

CORRESPONDENCE.

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All communications must be accompanied by the name of the writer, not necessarily for publication, but so that the publishers will know from whom they are received.

Impounding of Cattle.

To the Editor of THE MUNICIPAL WORLD:

DEAR SIR,—Referring to your opinion, re animals impounded, in THE WORLD for November and December, I think there was a case, *Crow vs. Summers*, decided in 1882 or 3, where it was held by the full bench in the court of appeal, "that any by-law of a municipality establishing the height of a lawful fence was ultra vires; that there can be no such a thing as a "lawful fence," other than a fence constructed according to an award of fence-viewers under the Line Fences Act; that no one was compelled to construct or maintain a fence at all, except an award fence; that no one was compelled to provide for keeping out his neighbor's cattle, but only for keeping in his own, and consequently, no matter whether there was a fence or not, the owner of cattle trespassing on other lands was liable for damages sustained in consequence of such trespass, and such cattle were liable to be impounded and fees and damages collected the same as if there had been a so-called lawful fence." This municipality has acted on that decision since and has now no by-law establishing a lawful fence, and I believe other municipalities act on the same principle. It would seem by inference, if this is correct, that fence viewers would be required to act no matter if there was a fence or not.

As this is a matter of some importance, and as there seems to be considerable diversity of opinion, even among the legal profession, as to the application of the Line Fences and Poundkeepers Acts in the matter of 'lawful fences,' perhaps you could look the matter up and give the readers of THE WORLD something authoritative on the subject.

"S."

[In *Crowe vs. Steeper and Williams*, it was decided that a by-law must be reasonably clear and unequivocal in its language in order to vary or alter the common law. A municipal council, by by-law, passed pursuant to the Municipal Act, enacted that certain descriptions of animals (naming them), and all four-footed animals known to be breachy, should not be allowed to run at large in the township, and provided for fixing the height of fences. The plaintiff's cattle strayed from the highway into the lands of the defendant Williams, whose fences were not of the height required by the by-law. He distrained them and they were impounded, defendant Steeper being the poundkeeper. In an action of replevin, it was held that as the by-law did not affirmatively authorize these cattle to run at large by negatively providing that certain other classes of

animals should not be allowed to do so, the plaintiff was liable at common law, and under R. S. O., chap. 195, for the damage done, irrespective of any question as to the height of defendant's fences.—ED.]

Boards of Health.

Members of local boards of health are entrusted with unlimited authority. Section 49 of the Public Health Act, authorizes the treasurer of a municipality to pay the amount of any order issued by the members of the local board or any two of them for services performed under their direction. This may seem unreasonable when the red tape connected with the ordinary expenditure of public money is considered. We believe that an appointment as member of a local board of health should be looked upon as one of the highest honors a municipal council can confer. When a contagious disease breaks out, the health and business interests of the municipality suffer in proportion to the efficiency with which the health regulations are carried out. Councillors should carefully consider this and appoint only the most capable men.

At the last session of the county council of Grey a resolution was passed authorizing the forwarding of a memorial to the Ontario Legislature, asking that in case of a vacancy by death or otherwise of the reeve of a township that the remaining members of council be empowered to fill the vacancy from their own number, without the expense of a new election.

It is a noteworthy feature of the present municipal reform wave that cities with large councils want the number reduced, and cities with small councils want the number increased. More than a change in numbers is evidently required.

"My friend," said the truly patriotic citizen, "you are becoming prominent in politics."

"That I am," replied the local leader.

"I trust you will adopt as your motto the good old phrase, 'be sure you're right, and then go ahead.'"

"Not exactly, though you're guessing pretty close. De motto of our association is, 'Be sure you get ahead; ye kin make it right afterward.'"

Sullivan bought a goat, for which he paid \$5. Shortly after he received a tax bill on the goat of \$8. He called on Rafferty, the assessor, and said:

"Why do you tax me \$8 on my goat when I paid but \$5 for him?"

"Well," said Rafferty, "I have carefully read what the statute says, and it reads: 'Whosoever owns property abutting on the street shall be taxed \$2 a running foot.'"

Municipal Insurance.

The *Aurora Banner* referring to the Canadian Underwriters Association and the deficiencies in fire department required to be supplied, in order to retain their present rating in that Town, states:

The demand made by the association in this matter is simply outrageous and unreasonable for a town of this size and cannot be complied with. It would be much cheaper to go back to a lower rating. The association we understand is determined to enforce these regulations in every town where there is a system of water-works. The result will be that a petition will be presented to the local legislature at no distant date, asking for an act of municipal insurance, empowering municipalities to provide a sinking fund for insurance. We venture to say there has been more money paid out during the past year in this town for premiums on insurance than the companies have paid for loss of fire for the past ten years. We hope to see an agitation commenced shortly which will not end until municipal insurance is fully established, and the insurance companies compelled to withdraw from the towns at least.

The Stratford council has been considering a notice received from the Underwriters Association stating that the classification of the town would be reduced to D after January next unless certain deficiencies in their fire department were supplied.

This is only one of many instances in which the association has exercised its authority. They are always on the safe side when demanding additional equipment for fire protection at the expense of municipalities. The profits of fire insurance companies are thereby increased. The agitation for legislation to allow councils to contest fire insurance should receive a strong support, as the profits from policies in force in every urban municipality would more than maintain an efficient department and pay fire losses, and the surplus would not go to increase the dividends of the companies, the great majority of whose stockholders reside in other countries.

Publications Received

Popular Information as to Division Courts by W. H. Higgins, of the office of the Inspector of Division Courts.

This is a useful and convenient addition to division court law. It is concise without the learned annotations and reference to decided cases which make their works on Division Courts so cumbersome to the lay mind. It contains also the latest division court rules, prepared by the board of county court judges under the statute, and a list of the clerks and bailiffs throughout the province with their respective divisions, together with a tariff of their fees. The work is exceptionally well indexed. Prepared as it is by a gentleman of wide experience in such matters, this book should be in the hands of every clerk, bailiff and lawyer in the Province.

Messrs. Hart & Riddell, Toronto, are the publishers. Price, bound in cloth, \$3, half calf, \$3.75.