

### Payment of Moneys to School Teachers—Council Cannot Borrow for School Section.

262—G. W.—Our clerk received instructions to levy a rate to collect \$300 for each school section in our township which was done.

The trustees of the different sections, in sending in their requisitions, figured on getting \$300 from the township which was paid over to the different sections.

Now some of the sections are asking for money to pay their teachers' salaries for the first quarter of the year. We have no school money in our possession to pay these salaries with.

1. If the trustees give their teacher an order on our treasurer is he compelled to pay it?

2. Would it be legal for the council to borrow this money and strike a rate on the different sections large enough to raise the money along with whatever money will be needed for next year?

1. No.

2. The council has no power to borrow this money for school purposes. If the trustees of any of the school sections in the municipality require to use any money to pay teacher's salaries, and have none on hand, they should borrow the amount, and include it in their estimates for the current year.

### Council Must Pass By-Law to Grant Use of Streets to Telephone Company

263—T. M. C.—A certain company has asked the town council for the right to erect poles and string wires for telephone purposes on a certain street. Is it sufficient to grant such right by a resolution or should there be a by-law passed to give the company the right to do so?

A resolution is not sufficient for this purpose, but a by-law is necessary. If the object is to grant a franchise to the company under sub-section 1 of section 331 of The Consolidated Municipal Act, 1903, this sub-section requires the passing of a BY-LAW for the purpose, and sub-section 4 of section 559 of the Act empowers councils of cities, towns and villages to pass BY-LAWS "for regulating the erection and maintenance of electric light, telegraph and TELEPHONE poles and wires within their limits."

### Business Assessment of Owners of Stallion.

264—M. B. M.—A ratepayer owns property in this municipality. He travels a stallion for a company during the season of two months. He has been assessed under clause H 10 section, Assessment Act. He claims he is only hired and is not the owner of the stallion, although keeping it in his stable during the season. Can he be assessed, as stated, for a business assessment?

These cases are very close to the line. If, however, what the ratepayer says is correct, namely, that the stallion is owned by a company, and that he is only working for the company at a salary, he should not be assessed for any business assessment. We think, however, that the company which owns the stallion, and makes a profit out of his services, should be assessed for the business assessment mentioned in clause (h) of sub-section 1 of section 10 of The Assessment Act, 1904.

### Survey of Road—Council May Initiate Proceedings Under The Ditches and Watercourses Act.

265—HARDHAMMER—1. There is a piece of road in our township that has never been opened and we are not aware that it has ever been surveyed. The land is used by the parties who own the land on each side, and is fenced in. The council has resolved to open it. Has the township engineer power to locate the line and has the council power to cause parties to remove fences according to his survey, or must they procure the services of the Provincial Surveyor, and in either case must the township bear the full expense? What would likely be the charges of the Provincial Surveyor; the full road is little more than half a mile long?

2. This road runs through a swale, that is, a basin of water off five different farms, out of which none the owners of are likely to take action to have the water removed. Can the township, as such, take advantage of The Ditches and Watercourses Act in having it removed off the said road or must it bear the full costs while others are equally benefited?

1. If this road has never been surveyed, that is, if it is

not an allowance for a road, original or otherwise, before it can be opened and established as a highway, the council will have to pass a by-law pursuant to section 637 of The Consolidated Municipal Act, 1903, after all the preliminary proceedings prescribed by section 632 have been strictly observed. If it is an original allowance for road, and the council is of opinion that it is in the general public interest to have it opened, it may cause it to be located and staked out by any competent land surveyor, and, when satisfied as to its location, cause all fences to be removed therefrom. The engineer's expenses for performing these services will have to be paid by the council of the municipality. We may observe that it is discretionary, in either case, as to whether the council opens this road or not, and it should not do so simply to accommodate one or two private individuals. It is difficult for us to say what the surveyor's charges will be. An arrangement had better be made with him, when he is employed.

2. The council may legally initiate proceedings under The Ditches and Watercourses Act (R.S.O., 1897, chapter 285) to have a drain constructed in this locality. By section 3 of the Act, the word "owner" is made to mean and include "a municipal corporation as regards any highways or other lands under its jurisdiction."

### Reeve May Call Council Meeting—Excessive Tax Should be Refunded—Appointment of Substitute for Clerk—Grant of Charitable Relief—Publication of Minutes of Council Meeting.

266—X. Y. Z.—1. Is it legal for a village council to meet at the call of the reeve?

2. A certain village council put down cement sidewalks paying for them in 15 equal annual payments. According to by-law the annual payment was to be \$101, frontage tax, and \$236 general tax, amounting in all to \$337, paid each and every year. By some mistake the \$347 was collected as general tax and the \$101 frontage tax was collected for the last three years. Can this extra collected money be used for local improvements or should it be refunded to the people?

3. Can a village council legally appoint by by-law a clerk to fill the present clerk's place during his absence, without the present clerk's resigning?

4. Is it legal for a council to grant sums of money to charitable institution?

5. Is a council obliged to have the minutes of their meetings published in a local paper?

1. Yes. Sub-section 1 of section 270 of The Consolidated Municipal Act, 1903, provides in part, that "the head of every council shall preside at the meetings of the council, and MAY at any time summon a special meeting thereof."

2. We are of opinion that the excessive amount collected should be refunded to the ratepayers who paid it, and that it cannot be expended in the village for local improvement purposes.

3. Section 283 of the above Act provides that "the council may by RESOLUTION provide that, in case the clerk is absent, or incapable through illness of performing the duties of clerk, some other person to be named in the resolution, or to be appointed under the hand and seal of such clerk, shall act in his stead, and the person so appointed shall, while he so acts, have all the powers of the clerk."

4. Yes. Sub-section 2 of section 588 of the above Act provides that the councils of villages, etc., may pass by-laws "for granting aid to any charitable institution or out-of-door relief to the resident poor."

5. No.

### Power to Temporarily Close a Road.

267—J. C.—We have in this township a side line, or road allow,ance, which is not used for travel and has got into very bad repair.