the persons mentioned in sections 8 and 9, and also whether such copies were delivered personally or transmitted by post. There shall be added to each such statement of particulars an affidavit or statutory declaration verifying the same.

(2) Any clerk who fails or omits to comply with the provisions of this section and of sections 8 and 9 shall for each omission incur a penalty of $200 and shall also be liable to be imprisoned for a period of three months in default of payment.

We have prepared a suitable book for this purpose which will last any municipality for ten years. Price, **50 Cents.**

The Municipal World

PUBLISHED MONTHLY

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

K. W. McKAY, EDITOR,

A. W. CAMPBELL, C. E. } Associate
J. M. GLENN, LL.B. } Editors

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ST. THOMAS, MAY 2, 1898.

This issue contains extended answers relating to business likely to come before councils during May. Many important points not referred to in the index are included for the information of both subscribers and correspondents.

* * *

When new municipal treasurers are appointed the bonds of the old treasurer should be retained by the clerk as documents belonging to the municipality. This is necessary to secure the corporation, if at any time thereafter it should be found that the treasurer is liable for errors or defalcations that may have been overlooked by the auditors. When a treasurer gives a new bond the old bond should be retained for the same reason.

* * *

The Cycle Club of Chatham recently made application to the council for permission to use the sidewalks, owing to the bad condition of the streets. The application, which was not considered, read as follows: "Owing to the fact that the roads in the city have been and are in a very poor condition, we beg your honorable body to pass a by-law giving cyclists permision to use the sidewalks of the city, exclusive of King street between William and Third streets, subject to the following regulations, and such other regulations as your honorable body may deem expedient: That each cyclist shall make an application to the clerk, and shall give a satisfactory bond for the same. That the clerk furnish each cyclist to whom permission is given, a certificate or tag to be attached to the bicycle, for which he is charged a fee of fifty cents. That no one be permitted to travel faster than six miles an hour. That each cyclist dismount upon meeting ladies or children. If any cyclist be found guilty of breaking any of the rules, his certificate shall be forfeited.

Courts of Revision.

After the return of the assessment rolls, which should be on the 1st of May or as soon after as possible, all parties assessed have fourteen days in which to enter appeals against their assessment. The first requirement of a valid assessment is that the assessor in assessing must leave for every person named on the roll as resident or having a place of business within the municipality, and send by post to every non-resident who has his name on the roll, a notice of the sum for which his real and personal property has been assessed. After the expiration of fourteen days from the date of the return of the roll the clerk is required to give ten days' notice of the date on which the court of revision will hold its first sitting, and also to leave at the residence of the assessor a list of all complaints made against his roll and notify all persons in respect to whom a complaint has been made. When considering other appeals the members of the court may find that the assessor has, in their opinion, made errors in the assessment. For the purpose of correcting these they may extend the time for making complaints ten days later. All persons whose assessment they intend to consider should receive six days' notice, and for this purpose the assessor may be the complainant.

The Court of Revision has no authority to consider any complaint against the assessment roll or to order any changes therein unless a complaint has been filed with the clerk within fourteen days after the return of the roll.

The Municipal Audit.

It is passing strange that the treasurers of the smaller Ontario municipalities should ever go wrong. The munificent salaries, $100 per annum, is generous compensation for the pleasure of letting other peoples money pass through their fingers. Mere respect for a position which is so richly rewarded ought to keep treasurers honest without other safeguards, but there are other safeguards. Other safeguards? Why of course, the other safeguards are two auditors whose financial genius commands the munificent price of $15 per annum. Not $15 for both safeguards? Ah, no! The sum of $15 is the golden collar upon the neck of each watchdog of the treasury. And once a year the $15 auditors call round for an official squint at the books kept by the $100 treasurer. When the auditor has squinted at the books the treasurer buys the oysters. This process is called an audit of accounts. The wonder is that even a dollar goes astray when public moneys are in the hands of $100 treasurers, who do their work under the eagle eyes of $15 auditors.—*Toronto Telegram.*

Mr. H. J. Lytle, clerk of Township Fenelon, and author of Lytle's Rate Tables, has accepted the position of manager of the local branch of the Ontario Bank at Lindsay.

Government Aid in Roadmaking.

Although considerable has been written during the past few years in reference to the important question of roadmaking, very little advancement has been made towards improving the country roads where they are and always have been in the worst condition. At present some gentlemen who have made a study of the question are advocating the advantages of the county road system, and others suggest that the Government should assist municipalities to improve highways.

This is not a new idea as will be seen from the following extract from a narrative of a tour in North America, written by Henry Tudor Esquire, an English barrister, in the year 1831. His remarks refer to the bad roads over which he travelled, and are applicable to present conditions.

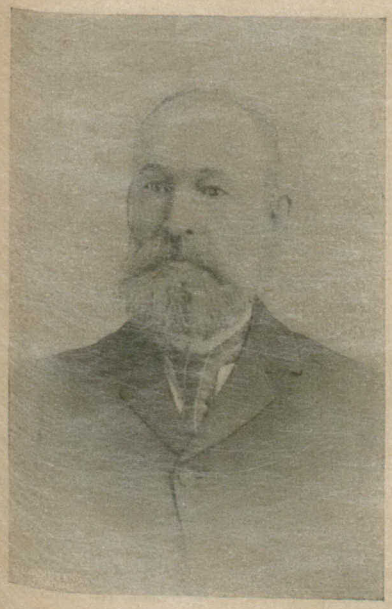
"I can easily understand, where the population is comparatively poor and scanty, as in many parts of this and of these states, that the difficulty must be great, and in some cases insuperable, in putting the great thoroughfares of the country into secure and excellent condition. I am aware that the poverty of the proprietors of land in various districts, consequent on that of the soil, would disable them from encountering the great expense to be incurred in effecting that requisite object. But there exists no reason whatever, in my humble apprehension, why the state itself, under all such circumstances, should not take the management into its own hands and thus supply from the general funds, what the private resources of individuals are inadequate to promote, so that a christian man's life may not be put in continual jeopardy in travelling through the counrry. This, I confess, in all due humility, appears to me to be the bounden duty of each respective government where the land owners are unable to discharge the functions cast upon them, in consequence of their insufficient means. The people naturally look to their own executive and legislature to provide all necessary roads, fit for travelling on, within the sphere of their jurisdiction. The accomplishing of this desirable end seems to be of the first necessity, while the consideration, out of whose pockets the supply shall come is of secondary importance altogether; whether from those of the owners of the land, or, being under adverse circumstances, from the coffers of the state. Any arrangement in which the latter should take the lead would be preferable to the present inefficient mode."

The Ingersoll bicycle by-law provides that the speed shall not be more than eight miles an hour straight way, and four miles an hour turning corners; that cyclists shall ride on the right side of the road, and shall turn to the right on meeting a wheelman; the rider must keep one or both hands on the handle bars, and on passing a vehicle must give audible warning; it will also be necessary to provide a lamp or lantern when riding at night. The penalty for infraction of the above regulations is a fine not exceeding $10.00, or imprisonment of thirty day or less.

Municipal Officers of Ontario.

Clerk, Township of Townsend and Village of Waterford.

Mr. Cunningham was born in the township of Townsend in 1837. He received a common school education and taught school for two years, after which he attended the Grammer school in connection with Madison University, New York, and finally graduated at the Woodstock College in 1863. During the succeeding nineteen years he was engaged as a minister of the Gospel, and was compelled to retire on account of ill health. His attention was then directed to the practice of dentistry, which he followed until 1890, when he was appointed clerk of the Township of Townsend, and also of the



MR. S. CUNNINGHAM.

village of Waterford. The same year he was appointed secretary-treasurer of the Townsend Farmers' Mutual Fire Insurance Company and secretary of the Waterford Cheese Factory. In 1894 he was appointed treasurer of the village of Waterford. On the formation of the Norfolk Clerk's Association in 1896, he was elected president. Mr. Cunningham is also a notary public, conveyancer, etc., and is a Liberal in politics. It is hardly necessary to say that the subject of this sketch fills his several offices with satisfaction to all concerned.

Detroit, Michigan, has a well organized system for guarding the public health through the various departments for sanitary inspection, contagious-disease bureau, bacteriological laboratory, milk and meat inspection, the use of antitoxine, the regulation of funerals, etc.

Clerk, Township of Brooke.

Mr. Willoughby was born in the County of Lanark in 1843, and in 1855 he moved

MR. W. G. WILLOUGHBY.

with his father to the Township of Brooke, where he has since resided. He was appointed township collector in 1868 and clerk in 1870, and since that time he has only missed three meetings. His office

MR. MAX ROBINSON.

work is much greater than that of the average clerk, owing to the large number of township drains, the council having borrowed over $130,000 for this purpose. He is also secretary of the Lambton Farmers' Mutual Fire Insurance Company, and a Conservative in politics.

Clerk, Village of Bath.

Mr. Robinson was born in the County of Frontenac in 1855, and afterwards removed with his father to South Fredericksburg, County of Lennox. He received a public school education, and when 17 years of age apprenticed himself to the trade of carriage blacksmith in the village of Bath, where he is still carrying on the business. He has been secretary of the Public School Board for a number of years and was appointed village clerk in 1896. He takes an active interest in Masonic matters, and is at present secretary of Maple Leaf, No. 119, A. F. & A. M.

Clerk, Township of Oso.

Mr. Bourk was born in the County of Frontenac in 1855, and was educated in the first school established in the Township of Oso. He afterwards taught school

MR. S. C. BOURK.

for a time, and in 1877 was appointed agent of the K. & P. Railway at Oso Station. He was shortly afterwards appointed postmaster. His first municipal office was that of auditor. He was elected reeve in 1885, succeeding his father, who had been reeve for twenty years. He was appointed clerk in 1892. Mr. Bourk is also secretary of the Agricultural Society, express agent, issuer of marriage licenses, conveyancer, etc., all of which he combines with a prosperous mercantile business.

The practical advantages of non-political methods in the conduct of a municipal department are conspicuously illustrated in the history and achievements of the Board of Health of Boston, Mass., as was shown at the recent anniversary, being the twenty-fifth of its establishment.

The Public School.

By W. Atkin, Esq., Inspector of Public Schools, County of Elgin.

II.

FORMATION OF SCHOOL SECTIONS

Since the year 1841, the school section has been the unit of territory for raising, by assessment, the sums necessary for the establishment and maintenance of the public school, over and above the Government and municipal grants. In that year the district councils were authorized to divide the townships in the districts into school sections with definite boundaries. In 1849 this duty devolved upon the township councils, then first established.

It was no easy problem the councils had to work out when they undertook to form school sections. There were schools already established. Each community had its school house, which generally was the only place for holding religious and other public meetings, and when the time came for a general formation of school sections each community made a vigorous stand to be left by itself as a section, unless some addition might be made to it.

The wonder is that with their desire to recognize and preserve existing interests the councils should have been as successful as they were. They succeeded ultimately in forming, in general, sections satisfactory in size and shape. The ratepayers were not overburdened with taxes for school purposes, and school houses were placed comparatively within easy reach of all.

IN DISTRICTS UNSURVEYED.

No community in the province need be without a public school. In any portion of the province, not surveyed into townships, the inhabitants may form a school section, and, at a public meeting called for the purpose, elect three of their number to serve as trustees. These trustees have the same power as trustees in sections in unorganized townships. On receipt of notice at the Education Department that a school has been established, and suitable accommodation has been provided, the minister may pay over to the trustees for the maintenance of the school such sum as may be approved by the Lieutenant-Governor-in Council.

IN UNORGANIZED TOWNSHIPS.

In an unorganized township in any county or district five heads of resident families may petition the public school inspector for the county or district to form a school section for the community. On receipt of the petition the inspector may form a portion of a township or portions of two or more adjoining townships into a school section. No section thus formed shall exceed five miles in length or breadth in a straight line, and subject to this restriction the inspector may from time to time alter the boundaries of the section, as the circumstances seem to require. Any person, whose residence is more than three miles in a direct line from the school house, shall be exempt from all rates for school purposes, unless a child of such person attends the school, but all lands owned by such person, lying within the three-mile limit, shall be liable for school rates.

IN ORGANIZED TOWNSHIPS.

When municipal government has been established it is the duty of the council to divide the township into school sections. As far as possible, interests in schools already established are to be respected, but the principle of equalization must not be lost sight of. The sections are to be distinguished by numbers, and no section, formed after 1896, shall include any territory distant more than three miles in a direct line from the school house. No section shall be formed which contains less than fifty children, unless the area contains more than four square miles, except in cases where such area cannot be obtained because of lakes or other natural obstacles.

ALTERATIONS OF BOUNDARIES.

Where it is considered desirable to alter the boundaries of a school section the ratepayers make application for such change to the township council. If the sections concerned lie wholly within the township, the council has power to pass a by-law making the desired alteration, in case it appears that all the ratepayers interested have had sufficient notice of the proposal in the application and of the time and place of the council meeting at which the proposed change is to be considered. Any such by-law may not be passed later than the first day of June, and the change made shall not take effect till the 25th of December next following. The by-law shall remain in force for five years, and shall thereafter continue in force until changed by the township council, unless set aside on appeal to the county council made by a majority of the trustees or five ratepayers of any one or more of the sections concerned. On receipt of the appeal the county council may appoint arbitrators, who shall determine all matters complained of.

UNION SCHOOL SECTIONS.

When the formation, alteration or dissolution of a union school section is considered desirable, five ratepayers from each of the municipalities concerned may petition their respective municipal councils, asking for such formation, alteration or dissolution. Each council so petitioned may appoint an arbitrator. The arbitrators so appointed and the inspector or inspectors shall be a Board of Arbitration to determine the matters referred to them.

If the territory lies wholly within one county the trustees or five ratepayers within the territory or the inspector or inspectors may within one month appeal to the county council against the award of the arbitrators or against the neglect or refusal of the township council to appoint an arbitrator. On the receipt of the appeal the county council may appoint not more than three persons, who shall finally determine the matter complained of.

When the territory lies partly within two or more counties, the appeal must be made to the Minister of Education, who shall have power to alter, determine or confirm the award, or in case no award has been made, to appoint not more than three arbitrators who shall have full power to make an award, finally and conclusively disposing of all matters referred to them.

Purification of Sewage.

There continues to be a great and increasing attention paid to the discoveries made and established in actual practice, within the past year or two, that the purification of sewage, whether by land treatment or artificial filters, is dependent upon bacterial or, as it is also termed, biological action, and that it is only in a very minor degree chemical and mechanical. The systems which have been simultaneously developed at (1) Sutton, Surrey, England, of purifying sewage by passing it in its crude state through bacteria tanks constructed of coarse ballast, where the sludge is absorbed by bacterial action without cost in chemicals and sludge pressing, and (2) at Exeter on the septic tank system, where the crude sewage is passed through hermetically-sealed sewage tanks and the sludge is absorbed by bacteria in a manner akin to the Sutton process, except that in the latter case the purification is effected by ærobic bacteria, while at Exeter it is effected by anærobic bacteria. apparently attract the notice of local authorities who are desirous of a solution of the sewage disposal difficulty to an extraordinary degree.

In a recent issue of the *Sanitary Record* it is announced that the government of Great Britain has decided to appoint a royal commission to inquire into the bacterial treatment of sewage. This important decision has been arrived at on account of the pressure brought to bear by influential sanitary authorities. The remarkable success of the experiments at Exeter, Leeds, Sutton and other towns has also moved the government to action.

Sterilization in Water.

Professor Bilslik says that water may be sterilized in five minutes and made both harmless and palatable by the use of bromine and ammonia, as follows: To a gallon of water add three drops of the following solution: Water, 100 parts; bromine, 20 parts; potassium bromine, 20 parts, and then after five minutes add three drops of a 9 per cent. solution of ammonia. This process is recommended as a rapid, cheap and effective way to sterilize drinking water.

ENGINEERING DEPARTMENT.

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

What Can Be Learned.

If it were not for the unfortunate results arising from the ignorance of the principles of roadmaking, ignorance which afflicts not merely the people of Canada but of the continent, it would certainly be a "laughing matter." When the question of roadmaking is approached the first question one hears is: "What is there to learn about making roads? Anybody knows how to make a road." The person who asks the question probably forgets that at the time of statute labor last year he listened to a heated argument as to whether roads should be drained or not, whether clean or dirty gravel should be used, whether a cross-section of the road should be flat, rounded or hollowed. Every man taking part in the discussion had ideas different to those of his neighbors. If one man was right, all the rest were wrong, and yet we hear the question, "What is there to learn about roadmaking?"

There were some municipalities in Ontario which did not know how gravel roads should be repaired with a grading machine. The roads were flat with square shoulders, the centre was a hard bed of gravel, but the shoulders were a mixture of fine gravel, clay and sod. They ran the grader along the sides of the roadway, cut off the shoulders and drew the mixture of gravel, clay and sod in on top of the hard bed of gravel in the centre. They left the roadway nicely crowned as it should be—but what a difference when the fall rains came! Here was a hard, compact foundation covered with a layer of mud which at once absorbed the water and turned to slush. They spoiled the roads, did them an injury which will take several thousands of dollars to repair, travelled in a river of mud, but now think there is something to learn about roadmaking. Had they learned in time that these shoulders of mud should be turned outward by the machine, and the centre crowned with a little new material, they would have reduced their taxes instead of increasing them, and would have had good roads.

Some townships will not learn that they are wasting their gravel uselessly and that in a few years they will have to face a serious difficulty—that of finding a substitute for gravel. There are townships now not far from that difficulty. The immense hollows on many of the farms testify to the large amount of material which has been placed on the roads, without forming, in a single instance, a first-class and durable road covering. The writer has in mind a mile of road well known to him, which was first gravelled fifteen years ago, has had very little attention since then in comparison with other roads in the vicinity, and is in splendid condition to-day.

The road is on clay loam having moderately good natural drainage. The roadway was graded and the ordinary open drains provided at the sides. Gravel was placed in the centre, dropped from the wagons in the usual manner without spreading.

An old man who lived on the road, having little else to do, was employed by the pathmaster for a small amount to work on the road. The old man took an interest in his work, kept the drains open, year by year as a new line of gravel was added, he spread it so that traffic at once passed over it instead of turning to the roadside, ruts were made in the loose material, but with a rake the old man brought the gravel back until the wheel tracks were like a line of steel rails, hard and solid.

This work was done fifteen years ago, but the road, as has been stated, is to-day the best in the township in spite of the fact that less gravel has been placed on it. A little extra labor has thus effected a saving of gravel, which if extended to the whole township would double the life of the gravel pits now being rapidly exhausted.

These are merely a few isolated instances. What is needed on the roads of this province is more brains, and less wasted energy and material. Before we have good roads the people of Ontario must learn that there is a great deal to learn about roadmaking.

STONE BRIDGE, PEMBROKE.

Erected in 1887 over Musk Rat River, at a cost of $22,000. Height, 22 feet. Three spans of 60 feet each. Width of Roadway, 24 feet.

In the Township of Essa two operators of road machines are appointed at $1.25 per day, and the council charge $2.50 per day additional for all work done for private parties.

For Pathmasters.

1. Every good road has two essential features :

(*a*) A thoroughly dry foundation.

(*b*) A smooth, hard, waterproof surface covering.

2. The foundation is the natural subsoil, "the dirt road," which must be kept dry by good drainage.

3. The surface covering is generally a coating of gravel or broken stone which should be put on the road in such a way that it will not, in wet weather, be churned up and mixed with the earth beneath. That is, it should form a distinct coating.

4. To accomplish this,

(*a*) The gravel or stone should contain very little sand or clay—it should be clean.

(*b*) The road must be crowned or rounded in the centre so as to shed the water to the open drains.

(*c*) Ruts must not be allowed to form as they prevent water passing to the open drains.

(*d*) The open drains must have a sufficient fall, and free outlet so that the water will not stand in them but will be carried away immediately.

(*e*) Tile under-drains should be laid wherever the open drains are not sufficient and the ground has a moist or wet appearance, with a tendency to absorb the gravel and rut readily. By this means the foundation is made dry.

5. Do not leave the gravel or stone just as it drops from the wagon but spread it so that travel will at once pass over and consolidate it before the fall rains.

6. Keep the road metal raked or scraped into the wheel or horse tracks until consolidated.

7. Grade and crown the road before putting on gravel or stone.

8. If a grading machine is available, grade the roads which you intend to gravel before the time of statute labor, and use the statute labor as far as possible in drawing gravel.

9. A fair crown for gravel roads on level ground is one inch of rise to each foot of width from the side to the centre.

10. The roads on hills should have a greater crown than on level ground otherwise the water will follow the wheel tracks and create deep ruts, instead of passing to the side drains. One and one half inches to the foot from the side to centre will be sufficient.

11. Repair old gravel roads which have a hard centre but too little crown and high, square shoulders, by cutting off the shoulders, turning the material outward and placing new gravel or stone in the centre. Do not cover the old gravel foundation with the mixture of earth, sod and fine gravel of which the shoulders are composed. The shoulders can be most easily cut off by means of a grading machine

12. A width of twenty-four feet between ditches will meet most conditions, with the central eight feet gravelled.

13. Wherever water stands on the roadway or by the roadside or wherever the ground remains moist or is swampy in spring and fall, better drainage is needed.

14. Look over the road under your charge after heavy rains and during spring freshets. The work of a few minutes in freeing drains from obstruction or diverting a current of water into a proper channel may become the work of days if neglected.

15. Surface water should be disposed of in small quantities, great accumulations are hard to handle and are destructive. Obtain outlets into natural watercourses as often as possible.

16. Instead of having deep, open ditches to underdrain the road and dry the foundation, use tile.

17. Give culverts a good fall and free outlet so that water will not freeze in them.

18. In taking gravel from the pit, see that precautions are taken to draw only clean material Do not let the face of the pit be scraped down, mixing clay, sand and turf with good gravel. There is a tendency to draw dirty gravel as it is easiest to handle.

19. Gravel which retains a perpendicular face in the pit in the spring, and shows no trace of slipping is generally fit for use on the road without treatment, Dirty gravel should be screened.

20. Plan and lay out the work before calling out the men.

21. When preparing plans keep the work of succeeding years in view.

22. Call out for each day only such a number of men and teams as can be properly directed.

23. In laying out the work, estimate on a full day's work from each man and see that it is performed. Specify the number of loads of gravel to constitute a day's work. Every wagon box should hold a quarter of a cord.

24. Make all returns clearly, showing who have done their work and who have not.

25. Make early arrangements for having on the ground when required, and in good repair, all implements and tools to be used in the performance of statute labor.

25. Do all work with a view to permanence and durability.

Boston was the first city in the world to adopt a system of daily medical inspection of schools three years ago. Other eastern cities now observe the plan as a regular municipal function. This work is distributed among fifty physicians in Boston, the city being divided into fifty districts. Each visiting physician has from one to five schools to visit, and his compensation is $200 per year. The total cost of the inspection in Boston is, therefore, $10,000 a year, a sum that is considered very small in proportion to the importance of the work.

The Weight of Road Rollers.

A heavy road roller is without question an indispensible implement in the construction of macadam streets. Macadam roads were, of course, built before steam rollers were invented, but crops were harvested before self binders were invented. The effect of a roller in road-making is as great an advance on the old results as is the use of the self binder on the work of the cradle.

There are different kinds and classes of rollers. The horse roller weighing six or eight tons, will do fairly well if a steam roller cannot be afforded, but the horse roller is not sufficiently heavy and has to be used much longer on a given section than a heavy steam roller to produce the best results. The feet of the horses in exerting sufficient strength to move the roller, sink into and disturb the road metal, and thereby injure the shape and quality of the roadway.

There is a danger, on the other hand, of having a steam roller which is too heavy. A very heavy roller will sometimes sink into light or loose soil, force it ahead and create a mound over which it cannot pass ; this, however, may sometimes be overcome by spreading over the surface of the soil being rolled, a thin coating of gravel. The same result will sometimes occur with an excessively heavy roller on a layer of loose stone. The heavy roller is more liable, too, to injure underground pipes, catch basins, culverts, bridges, or disturb sidewalks.

For these reasons, a roller exceeding ten or twelve tons in weight, in some localities where the soil is of a loose or sandy nature, is frequently not desirable. In districts where the natural soil is gravelly or of a stiff clay a heavy roller may generally be operated successfully, but some municipalities have made the mistake of purchasing a too heavy roller and have found it necessary to use a light horse roller in consolidating the sub-soil and first layers.

Nor, if the stone used in the construction of macadam streets is of a soft nature, is a heavy roller say of twenty tons desirable even in the finishing courses, as the crushing effect has been found in some cases to crumble and pulverize the stone, rather than merely consolidate it.

For new work, in which the dirt foundation must be rolled, a weight of twelve tons is generally the most serviceable ; but for picking up an old roadway and reconsolidating it or for finishing a new work, fifteen tons is better. Where a town owns only one roller it is generally advisable to consider very carefully the work to be done before purchasing a roller of over twelve tons weight.

Authorities in favor of good roads locate wisely, grade scientifically, crown carefully, drain thoroughly, build permanently, supervise constantly, and permit travel only on wide tires.

The Analysis of Water.

The impurities that affect the quality of water for domestic purposes are inorganic and decomposing vegetables and animal matter and the micro-organisms of disease. Some of these exist in harmful quantities in the water of many streams and in other sources that flow through or originate in rich agricultural or swampy land and densely-populated districts. A small amount of fine, non-silicious mud or silt in drinking water is not known to produce disease, and is objectionable only from an æsthetic standpoint. But the large amount of angular particles of sand and decaying vegetation found in some streams is frequently productive of intestinal disturbances, like inflammation of the bowels, diarrhœa and dysentry, and any water that is distinctly turbid should be regarded as non-potable until it has been clarified and freed of its organic matter.

Far more important and dangerous, however, than mineral and vegetable matter is animal refuse, such as sewage and drainage from cesspools and privies. There is a vast difference, however, between the infectious nature of sewage in its fresh condition and that of sewage which has undergone complete chemical change. So long as it remains sewage — *i. e.*, retains its original nitrogeneous ingredients not converted into compounds —it is liable to be disease-producing. Among the numerous bacteria of its earliest existence there are some that are harmful, and the sewage environment may so modify others as to render them pathogenic; but through the defects of dilution, precipitation, oxidation and nitrification, these ingredients gradually disappear from contaminated water. Still, we cannot rely upon the disappearance of the most harmful agents at any given time or under any given condition, for it is now well known that the self-purification of water, so far as bacteria are concerned, is much less than was supposed.

Still, under nature's agencies, polluted water may be so improved that the factor of danger becomes inappreciably small, and it may then be drunk with the same assurance of safety as when we eat or breathe. Hence, it will be seen that pure and impure waters are distinguished only by the amount of certain constituents common to all, and it is true that nearly all natural waters have some foreign substance which would condemn them were they present in sufficient quantity From the nature and effect of this extraneous matter it is evident that a drinking water should be considered pure only when practically free from decomposing vegetation and absolutely free from fresh products of the human body. So sanitarians have learned that it is not so much the quantity as the quality of impurities in water that determines its suitability for drinking, and the foremost investigators uniformly condemn all waters that are in the least contaminated with fresh sewage.

A water is pure and wholesome when it meets all the requirements of the body in absorption and elimination even in the most delicate constitutions. But some waters have unpleasant tastes from mineral and decaying organic constituents; some have an unsightly appearance from color or suspended matter; some have a disagreeable or disgusting odor, while others are so charged with inorganic salts that the kidneys are overworked in eliminating the waste products of the body. All these objectionable waters should be regarded as impure, and they are certainly unwholesome, because the system rebels against anything which is not approved by the senses of sight, taste and smell. Such water is sometimes forced upon a community until public necessity compels it to be abandoned in favor of a pure and wholesome water supply. We are safe in going still further, for when a water is even liable to become contaminated with sewage it should be guarded against with the same care that is exercised in dealing with the most dangerous poisons.

The diseases that are known to be produced by impure water are Asiatic cholera, typhoid fever, malaria, diarrhœa, dysentry, and some other intestinal disorders. These diseases are either the result of an irritant or are produced by bacteria or other micro-organisms, and it seems at first that an investigation to determine the wholesomeness and suitability of water for domestic use should consist in searching for the immediate agents of disease. But experience shows that the bacteria in water are so numerous and so resemble one another that the harmful micro-organisms, even in the most contaminated waters, are but a small proportion of those that are present. Their determination requires the most careful study and patience and much time, and the results are generally negative and unsatisfactory. So, in ascertaining the sanitary condition of a water it is safer, as well as easier, to determine the organic impurities, like sewage, than the bacteria, for the pathogenic micro-organisms exist only in natural water that has or once had measurable quantities of organic matter. The amount of water required for a chemical and microscopical analysis is so large that any foreign matter which might exist in the general supply would, in all probability, also exist in the sample operated upon, and the determination of sewage shows the possibility of accompanying dangerous micro-organisms. In sanitary water investigations it is not customary, therefore, to search for pathogenic germs, but to determine irritating substances and other associations and conditions that favor disease. This is done principally by chemical and microscopical analysis, and in the testing of filters, and by additional bacteriological examinations of the water. But a thorough investigation of a public water supply should always involve a sanitary survey of the surrounding country to determine the contaminating agencies. A study of statistics will show a relation between death rate and quality of water supply.

Rotating Bridges.

One of the fundamental essentials in the successful operation of a large draw span is accurate rotation about the centre. Yet simple as this point is, there is a considerable percentage of cases in which it is not attained. If the centre pin is held truly in its place, the turn-table is bound to turn accurately about it. In some instances, however, the centre pin is not held truly in its place, and it is probable that the number of such cases is not so small as might at first appear. It seemed to be thought by early designers that the great weight of the draw rotating on the coned wheels would somehow keep itself on its centre without much care in the design to compel that end. This is a serious error and it has given trouble in some large spans. There may even be small defects of centering, or in the shape of the drum or in the tracks, which, while they militate against perfectly satisfactory operation, may not be very serious provided the rotation be about a fixed centre. If, on the other hand, rotation be eccentric, every existing defect will be aggravated and new ones will be produced although none may have originally existed. It goes without saying that the drum should be perfectly circular, and the wheels or rollers as well as the tracks should be turned accurately and placed in position carefully, but those measures will be of little avail if the centre casting holding the centre pin be not securely anchored to the masonry of the pier.

A draw span with the usual type of rim bearing table, had been giving trouble and at times could only be moved by the aid of a tug. Examination proved that the original anchor bolts holding the centre casting to the masonry, were but about ten inches long, and had been pulled loose so that the centre pin could wobble about as required by the wind and the turning machinery. After the centre casting was firmly secured in place by anchor bolts running four feet into the masonry, the operation of the draw was in every respect perfect.

A tendency to pull the pin out of centre is not only produced by ill shape of the drum and bad fitting of the wheels and tracks, but also by unequal efforts exerted at the pinion shafts at opposite ends of a diameter of the drum. Some form of equalizer ought always to be used so that equal turning movements would be imposed on the pinion shafts opposite to each other. In other words, whatever form of mechanism be employed, the turning effort should be so applied that there will be no tendency to lateral displacement of the centre. Experience has demonstrated that when true centreing is maintained, the operation of the heaviest draw spans will be uniformly satisfactory and free from difficulties that have attended even some of the latest structures.

LEGAL DEPARTMENT.

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Editor.

HIGHWAYS.

WHAT CONSTITUTES NON-REPAIR

Drainage.

In our last issue we considered the question as to what constitutes non-repair of highways in the light of certain cases which have been before the courts, and in continuing the subject we think it important to point out the danger which is frequently incurred when municipal councils cause drains to be dug along public highways. It is a common thing to find deep ditches along public roads which are not only dangerous but which convey water in large quantities out of its natural course to the injury of private individuals. In the spring of 1877, the case of Lucas vs. the Township of Moore, reported in 43, U. C. Q. B., p. 334, was tried, and a verdict of $2,500 was given against the township. The complaint was that the township caused and permitted a certain ditch to be dug on the public highway, and negligently left the same unsecured, so as to be dangerous to persons passing along the highway, without any light, signal or watch thereon, and that while the deceased, James Lucas, was lawfully passing along the highway he fell into the ditch and was killed. The road was 66 feet wide. The ditch was originally made for the purpose of taking away the water from the concession lines, and was 12 feet deep and 32 feet wide. It was very near the travelled part of the road. The defendants appealed against the verdict, and in giving the judgment of the court, Harrison, C. J., said:

"The question whether a highway is in repair or not at the time of the occurrence of the grievance complained of, is a question of fact.

In the determination of this question it is necessary to take into account the character of the roads, the care usually exercised by municipalities in reference to such roads, the season of the year, the nature and extent of the travel, the place of the accident, and the manner and nature of the accident.

When a highway is in such a state, from any cause, whether of nature or man, that it cannot be safely or conveniently used by the travelling public, it may be properly said to be out of repair.

Whether the defect be an excavation caused by nature or man, or an addition making an obstruction caused by nature or man, it may be equally unsafe and equally inconvenient to the public to use the highway.

In the case of an ordinary highway in England, although it may be of varying and unequal width, running between fences on each side, the right of passage or way prima facie extends to the whole space between the fences, and the public are entitled to the entire of it, as the highway, and are not confined to the parts which may be metalled or kept in repair for the more convenient use of carriages or foot passengers. See per Martin B., in Regina vs. The United Kingdom Electric Telegraph Co., 3 F. & F. 74, 75.

It would not be reasonable in this country to expect municipal corporations to keep the sides of the highway in the same state of repair as the travelled way; but it is necessary to hold that municipal corporations are not entirely free from the burden of keeping the whole highway in a reasonable state of repair, looking at its situation, use, and other attendant circumstances.

The existence of pits, precipices and deep water, either within the boundaries of the highway, or adjoining thereto, may, in some cases, be so dangerous to the use of the highway by travellers as to amount to non-repair within the meaning of the statute.

The Legislature, which has imposed on municipal corporations the burden, at the risk of an action for damages, of keeping their highways in repair, has also empowered the corporations to pass by-laws for making regulations as to pits, precipices, deep water and other places dangerous to travellers. (Sub-section 3 of section 509 of R. S. O., cap. 174.)

This is important, as manifesting on the part of the Legislature some idea of what things may be looked upon as dangerous to travel in the use of highways, and so, in effect, non-repair within the Municipal Act."

This judgment was appealed from to the Court of Appeal, and the judgment was reversed and a new trial directed, not, however, upon the ground that there was no duty imposed upon municipal corporations to place guards or other protection along such places, but because the trial judge erred in telling the jury, in effect, that the defendants were bound to put a guard along the ditch. In his charge to the jury he made these observations: "Corporations are not to keep dangerous places on public highways where people may get into them; that is not a proper repair of highway. When a ditch becomes such a deep and dangerous place as this the corporation is bound to put a guard on it; otherwise, as a matter of law it is guilty of neglect in not guarding it."

The Court of Appeal held that the judge erred in telling the jury that as a matter of law the defendants were bound to fence the ditch, and that they were guilty of neglect if they did not do so, and the Court held that the defendants were entitled to have a finding from the jury whether the road was, having regard to all proper considerations, in a state reasonably safe and fit for the ordinary travel of the locality.

The case then went down for trial before another jury, which gave another verdict for the plaintiff, but not for so large an amount.

Walton vs. The County of York, 30 C. P. 217, was another case of this kind. It was tried before a jury, which gave a verdict against the corporation. The facts were: The plaintiffs were injured by their horse and buggy falling into a ditch at the side of the road. It was shown that the roadway between the ditches was thirty feet wide; that the ditch was of the same character as those along other roads in the county. The Court of Common Pleas set aside the verdict, holding that the corporation having made a ditch without guards or railings, or without slanting the roadway to the bottom of the ditch so that a person could drive into it without upsetting was no evidence of neglect on the defendant's part to keep the road in repair, but the Court of Appeal (6 A. R. 181) reversed this judgment, holding that it was a question of fact for the jury whether, having regard to all the circumstances, the road was in a state reasonably safe and fit for ordinary travel. The law as laid down by the Court of Appeal therefore is, that it is always a question of fact for a jury to say whether, under all the circumstances, a corporation has been guilty of negligence in a particular case or not. Under the law as it stands now actions against corporations for neglecting to keep a road in repair must be tried by a judge without a jury, but it is his duty to apply the principle laid down by the Court of Appeal in determining whether a corporation is liable in a particular case or not.

The construction of ditches along the side of public highways is often necessary. Municipalities are required to keep the road in a proper state of repair, but they cannot be kept in that state unless they are sufficiently drained. The fact, however, that such ditches are necessary does not relieve municipalities from taking care that they do not cause damage to private lands by the discharge of water upon them. In this connection two cases may be considered. One where water is taken out of its natural course by cutting through a knoll, and the other where surface waters are collected by means of ditches and discharged upon private lands with such speed or in such volume as to cause injury. In the first case a municipality is clearly liable. Stalker vs. Dunwich, 15 O. R. 342, was a case of this kind. There a ditch was cut through a knoll, by which water was improperly brought down the highway to a point opposite to the plaintiff's lands which would not have naturally come there, and no sufficient outlet was made for carrying away the water so brought down, which by reason thereof overflowed his land. One of the leading cases where surface water was collected, conveyed along a highway and discharged upon private lands is Rowe vs. Rochester, 29 U. C. Q. B 590. The head note of that case is as follows: "The defendants, in order to drain a highway, conveyed the surface water along the side of it for some distance by digging drains there, and stopped the work opposite the plaintiff's

land, which was thus overflowed. Held, that the defendants were liable, even without any allegation of negligence." We think that this statement of the law is incorrect. The findings in that case did not require such a statement. The jury found as a fact that the defendants were guilty of negligence, and the court allowed an amendment charging negligence. It was therefore a case of negligence charged and proved. The law requires that every public road shall be kept in repair by the corporation having jurisdiction over it, and if a corporation exercises due care in discharging its duty, and the inevitable result is injury to private lands, we do not think an action will lie for damages against the corporation. In cases like Rowe vs. Rochester it may no doubt be said that it is not worth while quarrelling with the statement of law laid down there, because it is so difficult for corporations to satisfy a jury that they have exercised proper care in a particular case. The private invividual will charge that the corporation has taken water out of its natural course, or that it was not necessary to have brought it to his lands at all, or that it might at little expense have been conducted to a sufficient outlet, or that the ditches were not properly constructed, etc. This is true, and the case of Rowe vs. Rochester is therefore a warning to municipal corporations that they cannot be too careful when repairing or altering roads to prevent the discharge of any water upon private lands to their injury If councillors and pathmasters would always endeavor to ascertain where water should naturally go, and insist upon its going that way, instead of utilizing the highway in the way that is frequently done to relieve the lands of private individuals from water which naturally belongs to them, it would in many cases prevent litigation and save money. The following cases are instructive upon this subject: McGarvey vs Strathroy, 10 A. R., 631, and Derinzy vs. Ottawa, 15 A R. 712. In McGarvey vs Strathroy the complaint was that the defendants, in constructing and grading Front street, Strathroy, and by the construction of drains and sewer on Front street and Colborne street, etc., wrongfully and negligently collected the surface water and refuse from both streets and caused the same to flow in a stream across the plaintiff's lands, causing them great damage. At page 635, Hagarty, C. J. O., says: "An examination of the evidence satisfies me that the learned judge has arrived at a correct conclusion on the facts before him, in substance, that the defendants have in the exercise of their municipal powers caused a larger quantity of water to flow on plaintiff's land to her injury than would naturally have flowed thereon. From the early days of our municipal system I think it has been uniformly held that such proceedings give a cause of action. Brown vs. Sarnia, 11 U. C. Q. B. 87; Perdue vs. Chinguacousy, 25 U. C. Q. B. 61; Rowe vs. Rochester, 22 C. P. 319, and other cases, may be referred to, and at page 639, Osler, J., says: "That is what the plaintiff complains of here. It was not a necessary result of the work authorized by the law that the plaintiff's land should be flooded; that has been caused by the doing of the work in an improper and negligent manner." In Derinzy vs. Ottawa the complaint was that the corporation of Ottawa, in the exercise of their right to make drains and ditches to carry off surface water from several streets in the neighborhood of the plaintiff's property, so negligently executed the work as to cause damage to the plaintiff by the overflow of the surface water upon the land, and the Court of Appeal held that an action lies against a municipal corporation where, by the means of their works in grading their streets or otherwise, they cause surface water to be discharged upon the lands of a neighboring proprietor to his damage, if by the exercise of proper care in performing the the work such injury might have been avoided.

Municipal Affairs for March.

The March number of *Municipal Affairs* is devoted to a very thorough and suggestive discussion of municipal art and architecture. Many references are made to the conditions in foreign cities, and the little that has been done in the United States is briefly told. The subject is one that has not been widely considered in this country, but the possibilities of development and the importance of greater consideration of art are clearly shown. It hardly seems possible that one magazine could have secured such valuable articles from so many leading artists, painters and sculptors. Its pages fairly teem with suggestions for the improvement of municipal conditions in the direction of municipal art. The number is of interest, not only to the painter and sculptor, but to the lay member as well. Mr. Julius F. Harder, in his article, "The Cities Plan," shows how a city should be laid out in order to secure the best facilities for rapid transportation from one point to another, as well as to beautify the city. "Civic Architecture," by Mr. Charles R. Lamb, contains many original suggestions, the principal one being for an aerial streetway along the cornices of high buildings, and, although novel, has been so carefully worked out in detail as to prove its practicability. Other articles of equal value and interest are by Karl Bitter, "Municipal Sculpture"; by Edwin Howland Blashfield, "Mural Painting"; by Frederick S. Lamb, "Civic Treatment of Colors," and by John DeWitt Warner, "Matters that Suggest Themselves."

The department of Book Reviews contains several analyses of recent works upon city affairs. Under Leading Articles the busy citizen will find short summaries of the principal articles that have appeared within the past quarter. The Bibliography which has been such a valuable feature of preceding numbers is continued and brought down to date.

Simcoe County House of Refuge.

The Grand Jury, at the Spring Assizes for the County of Simcoe, in their presentment, referred to the location of the House of Refuge to be erected in that county as follows:

We desire to express our satisfaction that a House of Refuge is being provided for the poor and unfortunate, where they will receive proper attention in their declining years, and will not, as heretofore, be compelled to herd with criminals, but will be able to end their days in comparative peace and quietness, and without the stigma of dying in a gaol. In selecting a site for the House of Refuge we regret that a point so far removed from the county town has been selected, as the position of the building will entail upon the county a large and, in our opinion, entirely unnecessary outlay for inspection by successive grand juries.

His Lordship, Mr. Justice Robertson, replied as follows:

It is very unfortunate that the House of Refuge is to be built so far away from the county town. Of course I understand it all right; it all arises out of local jealousies. Orillia wanted a public building, and they have one; Beeton wanted one, and they therefore must have the House of Refuge, and the county must pay for it. All these public institutions should be subject to public inspection. It is not enough that there has been inspection by only one man. There is no better corrective of abuses in public institutions than the knowledge that grand juries will be present for purposes of inspection. There may be no abuses, but it is just as well that we know we are to be subject to inspection. In the County of Wellington a House of Refuge was established recently in Fergus, some twelve or fourteen miles from the county town. There is no provision in the Municipal Act for the payment of grand juries on visits of inspection. An application was made to me to make an order on the treasurer to pay the grand jury's expenses in going to Fergus and back. I could not do so. However, the grand jury, in their presentment to me, complained of this defect in the Act, and asked me to interview the authorities in the matter. I consulted with the Attorney-General about it, and was told that the remedy would be applied at the next session of Parliament. That session has passed, however, and nothing was done, though I anticipate that provision will soon be made for payment of these visits.

Publications Received.

Auditors' Report, Town of Brockville, 1897.

Auditors' Report, Town of Tilsonburg, 1897.

Auditors' Report, Town of Fort William, 1897.

Auditors' Report, Town of Wallaceburg, 1897.

Auditors' Report, Township of McGillivray, 1897.

Auditors' Report, Township of Stephen, 1897.

Auditors' Report, Township of Elderslie, 1897.

Auditors' Report, Township of Thorold, 1897.

Treasurer's Detailed Statement, 1896 *and* 1897, *Township of Ops.*

Voters' List, Town of Wallaceburg, 1898.

Proceedings County Council of Kent, January Session, 1898.

QUESTION DRAWER.

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

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

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

Electric Lighting—Unincorporated Village.

183.— J. H. C.—In this municipality is an unincorporated village which had a by-law passed some years ago giving it power to be taxed for electric lighting. One of the ratepayers of said village, who was instrumental in having the by-law passed, now claims total exemption from bearing any share of the cost of such lighting, on the ground that his lots are farm lands. These lots have always been under the electric light by-law. If these lots are farm lots, is his contention right?

BY-LAW NO.4 A. D. 1891.

TO ENABLE THAT PORTION OF THE VILLAGE OF HANOVER SITUATE IN THE TOWNSHIP OF BRANT TO BE ASSESSED FOR ELECTRIC LIGHTING.

Whereas a majority of the freeholders and householders in the village of Hanover situate in the township of Brant, also lot number seventy-two in the first concession, south of the Durham Road, and parts of lot number seventy-two in the first concession north of the Durham Road have petitioned the Municipal Council of the Township of Brant to enter into negotiations with the Reliance Electric Light Co., their successors and assigns to erect and maintain not less than two arc lights of not less than 1,500 candle power each (the number of said lights not to exceed five) for a period of two years.

Be it therfore enacted, etc., etc., 1st that Andrew Waechter, Hugh Wilson and James Lockie be a Committee to make a contract with the Reliance Electric Light Company for the above purpose.

The by-law in question was passed when section 627, cap. 184, R. S. O., 1887, was in force. It is now section 686 of cap. 223, R. S. O., 1897. The only power given under this by-law was to authorize the committee therein named to make a contract with the Reliance Electric Light Company. The by-law does not at all profess to provide for any assessment. Another by-law ought to have been passed after the contract had been let for assessing the cost in the manner provided by this section, and the streets or parts of streets which were to bear the cost ought to have been designated in the by-law. If this course had been taken, the cost of lighting for each year could have been raised and the principle of "pay as you go," could have been carried out. The only course now for you is to have a by-law prepared and passed, reciting the petition and that the lighting has been done and the cost of it, etc., according to the facts, and provide for an assessment either according to frontage or the assessed value of the property, and it ought to provide for the holding of a Court of Revision, though it does not appear very clearly that that is required.

Drainage.

184.—M. G. P.—I own a lot, my neighbor on my left his ground is lower than mine. There is considerable water on his land just now; my neighbor on my right has no drain. There was a swamp in a large field by his fence. The Board of Health made the owner of the field lay a drain. My neighbor on the left claims that is the natural way for the water to drain through my lot in front of my barn into my neighbors lot. Last spring not wishing to have any trouble with him, I let him dig a drain through my lot; he would not tile it, I filled it up. Has he any right to go through my lot? Can he compel me to keep that ditch open?

No, unless there was some agreement between you, founded upon a sufficient consideration and enforceable, but it does not appear that there was such an agreement as we understand the facts. The only way he can obtain the right of drainage across your lands is by proceedings under the Ditches and Watercourses Act.

Pathmaster's Non-Acceptance of Office—Liability.

185.—COUNCILOR.—Is it entirely optional with a person duly appointed Pathmaster by a township council to act or not to act? If it is not optional, are there any conditions whereby he may be free from said position?

Section 702 of the Municipal Act authorizes councils to pass by-laws:

"1. For inflicting reasonable fines and penalties not exceeding $50 exclusive of costs. (*a*) Upon any person for the non-performance of his duties, who has been elected or appointed to any office in the corporation, and who neglects or refuses to accept such office, unless good cause is shown therefor, or to take the declaration of office and afterwards neglect the duties thereof." The council may appoint another pathmaster in his place.

How Village Corporation may be Discontinued.

186.—J. A. R.—The village of Casselman was incorporated in the year 1888 with a population of about 1,600. It has decreased to about 400 or 500. We have an existing debt as follows, bridge debt about $1,600 and floating debt of $950. We would like to go back into the township. Can we? and what proceedings will we take to gain this point?

A resolution of the village council by a two-thirds vote approved by the electors in the manner required for by-laws creating debts, the approval of the council of the adjoining municipality and the proclamation of the Lieutenant-Governor in-Council will enable you to get back into the township. See section 19, cap 223, R. S. O., 1897.

Assessor's Resignation and Appointment—Dog Taxes.

187.—E. W.—This is an incorporated village. At the last meeting of the Council the assessor for 1898 tendered his resignation and was accepted. The vacancy was filled by resolution amending the by-law for appointing the official.

1. Was that the legal method? Now the new appointed will not act.

2. Will there need to be a new By-law or can the old By-law be still further amended without giving the usual notice?

3. Can the proceeds of the dog-tax be used for current expenses?

4. Or such part as may be deemed necessary for the collection of the same?

1. The proper way was to have passed a by-law appointing the new assessor in place of the one who resigned. Section 325 of the Municipal Act provides that the power of the council shall be exercised by by-law, when not otherwise authorized or provided for.

2. Pass a new by-law recinding the other by-law and resolution and appointing another assessor for the year, stating that the first assessor had resigned and that the second one refused to act.

3. Yes, but when it becomes necessary in any year for the purpose of paying charges on the same, the fund shall be supplemented to the extent of the amount which has been applied to the general purposes of the municipality. See section 7, cap. 271, R. S. O., 1897.

4. Yes to be afterwards supplemented if necessary as provided by said section 7.

Treasurer's Office Burned—Liability of Council or Auditors.

188.—W. R. K.—Municipal treasurer's office was burned on the first Monday of March, 1897. The treasurer claims that the township funds, amounting to $344.95, were consumed in the fire. The house belonged to another party. The treasurer's wife, who usually transacted the business in his absence, refused to cash a trustee's order on the preceding Saturday evening, stating to the order-holder that there was not five cents in the treasury.

On the 26th February, 1897, the secretary-treasurer of one of the school sections in the municipality, demanded $50.00. The treasurer paid him $25.00, with the remark, "hope to have more for your section shortly, and stating that $25.00 is balance of rates for 1895. Other orders were treated in a similar manner immediately before the fire. Council 1897 had not taken any security from the above-referred-to treasurer. The auditors of 1897 neglected to report on the treasurer's securities.

1. Can the treasurer be indicted as guilty of embezzelment, who, when having funds in his custody of the municipality, refuses to cash an order of the reeve's or trustee's.

2. Can the individual members of the council of 1897 be compelled to make good the loss?

3. Can the auditors be held liable in the above described case?

1. If the treasurer had moneys belonging to the municipality in his hands and such moneys were converted to his own use or that of some other person than the corporation, with the intent of defrauding the corporation, he could be indicted for embezzlement, but we cannot say whether such a case as this can be made out against him. His refusal to cash the order, even if he had sufficient funds, would not make it a case of embezzlement. When the whole facts of the case are known it may be a case of breach of trust rather than a case of embezzlement.

2. We have not been able to find any case where such a point as this has been considered by the courts, but we do not see why the members of the council should not be personally liable for the loss assuming that the treasurer himself

is liable. Section 288 of the Municipal Act requires the treasurer to give such security as the council directs, and it is the duty of the council in every year to enquire into the sufficiency of the security. The council in this case appears to have done nothing, and if the members are not liable under these circumstances the provision contained in the above section is of no value. It may be, however, that the treasurer is not liable, or at all events not liable for the full amount. If no safe or other secure place was provided for the treasurer by the council, and there was no chartered bank convenient, and without fault on his part the money was destroyed by fire, neither he nor his sureties would be liable for the loss, except as to the amounts which he ought to have paid on proper demand, because if he had paid all moneys which had been demanded of him before the fire that much would have been saved and, to that extent, he would not be in a position to attribute the loss to the fire.

3. We do not think that the auditors are liable, they are required to report upon the value of the secureties given by the treasurer. In this case there was no security to value.

Tenants on Voters List—Assessor and Collector.

189.—SUBSCRIBER.—John Jones is assessed for $800. There are five tenants. How many can go upon the Municipal Voters List by the Clerk, and in what order of priority? In qualifying for Councilors how many and in what order of priority?

2. Can one man hold the two offices of Assessor and Collector?

1. We do not see how any question of priority can arise. If the five tenants occupy the property as joint tenants, none of them will be entitled to vote unless the total amount of the assessment when divided equally among them, is sufficient to give each a vote. If each tenant occupies a distinct and separate property, his right to vote will depend upon his own interest in the property. Whether any one of these tenants is qualified for the position of councillor must be arrived at in the same way.

2. Yes.

Council—Street Grant for Saw-Mill—Objections.

190.—W. D.—Has a township council power to grant a portion of a street on lake shore in an unincorporated village plot for the purpose of erecting a saw-mill thereon, without regard to the objections of owners of village lots extending to said street?

The council has no such power. Streets are made for the purpose of travelling upon them and ought not to be encumbered or obstructed.

Alteration of School Section Boundaries.

191.—G. G. A.—The township council of February 11th were in receipt of several petitions praying for the alteration of certain school section boundaries to afford better school accommodation, and several adverse petitions were also presented. On March 4th a meeting was held to consider the matter, the trustees of the school sections concerned being meanwhile notified (by the clerk) of the meeting, and the council, feeling inclined to move in the matter, read a by-law (No. 5) a first time, for forming a new school section and altering the boundaries of several existing sections. The council then adjourned to April 1st, when it was proposed to give the by-law a third reading, and meanwhile the clerk notified each trustee of each of the three school sections concerned (by registered letter) of the date of meeting, when such by-law would be finally considered by the council. At the meeting on April 1st the trustees of each of the three school sections concerned were present, and the said by-law was read a second time. After discussion, the council decided to amend the by-law and include part of another school section (No. 13) in the new school section and make other material alterations in the by-law. A fresh by-law (No. 6), embodying all By-law No. 5, as changed, was read a first time, and by-law was of course rejected. The proceedings were again adjourned to May 6, when it was proposed to read the by-law No. 6 a second and third time, and if expedient, to finally pass it.

With reference to the notifying "all persons to be affected by the proposed change," under section 38 (2) of the Public Schools Act (R. S. O., 1897, cap. 292), will a notice by the clerk (by registered letter) to each trustee of each of the school sections concerned be sufficient under the said Act?

2. If such notices are not sufficient, in what manner should the notice be given?

3. Would it not be well to rescind and abrogate the resolutions and notices by the clerk, respectively, respecting the by-law No. 5, which was rejected?

The clerk appears to have thought that the notices to the trustees alone would have been sufficient. We do not think so. Notice must be given to all persons to be affected by the proposed alteration. The statute does not say in what form or in what way the notice is to be given. The council ought to direct the clerk to give a notice showing what it intends to do to each of the ratepayers, personally or by registered letter, or if it is very inconvenient to do this that a certain number of copies of the notice be printed and posted up in certain public places in all the school sections affected. Even if the latter course be adopted, a copy of the notice should be sent to each of the trustees, and in order to make sure that every person affected shall know that the council intends to make alterations in the sections the notices should be distributed thickly and they should be posted up a reasonable length of time before the meeting. The person who posts them up should also make a note of the places where the notices were put up, of the number put up and the time when they were put up. And he ought to make a declaration proving the posting up so that it may be preserved by the clerk.

Appointment of Municipal Officers—Declarations of Office—When Clerks May Administer an Oath.

192.—H. S. M.—1. Can a township council compel a ratepayer to act as pathmaster, pound-keeper or fence-viewer? If not what course should council pursue.

2. When should such officers be appointed (legally) and tenure of office?

3. A township council at its March session appoints pathmasters, fenceviewers, etc. Notice is given but said appointed officers fail or object to qualify, perhaps for weeks. In the meantime owing to freshets and other causes, certain bridges and culverts become defective in said road divisions, and loss of property ensues. Who is responsible and to what extent?

4. Can a retiring pathmaster be held responsible until his successor qualifies or when do his duties cease?

5. What oaths is a township clerk not allowed to administer by virtue of his office in matters pertaining to the municipality?

1. The proper course for the council to take is to pass a by-law under section 702, cap. 223, R. S. O., 1897, imposing a fine upon any person appointed a pathmaster or fenceviewer, refusing to act.

2. No particular time is fixed by statute for the appointment of such officers. The authority to appoint them is given by section 537, cap. 223, R. S. O., 1897, and section 321 of the same act declares that all officers appointed by the council shall hold office until removed by the council. It is usual to appoint these officers in the early part of the year. The by-law should state that they shall hold office until their successors are appointed.

3. We do not think that these officers can be held responsible for damages resulting from the causes mentioned. Whether the corporation is liable in a particular case depends upon the circumstances of the case. A person seeking damages against it must show that the damage was occasioned by the negligence of the corporation.

4. His responsibility ceases when his term expires. The particular time when his office ceases must be determined by reference to his appointment. If he is appointed for a particular term his responsibility ceases upon the expiry of the term. If, by the terms of his appointment, he holds office until a successor is appointed, his responsibility ceases as soon as his successor is appointed.

5. A clerk cannot administer any oath except in those cases where the Municipal Act expressly authorizes him to do so.

Statute Labor Returns Neglected—Penalty.

193.— W. D.—In this township there are each year, several overseers of highways who do not return their schedules to the Clerk as required by by-law of the township regulating statute labor and printed on the schedules. Some do not return them at all. Is there any penalty provided by statute for neglect of this duty, or how should the council proceed to compel pathmasters to return their road lists?

Section 702, cap. 223, R. S. O., 1897, authorizes the council to pass by-laws for inflicting reasonable fines and penalties, not exceeding $50, exclusive of costs, upon any person, for the non-performance of his duties, who has been elected or appointed to any office in the corporation. Your council should pass a by-law under the authority of this section, imposing a reasonable fine, not exceeding $50, upon these officers, and it is altogether likely that they will then perform their duties.

Statute Labor—Expenditure of Commutation Tax—Assessor May be Collector.

194.—SUBSCRIBER.—1. Can a council in the district of Nipissing pass a by-law to reduce the amount of statute labor that all persons are liable to perform under section 93, 1897 statutes to one day each for every person not assessed

over $300, and when assessed over that amount, increase the amount of statute labor at the same ratio as prescribed in the aforesaid section?

2. Would it be legal to reduce the amount of statute labor to be performed by ratepayers and not reduce the amount to be performed by persons liable under section 91, 1887 statutes?

3. Can persons liable under section 91 be compelled to perform two days statute labor, or in lieu thereof be compelled to commute the amount $1.00 per diem for each day?

4. Our collector for 1897 was rather negligent and did not do much collecting until 1898. Can he not compel persons liable under section 93, 1887 statutes to pay their commutation tax for 1897, the same being entered on the collectors roll?

5. Have all commutation taxes collected to be expended on road work?

6. Can one person legally hold the offices of assessor and collector?

1. No.
2. Yes.
3. No.
4. Yes, if the roll is still in his hands unreturned.
5. Yes.
6. Yes.

License-Holder Not Councillor.

195.—CANDIDATE.—1. Can a person, holding a liquor license in an incorporated town, provided he has the property qualification, run for a municipal council in the adjoining township, he living within a mile of the township, and not being otherwise debarred from running? The property qualification of course being in the township.

2. Can a person holding a liquor license run and qualify for a county councillor, he having the property qualification and living in the county council district?

1. No.
2. No.

Remove Fences off Road Allowance.

196.—A SUBSCRIBER.—About twenty years ago our township was resurveyed by a government engineer, and the survey was established by the government. Now this survey altered the road allowances in several concessions, so that parties on the one side of the concession had to move back, and his neighbor opposite would move his fence out. Seven years ago there was a transfer of property made, the purchaser knowing at the time of purchase that the fence and a fine row of cherry trees was on the road allowance that was laid out by the last survey. Now this particular party is willing to move his fence off the road allowance if the township council will pay him for the loss of the cherry trees. The stand that the township council has taken is this: As the purchaser knew at the time of purchase that he was not purchasing the land that belonged to the road allowance, therefore the trees being on the road allowance he was not purchasing them either.

1. Are we right or are we wrong?

2. If we are right what would be the necessary steps to take to have him remove his fence off the road allowance, as he has refused to move it until he gets paid for his trees?

1. The council is quite right, though we do not think it would matter if he did not know that the land in question was part of the road allowance.

2. The council should pass a by-law directing the pathmaster or some other person, naming him, to notify the private individual to remove the fence to its proper place within a reasonable time, and in default that such pathmaster or or other person clear it off the highway. Section 557 of chapter 223 provides a summary way for compelling the removal of obstructions from highways. We would not advise the council that it has all the powers conferred under this section in this particular case, because the private individual may urge that it does not apply to him, the statute giving the remedy under that section against the person placing the obstruction upon the highway.

Assessment—No Local Option Single Tax Act.

197.—H. W.—A land company (the Hudson Bay Company) have or claim 640 acres in our municipality (McIrvine), adjacent to the village of Fort Frances. Part of this land is a twenty-acre field on the main street. The lots adjoining the field (quarter acre each) are assessed at $400. The Hudson Bay Company's land is just as valuable, but not subdivided. In the past it has been assessed at $1 per acre.

1. Can the assessor raise the assessment, and what would be a fair value?

2. Is there a local option single tax act on the statute book of the Province of Ontario?

1. Section 28 of the Assessment Act, R. S. O., 1897, provides that real and personal property, except municipal lands, shall be assessed at their actual cash value as they would be appraised in payment of a just debt from a solvent debtor. Section 29 provides the method of assessing vacant land not in immediate demand for building purposes.

2. No.

Clerk as Treasurer's Surety.

198.—ONT.—Will the law allow the clerk to be one of the sureties of the treasurer of the same municipality?

There is no provision in the Municipal Act or any other statute, making it unlawful for the council to accept the clerk as one of the treasurer's sureties.

Special Constable for Lunatic Costs.

199.—J. L. B.—If a municipal council is compelled to appoint a special constable to lock up a person who is supposed to be out of his mind, who should pay the bill—the government or council? If the government, to whom should it be presented?

The council.

Error in Assessment—Rebate on Taxes.

200.—H. B.—A's property has been assessed the last five years for $900. B has rented part of A's property and paid taxes on same for the last five years for $200. B comes to the new council and asks for a rebate for last year's taxes, not applying to the Court of Revision for it. Has the new council any authority to give rebate to B, as he did not appeal against his taxes at the Revision Court. He claims the property has been assessed too high by assessor's mistake.

No, unless it is a case within the provisions of section 74 of chapter 224, R. S. O., 1897.

Assessment of Farmers' Sons and Daughters.

201.—COUNCILLOR—1. Who is entitled to be assessed and put on Voters' List in this township? They assess farmer as owner and all his sons and daughters, and put them on as owners when legally they don't own a foot of land in the township.

2. How many can be put on as owner of the father's property—he being the only one appearing in the recording office as owner—assessed for $1,000?

3. Can a young lady be put on who lives at home with her father, she being not married?

4. Is there no penalty for representing to assessor a person as owner and they not being the owner? If so, what is the penalty?

1. Section 86 of cap. 223, R. S. O., 1897, shows the persons who are entitled to be placed on the Voters' List. Unmarried women are entitled to be put on the Voters' Lists in respect of real property or income, if it is of sufficient value.

2. The father and nine sons, if they can comply with the provisions of subsection 4 of section 86. See also section 87. The daughters cannot be put on the list in respect of their father's property.

3. No, unless she has sufficient property of her own of the kind mentioned in section 86.

4. See section 47 of the Assessment Act, R. S. O., 1897, which entitles the assessor to a written statement from the party, and section 50 which provides a penalty for failure to deliver such statement or for knowingly stating anything falsely therein.

Assessment Electric Light Wires and Poles.

202.—N. M.—Can the poles and wires of an electric light in a village be assessed, it being the property of a private individual?

Section 7 of the Assessment Act, R. S. O., 1897, provides: "All property in the Province shall be liable to taxation, subject to the following exemptions, that is to say:" This species of property is not to be found among the exemptions and is therefore taxable.

Jog in Road Allowance—Ownership of Timber on Road Allowance.

203.—W.R.C.—1. Does the law provide for a road allowance where a jog occurs on a sideroad in the centre of a concession, or will the council be obliged to purchase a road from the adjoining land-owners?

2. If an owner is clearing his land along the road side, is he obliged to clear half of the road?

3. If not, to whom does the timber on the road belong?

4. If an owner is not clearing his land along the road side to whom does the timber on the road belong? or can the council sell it if they want to open the road?

1. No. If there was no road laid out in the original survey to connect the two pieces of road where the jog is the council must acquire the necessary land by purchase or expropriate as much land as may be necessary.

2. No.

3. To the municipality, subject to the provision of the Act respecting Timber on Public Lands. See sub-section 7 of section 639, cap. 223, R. S. O., 1897.

4. To the municipality, subject as above. The council may sell it.

Sidewalk Accident—Account Surgeon's Attendance—Council's Liability.

204.—Two years ago a woman fell and fractured her wrist on sidewalk. Village not incorporated. Dr. G. set the fracture and paid patient fifteen visits at $1.00 each, and $25.00 for setting the fracture. Total, $40.00. He never said a word to any member of the council until nearly two years after. He then presented his bill which the council refused to pay. He now threatens legal proceedings.

Is the township liable for services rendered

this woman by Dr. G., he not having been authorized by council to do so? She has friends who were able to pay if they felt so disposed.

The township is not liable under the circumstances stated.

Liability of Council to Support Indigent.

205.—CLERK.—There is a man residing in Belmont, about forty years of age who has been a resident of the municipality all his life, has been a ratepayer for a number of years, has a son grown up and two brothers. Has no means of support at present; has the disease known as St. Anthony's dance.

There was an application made to the council by some parties for assistance to support him. The council refused. Some parties are going to hire his board and make the municipality pay the same.

1. Is the municipality liable for his support, and if so to what extent?

2. Can ratepayers hire his board and make the municipality pay the same?

3. Please give the law on the support of indigent persons where there is no poor house of refuge in the county?

1. No.

2. No.

3. We refer you to section 588, cap. 223, R. S. O., 1897. The powers conferred by this section are not obligatory, but merely permissive.

Opening a New Road—Deeds of Tax Sale Purchases—Copy Assessment Roll for County Clerk—Court of Competent Jurisdiction.

206.—A. B. — 1. Can a township council force a road across a man's property without his knowledge or consent? The aforesaid road leads to no particular place, but to a sandy beach, where even a row boat cannot land you on dry land, and it comes close to my house. The Government roads lead to the lake shore at the side and end of my two lots. The road sought to be forced across my lot destroys the privacy of my house.

2. The township council purchased a number of parcels of land at the county adjourned land tax sale, and received a deed containing all the parcels. Is it legal, when the township is disposing of them again, to put more than one parcel of land in a deed to a purchaser of more than one parcel, or should there be a separate deed for each parcel?

3. The township clerk neglected to make out and send a copy of the assessment roll for 1897 to the county clerk. Is there any way by which he can be forced to do it, the said clerk not being in the employ of the township since the 15th December last?

4. What is meant by "a court of competent jurisdiction," in section 227, Consolidated Assessment Act, 1892, that is, what authorities compose such court?

1. No. The council can force a road through a man's property, but it must observe the provisions contained in section 632, cap. 223, R. S. O., 1897.

2. We cannot see any objection to putting several parcels in the one deed to the same purchaser.

3. No. He is not now clerk, and has no control or authority over the assessment roll.

4. Either the General Sessions of the Peace or a Court of Oyer and Terminer.

Township Debt—Debentures.

207.—H. R.—Our township has a debt of $3,700 voted by the people twenty years ago. The debt is due this year. We the township wish to issue debentures to raise the money to meet the debt. How should we proceed?

Have the people to vote on as to issuing debentures?

1. You do not state why this debt has not been paid off or why a sinking fund has not been provided to meet it. We think you must obtain authority from the Legislature.

2. No. The people (by which we mean certain electors) are entitled to be consulted before a certain liability shall be incurred, but they have no voice in such a matter as this. The debt being due, you must provide for it either by one rate this year, or ask for power from the Legislature to issue debentures upon which to borrow money to pay off the debt.

Farmers Sons and Statute Labor.

208.—Y. S. E.—1. As I read section 106 (1) chapter 224 Revised Statutes (pages 2,713) every farmer's son must do one days statute labor even if his name appears on their roll bracketed with his father and having F. S. in the proper column, for instance:

John Jones, F. (father) $4,000.
Samuel Jones, F. S.

Am I right?

2. In case these names are not bracketed, does it make any difference? On our assessment roll sometimes the names are bracketed and sometimes not.

3. A lot is assessed as follows:

John Deo, F., $100.
George Roe, T.

Is $100, as above, sufficient to give both Deo and Roe a vote? Deo does not reside on lot.

4. In our township farmer's sons have not been asked to do statute labor, and one J. P. maintains that reading sub-sections 1 and 2 of section 106, Revised Statutes, together, justifies his conclusion.

1. Section 106 is as follows: (Here set forth the whole section.) The words "if not otherwsse exempted by law" refer to section 96 and section 6, chapter 231, R. S. O., 1897. Now, if a farmer's son in a particular case is not one of the persons exempted under the foregoing sections, and he has not been rated and assessed as a farmer's son, he is liable to one day's statute labor under section 100. If he is rated and assessed under the authority of section 14 he is nevertheless liable to perform statute labor, because the first part of section 106 declares in plain language that he shall be liable to perform statute labor or commute therefor as if he were not so rated and assessed. The Legislature, when giving him the right to be placed upon the assessment roll in order that he might have the right to vote, did not relieve him from his liability under section 100. If the Legislature had simply given him the right to be assessed he could then claim exemption from the tax mentioned in section 100, because it is confined to a person not otherwise assessed, etc. Whatever may be the meaning of sub-section 2 of section 106, we are of the opinion that you are right.

2. No.

3. No.

4. Our answer to No. 1 sufficiently disposes of this, though we are not surprised that one of your justices of the peace takes the view he does. Sub-section 2, it is true, says that every tenant farmer's son shall be exempt from statute labor in the same manner as if he were the son of an owner, etc., but when we look at sub-section 2 we find that the Legislature, instead of exempting the son of an owner, expressly declares that the latter shall be liable as if he were not rated.

Court of Revision Proceedings—Voters' List—Non-Resident Assessment.

209.—D. W.—1. At the court of revision held in June, 1897, A came forward and stated that B had become located for land (giving the number and concession) under the Free Grants Act, and stating that B desired to be assessed for the lot, which was done. No notice was sent to B by the clerk, as it was thought that A would tell him that the court of revision had assessed him, as requested. The clerk had not received notice of the location of said lot to B from the county treasurer. Now B comes to the council board and tells the board that he will not pay the taxes as he was not properly assessed, did not receive any schedule, and if he was assessed it was not by his wish or desire. Under the circumstances, can the council, through its collector, legally enforce payment of the taxes due on said lot?

2. When the court of revision increases the assessment of any one or adds to the assessment in any way, can the council levy and collect the taxes on such additional assessment without giving the occupant of such land due notice that the amount of his assessment has been increased?

3. (a) In making out the voters' list for this year will the Franchise Act of the Dominion cause an additional column in the list, or (b) will the same as last year be sufficient?

4. Can the council take lands from the non-resident roll and place them on the resident assessment roll yearly if they so please, or must they wait for three years before doing so?

1. Assuming that B did not authorize the assessment, we do not think that he is liable. He received no notice from the assessor of his assessment. He was not, in fact, assessed by the assessor, and no notice of appeal to the Court of Revision was served upon him. See sections 51 and 71 of the Assessment Act, cap. 224, R. S. O., 1897, and in consequence of this neglect the Court of Revision had no jurisdiction to assess him, and the assessment was void. Nicholls vs. Cummings, 1 S. C. R. 395, may be usefully referred to, though it is not now an authority, that the neglect of the assessor to give the notice provided by section 61, makes the tax invalid. The head note of the case is as follows: "The plaintiffs, being persons liable to assessment, were served by the assessors of municipality with a notice in the form prescribed by 32 Vic., chapter 36, section 48, O., and on that notice the amount of the value of their personal property, other than income, was put down at $2,500, but in the column of the assessment roll, as finally revised by the Court of Revision, the amount was put down at $25,000, thereby changing, without giving any further notice to plaintiffs, the total value of real and personal property and taxable income from $20,900 to $43,000. Held, that the plaintiffs were not liable for the rate calculated on this last-named sum, and that a notice, to be given by the assessor in accordance with the act, is essential to the validity of the tax."

But the Legislature has amended the law which was in force then by adding these words, "or any defect, error or misstatement in the notice required by section 51 of this Act, or the omission to deliver or transmit such notice." See section 72 of the present Assessment Act. If the assessor had assessed B his neglect to give notice under section 51 would not render the assessment invalid. But the Court of Revision had no jurisdiction to deal with the case in the absence of a complaint, pursuant to section 71. The case of Tobey vs. Wilson, 43 U. C. Q. B. 230, is an authority in point. The facts and the holding of the court are as follows: "The plaintiffs were entered upon the assessment roll for the year 1877, which was duly completed and delivered to the clerk of the municipality for the total aggregate value of their property and income at $8,000, and on the 28th of April were served with the notice in accordance with 32 Vic., chapter 36, section 48, O., against which they did not appeal. At the first meeting of the Court of Revision, on the 19th of May, a resolution was passed instructing the clerk to notify the plaintiffs, among others, that they were assessed too low, but it did not appear that plaintiffs were ever so notified. On May 26th the Court of Revision again met, when a resolution was passed that the plaintiffs' assessment be laid over until the next meeting. After this second meeting the assessor, of his own motion and without any authority therefor, altered the assessment to $10,000, and delivered to the plaintiffs a second notice notifying them thereof. The plaintiff's clerk happened to be present at the second meeting and heard plaintiff's name mentioned, and, on afterwards receiving the notice, supposed the matter was settled and thougnt no more about it. The Court of Revision, however, held a third meeting on June 2nd, and without any notice to plaintiffs, acting apparently under the belief that without any such notice of appeal by any one they had authority so to do, raised the assessment to $12,000. Held, that under the circumstances neither the assessor nor the court had any authority to alter the assessment roll, and therefore the increase was illegal and void.

By 37 Vic., chapter 19, section 11, O., the first sittings of the Court of Revision is directed to be held ten days after the time within which notice of appeal may be given, and section 12 provides that the notice must be given within fourteen days after 1st May, etc. Held, therefore, that the sittings on the 19th May was illegal. Held also that it was not essential that there should be a plea of tender of the proper sum and evidence in support thereof, but even, if necessary, there was such plea and evidence.

Section 166 furnished proceedings where any land is found not to have been assessed in any year.

2. The Court of Revision cannot interfere with the assessment unless a complaint has been entered pursuant to section 71. The latter part of sub-section 4 of this section says: "And no alteration shall be made in the roll unless under a complaint formally made according to the above provisions."

3. (*a*) No. (*b*) Yes.

4. No.

To Collect Arrears Water and Electric Light Rates.

210.—SUBSCRIBER.—We have trouble with arrears of water and electric light rates in some cases. Please tell me the best way to collect, and if we can register same as a lien (like taxes) against personal or real estate, and can we seize as for taxes, the owner, tenant or occupant?

The only remedy for enforcing the payment of electric light rates is that provided by section 10 of cap. 234, R. S. O., 1897. These rates are not made a lein upon the property of the person liable for them, and we may say that no taxes are a lien on personal property. Ordinary taxes rated against lands are declared to be a lien upon the lands themselves, but in regard to chattels there is no lien but simply a right to distrain and sell them to make the taxes. The remedies for the enforcement of waterworks are greater than those for the enforcement of rates for lights. They are very much like the remedies provided for the recovery of ordinary taxes. See sections 21, 22 and 23 of cap. 235, R. S. O., 1897.

Road Allowance—Wrong Location—Closing Road.

211.—J. M.—Our council passed a by-law twenty years ago to commence at post in centre of lot at the sideline running south of east to corner post at the concession line. Now the road was not built according to by-law but built direct south across lot.

1. Can the owner of land close up road, and make council follow by-law as there has been statute labor performed on said road? If so, will council have to pass new by-law or will they have to follow old by-law?

2. Can owner make council pay for said road?

1. Section 598 of cap. 223, R. S. O., 1897, in defining highways says: "All roads laid out by virtue of any statute, or any roads whereon the public money has been expended for opening the same, or whereon the statute labour has been usually performed, etc., shall be deemed common and public highways." Under this section it is not sufficient that statute labor has been performed upon the road, it must be shown that statute labor has been usually performed on it to constitute it a highway. For anything that appears to us it might have been used as a sort of trespass road in a thickly peopled district with very little travel over it, and now that the locality has been pretty well settled, the original allowances ought to be opened up and this one abandoned to the owner. If there has been considerable travel over it by the public for many years and statute labor and money have been regularly performed and expended on it it is a public highway and the owner cannot close it. In cases of this kind it is not easy to say whether sufficient has been done to bring a road within section 598. It is always a question of fact for a judge or jury who might take a different view from those representing the municipality. If it is not a strong case for holding it a public highway, the best course is to have a fresh by-law passed complying with the conditions laid down in section 632. It would be wise to have the road laid out by a surveyor.

2. If the council feel satisfied that the road has become a public highway it is doubtful if the owner can at this late day, exact compensation, but we would require a fuller statement of the facts before expressing an opinion on it. If the council think it necessary to pass a by-law expropriating land for a public highway, compensation ought to be made.

Courts of Revision—Date of Meeting.

212.—I. A.—Will you kindly inform me what is the proper date for councils of townships to hold their first meeting for court of revision, and how long it should be advertised before the meeting? If this is to be found in the statutes will you kindly refer me to the chapter, etc.

Section 68 of the assessment Act, cap. 224, R. S. O., 1897, provides: "But the first sitting of the Court of Revision shall not be held until after the expiration of at least ten days from the expiration of the time within which notice of appeals may be given to the clerk of the municipality." Section 72 of the same Act limits the time for giving notice of appeal against the assessment to 14 days after the day upon which the roll is required by law to be returned, or 14 days after the return of the roll in case the same is not returned within the time fixed for that purpose. Section 56 requires the assessor to complete and deliver the roll to the clerk on or before April 30. Where the roll is returned not later than April 30th, the 14th May is the last day for appealing, and the first sitting of the Court of Revision cannot be held until after the 24th of May. The clerk is required to give notice to the person against whose assessment a complaint has been entered, and also to the assessor and he is required to give notice by posting up list, and to advertise sittings of the court. Section 71 provides fully for all this.

Snow Fences not to Encroach on Highway.

213.—W. H. C.—In 1889 on the petition of a number of ratepayers, the council of our township, in accordance with chapter 198 section 2 of R. S. O., 1897, passed a by-law which reads in part as follows: "It shall be lawful for the owner of any property in the township bordering on the public highway to build a snow wire fence on such public roadway, providing the snow wire is kept in good repair."

1. Could the council include in the one by-law the whole township and still that by-law be legal, or would it only be legal to the portion of the township from which the petition came?

2. Can I on the strength of such by-law encroach six feet on roadway by building a wire fence?

1. The authority of the council does not depend upon the petition. There is not a word about a petition in the whole act. We, however, think that the by-law should not be a general one, but one

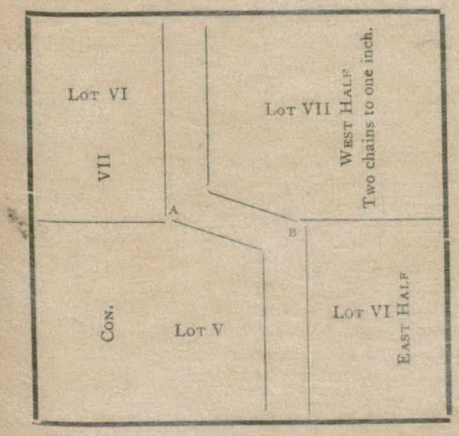
limited to those particular localities where the drifting of snow makes it necessary to remove fences or have a different description of fence made.

2. No.

Width of Jog in Highway—Collector's Liability — Ratepayer Sold Out and Left Municipality.

214.—G. W. T.—1. In enclosed plan, jog, as indicated by A——B, was given by the then owner some thirty years ago as a roadway to join main road. No record can be found of the transaction. Jog is too narrow. The township wish to widen it, and to do so are willing to purchase whole width of roadway, but present owner asks exorbitant price. Cannot the council hold said jog by right of possession when statute labor and money have been expended on it, and would not the owner be liable to prosecution if he moves his fence out to the centre line of concession?

2. A ratepayer sells off all his goods and chattels off his farm and skips, on or about February 1st, without paying his taxes. Are the collector and his sureties liable to the township for the amount of taxes? (Bond perfectly legal), he not having demanded taxes from said ratepayer either on delivery of tax bill or afterwards; council extending his time to collect to 1st March?



1. If it can be proved that the piece between A and B was given by the owner thirty years ago for a roadway it is a highway, we have no doubt. The conveyance of the land subsequently would not destroy the rights of the public. A writing was not necessary. The question is whether the owner of the land dedicated it for the purpose of a highway or not. If you cannot prove by evidence of an expenditure that the owner thirty years ago intended to give the land for a public road, still we are of the opinion that it is a public highway. The necessity of this short piece to connect the two original allowances, its long use and the expenditure of statute labor and money upon it are circumstances from which a dedication would be implied even if the township failed to prove an express dedication, and the owner would be liable to prosecution if he should obstruct it in any way. But only so much as has been actually used by the public is a public highway, because a road or street which becomes a public highway by use is of no established width in law; its width as used at the time when the rights of the public become complete is the established or legal width of highway.

2. It is not sufficient to show that a taxpayer had property sufficient to pay the taxes while the collector had the roll in his hands. He cannot watch all the taxpayers in the municipality, but he is liable for taxes which he might have collected by reasonable diligence, but which, by reason of his negligence having been left uncollected, have been lost. The liability of the sureties is a different matter. The collector is liable to his employer for negligence, but the liability of the sureties depends upon the contract entered into by them, and that is contained in the bond. The nature and extent of that liability we cannot express an opinion on without the bond or a copy of it.

Cannot Close Road by Resolution.

215.—J. H.—Our municipal council at a former meeting of council at the request of one of my neighbors closed a public road by resolution of council which has been travelled by the public for the last forty years with municipal funds and statute labor expended thereon during said time, it being the leading road to the school house and post office. Her Majesty's mail run on said road twice a week these last eight years. The council was petitioned by six interested ratepayers including the postmaster to keep said road open for travel, but they closed the road by resolution and made a suggestion that the postmaster go through his own lots east instead of west to a proving line not as suitable to any body. Just verbally the public road the most convenient to all concerned is the one closed, which action caused the postmaster to let the public travel through his land and did not offer him any recompense. It stands to reason that there should be a road to a post office, and a public one at that. In my opinion the council have left themselves liable, and the reeve is the cause of the whole trouble. He promised one party that he would close up this road, and even wrote the notice that these parties would close up said road after three months. I hold all these documents in my possession.

1. Can the council stand by closing the road by resolution of council or by by-law, under the circumstances?

2. Can the parties interested keep the road open until closed by the due course of law?

3. Can the postmaster recover damages for the road now used through his property? I hear he will sue.

4. Is the municipality liable?

In order to close the road in question and to open or establish a new one the council must proceed in a manner provided by section 632, chapter 223, R. S. O., 1897. Until the present road is closed in a legal way the public is entitled to use it. So far as the postmaster is concerned we cannot see what right he has against the municipality for damages if it is the municipality he is looking to for damages. He need not permit any person to travel over his own land unless he likes, and there is nothing to prevent him using the old road. He may take proceedings to have the resolution quashed.

Drainage Assessment Tax Sale Property—Statute Labor.

216.—T. L.—1. If a township council pass a drainage by-law and some of the lots included are non-resident and of little value, are sent up to the county and sold, in the event of their not bringing the amount of the drainage assessment against them, who makes good the default, the parties included in the by-law or the township as a whole?

2. How should the statute labor be rated and charged against a person owning land in two or more road divisions? Should it be rated separately for each road division, or rated as if all in one division?

1. We doubt very much if the framers of the Drainage Act had in mind such a case as this, for we cannot find any provision in the Act which entirely fits this case. Section 77 indicates that it was not the intention that the municipality as a whole should have to provide for any part of the costs of the drainage work. The territory assessed constitutes a sort of quasi municipality save in regard to the work and the cost of it, and we think that the lands within the territory should bear the loss pro rata. We think section 66 will authorize this.

2. The statute labor should be rated against each parcel of land, but the owner, if a resident, has the right to perform the whole of his statute labor in the division in which his residence is unless the council otherwise orders.

Reeve May be Seconder—Uneducated Pathmaster—Assessor's Error and Guide.

217.—H. M. S.—1. Has the reeve of a township the right to second a councilman's motion in amendment, the other three councilmen carrying the first motion?

2. Is it legal for a man who can neither read nor write to act as pathmaster?

3. Can one man act as collector and pathmaster?

4. If an assessor makes a mistake in improperly assessing a ratepayer as owner would he be accountable, providing the ratepayer got into trouble?

5. Who is to furnish the Assessor's Guide, the council or the assessor?

1. There is nothing to prevent him from so doing, but we cannot see how it would serve any purpose to exercise that right in this case.

2. Yes.

3. Yes.

4. You do not state whether any trouble has arisen, and if so, what the nature of it is. The assessor may have made, and probably did make, the mistake innocently, but if he served the usual assessment slip the person against whom the mistake was made ought to have taken the proper steps to have the mistake rectified.

5. It is in the interest of the municipality that the assessor should be as well equipped as possible to properly discharge his duties, and the council should furnish him with a guide.

Statute Labor.

218.—J. R.—In making out road lists I have met with a difficulty at the outset, and therefore again apply to THE MUNICIPAL WORLD. Below I give a sample of several assessments on our roll:

D. Jno, Sr., F., 2 Con., N. ½ Lot 17, $2,600
D. Jno, Jr., F., 2 Con., N. ½ Lot 17, $1,250

Total, - - - $3,850

Now the total, $3,850, calls for only five days' statute labor, while $2,600 calls for four days, and $1,250 calls for two days, making six days, a difference in this case of one day. On consulting the old lists I find that statute labor was charged in every similar case on the total, making a difference in some cases of three days. Shall I charge on the total, as has been the custom, or each separate amount?

The number of days statute labor should be based upon the total value, $3,850.

Gravel Pit—Highway—Undermining Property.

219.—J. T. E.—Where there is a gravel pit on the public road, can the municipal corporation go square up to the line, and then let the gravel cave in, or can the corporation go no further than where the gravel will cave in back to the line?

The corporation must leave sufficient soil to support the surface of the land belonging to the adjoining owner. If the corporation, by digging and removing gravel, cause the surface of adjoining lands to subside or give way, it renders itself liable in damages to the owner of the lands.

Town Halls an Asset—Maintenance Drainage Works.

220.—F. M. — 1. Define the meaning of asset. We have a township hall on which we have an insurance policy for $750.00. Did the auditors do right when they included it in their report as an asset to that amount?

2. Ditch constructed under the Drainage Act, twelve years ago, requires cleaning out. Five properties interested. What steps will have to be taken to get it done? Will it need a majority to act, or will one do? We have a ditch inspector in township appointed by by-law. Will it do to call him on or will it need the township engineer? The inspector is a good, practical man. A neighboring township, with over thirty different drains has an inspector (not their engineer) to look after all the repairs and apportion their cost. Is it legal?

1. Yes, town halls are a permanent asset, but they should be valued at their actual value, and not according to the amount of insurance.

2. Section 68 of the Dreinage Act, chapter 226, R. S. O., 1897, provides that drains shall be maintained according to the original assessment. The statute does not require that the work of repairing shall be done under the superintendence of an engineer or land surveyor, but when a change in the assessment is necessitated or the drain requires extension or enlargement a competent engineer or land surveyor ought to be employed.

Jurisdiction—Road—Military Reserve.

221.—SUBSCRIBER.—Adjoining the Town of Niagara, but within that municipality, lies a military reserve, across which runs a continuation of one of the town streets connecting with a township road, one mile distant. Has the corporation of the town of Niagara jurisdiction to pass a by-law for a bicycle path along side of said road, in accordance with 60 V., c. 57, s. 1?

Unless this is a road or land of the kind referred to in section 627 or 628 of the Municipal Act, R. S. O., 1897, the council has power to pass such a by-law, confined of course to so much of the road as lies within the municipality. See section 640 of the same Act. We cannot, from the mere statement that the road runs across a military reserve, say whether it is within sections 627 and 628. Section 598 shows what constitutes a public highway.

Bonus Extension—Treasurer's Bonds—Clerk and Treasurer.

222.—R. B. W.—A part of our township voted upon and carried a by-law submitted to them in 1892, granting the Cobourg, Northumberland & Pacific Railway Company a bonus of $3,000, on certain conditions that a certain amount of work should be done in a specified time. The company failed to carry out the contract; the contractors came back to the council for an extension of time, which was granted them twice.

1. Has the council power to extend the time and renew the bonus without going back to the people?

2. Does a treasurer's bonds remain good if the security is satisfactory for time unlimited, or should they be renewed annually, the same as collector?

3. Is it necessary to appoint the treasurer and clerk annually when there is no change?

4. Can one person hold both offices legally?

1. We cannot express an opinion upon this question without a copy of the by-law. The by-law may give the council power to extend the time.

2. Section 321 of the Municipal Act provides that all officers appointed by the council shall hold office until removed by the council. If the treasurer was appointed to the office, nothing being stated about time, he would hold the office without any renewal of his appointmeut, and if the bond was not limited in time we do not think it needs renewal. Section 288 requires the council to appoint a treasurer, but the council is not required to appoint a treasurer annually. Section 295 requires assessors and collectors to be appointed annually, and in the case of a collector a new bond should be required each year, even though the same man is re-appointed year after year. In the case of the township of Adjala vs. McElroy, 9, O. R. 580, the facts were: A treasurer was appointed by the township, and he furnished a bond dated Nov. 1st, 1880, conditioned that if he should "well and truly discharge the duties of township treasurer so long as he shall remain in the said office and shall render just and true accounts of all moneys, etc., as shall come and have come into his hands during his continuance in said office, and hand the same promptly into the hands of his successor in office, then this obligation to be void, otherwise to remain in full force, virtue and effect." He was reappointed annually for several years. The chancellor held that the reappointments were not equivalent to removals and reappointments but were rather a retention in office of the same treasurer, and that the sureties were not, in consequence thereof, discharged. In Waterford School Trustees vs. Clarkson, the school trustees of Waterford, by resolution, appointed a secretary-treasurer by his giving the necessary security, as per law, and he furnished a bond on Feb. 13, 1890, with sureties, and in 1892, 1893 and 1894 similar resolutions were passed, each of which purported to appoint him for a year only, and to require him to enter into the usual bond, but no bond was ever given excepting the one above-mentioned ou Feb. 13th, 1890. The treasurer failed to account for moneys received in 1894, and the trustees brought an action against the sureties, and the court of appeal held that his appointment was for one year in the first instance, and that the sureties were not liable. Mr. Justice Osler said: "The appointment was expressly made for a year, and the bond, in my opinion, must have relation to that appointment, and not to subsequent ones." He also said: "The trustees who neglected their duty are, it is to be hoped, sufficiently substantial to assure the board against loss. See section 107 of the Public Schools Act. In the case of a municipal treasurer, councils cannot be too careful, notwithstanding that a treasurer need not be re-appointed annually, because it may be discovered after there has been a loss that his original appointment was for a year or some other limited time, and if his bond was given then it would, in our opinion, be limited to that time, unless the bond was, by apt words, made to continue in force, notwithstanding a re-appointment. If, however, his term of office is not limited, and the sureties bind themselves so long as he holds the office, the bond need not be renewed.

3. No.

4. As the law now is, the one person can hold both offices.

Damages from Highway being Flooded—Insurance on School Houses.

223.—SUBSCRIBER. — 1. Is a municipality liable for damages through the sudden rising of water overflowing the highway? The claimant drove over this portion of the road some time in the afternoon when it was all right, returning after dark found it flooded, and in trying to get through, got off the road into the ditch and had one horse drowned. He claims the road was not properly guarded.

2. The trustees of S. S. No. — have an insurance on the school house. They allow the school house to be used for entertainments, meetings, etc. If the building should burn immediately after such entertainments or meetings, could they recover the insurance, being insured only as a school house?

1. We cannot express a positive opinion upon this question because you do not furnish us with more than the general statement that there is a ditch on the highway and that there was a flood. Whether the municipality is liable depends upon what was the proximate cause of the accident. If the accident was due to the flood the municipality would not be liable, but the claimant will no doubt endeavor to show that it was a dangerous place, apart altogether from the existence of the flood. The question to be considered is whether the road was, under all the circumstances, reasonably fit for public travel. You will find an article in the April number and another in the May number of THE MUNICIPAL WORLD, where this question is discussed.

2. The question of liability, under the circumstances stated, depends upon the terms of the policy. Insurance policies usually contain provisions for avoiding the policy if the premises are used for other purposes which may increase the risk. You had better examine the policy.

"In seeking a man," remarked the observer of men and things, "an office is more successful than an officer.