tained. This notice may have been given in time but we thought that we should draw your attention to the fact that such notice is necessary.

Liability for Necessaries to Persons Quarantined.

245.—D. C. M.—Our council are having a few smallpox bills presented to them for payment, and these bills are not for necessaries, but luxuries for the sick, as they appear to have lived on top of the pile. They have asked me to write you for advice as to the payment of these accounts. My impression is that s. 93, of chap. 248, of the R. S. O., covers the whole matter. It would appear that one of the families that were quarantined, although in a sense able to pay, requires time to do so, which is not satisfactory to the merchants who supplied them, and they want council to pay, and threaten suit to recover if they do not pay. The council would pay the bills if they thought they could be collected, and want to know if the amount paid by them could be entered on the collector's roll against the parties. I tell them I think not, as the law provides that all complaints have to be brought before Justices of the Peace.

In no instance is a local board of health in the municipality, or the council, liable for cost of *luxuries* furnished to parties quarantined and they should not pay any account for such. Nor are they, or either of them, liable for the cost of providing nurses and other assistance and necessaries for such parties, unless they, or other persons liable for their support, are unable to pay the amount. The council has no authority to constitute itself a collecting agent for merchants in the municipality, because parties indebted to the latter are slow in making their payments.

An Early Closing By Law.

246.—ENQUIRER.—Last year our council passed an early closing by-law, having been presented with a petition to pass such by-law, signed by all the merchants in the village except three. Two of these were Jews, and the third a hardware merchant. There are three hardware stores in the village, handling hardware and tinware exclusively, and one general store, handling hardware in the way of harvest tools, axes, saws, files, nails, tar and felt paper, and other staple lines and oil. Now the hardware merchant who did not sign the petition refuses to close his store, claiming that the petition must be signed by three-fourths of the merchants in that line, but that it is only signed by two-thirds of them, the general store not being considered as a hardware store.

1. Does the general store figure the same as the hardware stores in the petition with reference to that line of business?

2. Can the hardware merchant who did not sign the petition be compelled to close his store the same as the rest under the by-law? The petition was signed by the merchants in a general way, no reference being made to any particular line. Even our drug stores close.

1. Subsection (2) of section 44 of chap. 257, R. S. O., 1897, empowers a council to pass a by-law requiring all classes of shops or any class of shops to be closed during certain hours, and subsection (3) of the same section makes it imperative on the council to pass a by-law within a certain time if a proper petition is presented. The council in this case, having passed a by-law, we cannot see what ground the hardware merchant has to complain because the council might have passed the by-law without any petition. In regard to the general store, if the by-law is confined to hardware stores, the owner of the general store is not affected by the by-law. Not having the by-law before us we cannot express any opinion upon its validity. If the council is in favor of the closing of all classes of shops during certain hours, we think it would be better to repeal the present by-law and pass a new by-law without any regard to the petition referred to in subsection 3. By adopting this course you will do away with the possible objection that the by-law was passed pursuant to the petition presented to the council and that it therefore must be regarded as a by-law passed under subsection 3, and if so the petition not having been signed by a sufficient number the by-law must be held invalid. We do not agree with this contention, but to guard against any such objection as that, we would suggest the passing of a new by-law without regard to any petition, requiring all classes of shops, or all such classes as the council sees fit to deal with to be closed.

Surface Water on the Highway.

247.—W. R.—1. A, B and C own lots to the south of a township road, and D, E and F own lots to the north of the road. A tract of wet land extends through all of said lots, the natural course of the water being from A, B and C, across the road on to D, E and F. The road has been raised by drawing clay and gravel to make a road-bed, and there not being any culverts put in, the water is kept back on A, B and C's land. Can the council be compelled to put in surface culverts?

2. If said culverts are put in, can D, E and F close them up?

1. No, and they should not do so if they thereby would cause an extra quantity of water to flow upon the lands of D, E and F.

2. D, E and F can erect such embankments as they may deem necessary to prevent the flow of the water through the culverts upon their lands. From the facts, as stated, we are of opinion that this is a case where proceedings should be initiated under the Ditches and Watercourses Act, and an award made thereunder whereby the rights and interests of all parties concerned could be properly adjusted.

A By-Law for Purchase of Land for Park.

248—I. H.—Can a town council purchase and pay $500 for four acres of land to add to their park by vote, or has it to be submitted to the ratepayers for their approval?

The town council can, by a vote of the majority of its members, acquire this additional land for park purposes (see section 576 of the Municipal Act), but if the $500, the purchase money, to be paid for the land, is not to be paid within the year in which the debt is incurred the assent of the electors will have to be obtained to a by-law providing for the borrowing of the necessary funds. Since it is not required for the ordinary expenditure of the corporation. (See section 389 of the Municipal Act.)

Collection of Taxes from Purchaser From Assessed Owner.

249 A. M.—A is an American, his home is in Michigan, but for sixteen years past he has owned real estate with a store thereon, and carried on a lumbering business here. Was assessed last year, as usual, on resident roll for real and personal property, the personal consisting chiefly of logs and ties, which were shipped during summer. He then sold the lots with store and office, with interest in a license on the unlocated lands he held from the Indian Department to B. The tax collector mailed him notice of demand for taxes, and received a letter asking statement of amount of taxes due against his personal property in timber, stating that B, the present owner, who is in possession, was, by agreement, to pay the taxes on the store, and the lots he bought with it, and he has admitted that to the collector, who deferred receiving part till A would remit, since he sent him statement asked for by letter, but so far has waited in vain for the remittance. Now the roll should have been returned on February 1st, last. The collector believes he should distrain on the premises assessed for the whole tax, but asked for sanction of council, who calls a special meeting to consider the matter, and set a date for the return of the roll. The council comes to a dead-lock on it, two put a motion to exempt A's personal property rather than authorize a distress on B; two put motion to instruct collector to have all unpaid taxes in and return his roll May 1st, next, in amendment. The motions are put to vote, when the fifth member refuses to vote for either, and so adjourn. Now, does not sub-section 3, of section 135, Assessment Act, set the collector's duty in this case, or does the amendment of 1899, referring to sub-clauses a, b, c and d affect it at all?

The council should not interfere with the collector in the discharge of his duty in the matter of the collection of these taxes. Section 135, of the Assessment Act prescribes the course he is to pursue in enforcing payment of that part of these taxes, which is properly charged against the real estate. If amount is not paid within fourteen days after demand or notice, (as the case may require) the collector may levy the same with costs, by distress upon the goods and chattels, wherever found, within the county within which the local municipality lies, belonging to or in the possession of the person who is *actually assessed* for the premises, and whose name appears upon the collector's roll for the year as liable therefor, (see clause (1) of sub-section 1, of section 135,) or "upon the goods and chattels of the OWNER of the premises, FOUND THEREON, whether such owner is assessed in respect of the premises or not." In this case the collector can, and should seize the goods and chattels of the person assessed, if any such are to be found within the local municipality, the municipality being located in a district without county organization, or upon the goods and chattels of the person to whom he sold, found on the premises, to realize the amount of the taxes against the real estate. (See clause 3, of subsection 1, of section 135.) Section 135a, of The Assessment Act (enacted by section 11, of The Assessment Amendment Act, 1899,) prescribes the mode of enforcing payment of that part of these taxes which is chargeable against the personalty. If this amount is not paid within fourteen days after demand or notice, (as the case may