



Since your municipality lies east of the county of Frontenac, the proviso appended to section 36, of The Ditches and Water-courses Act, (R. S. O., 1897, chap. 285,) applies, and B can apply for a reconsideration of the award at any time after the expiration of six months from the completion of the ditch. It is quite impossible, for us, however, to tell you what portion of the work should be done by each or any party to the drain, nor who should be parties to the agreement or award. The council should, under the Act, if it has not already done so, appoint some competent engineer, and if the parties cannot agree upon the division of the work, the engineer will then have power to deal with the matter, and make an award, distributing the work among the parties according to their interest.

Statute Labor.

293.—J. H.—1. In regard to statute labor, has the council any right to take the work out of one beat and put it in another if they see fit without passing a by-law?

2. Can the pathmaster make them draw it to the other beat if the one he is in has enough without it, or would he have to get order from the council?

1. No. A by-law should be passed by the council regulating the manner and division in which the statute labor should be performed, pursuant to the authority of sub-section 5 of section 561 of the Municipal Act.

2. The Pathmaster cannot take the law in his own hands, but should see that the statute labor is performed in the manner and division, directed by the by-law of the council.

Road and Snow Fences.

294.—T. L.—1. Is there any authority by which a ratepayer can be made to build a fence along a boundary between his land and the highway?

2. If there be authority, where is it vested? Is it statutory, or does the municipality require to pass by-laws demanding such fence to be built?

3. If you hold that a ratepayer is not obliged to build a fence or close a gate between his farm and the highway, either under statute or any by-law the council might pass, then any one driving cattle or any other stock along the highway, or in case of stock running at large, either under by-law or otherwise, would the parties owning such cattle be held responsible for any damage they might do to the land or crops thus exposed from having no fences as aforesaid?

4. If a council has no authority to pass a by-law to enforce the building of fences, etc., generally along the highway, then does it not appear inconsistent where one has a fence already along the highway, but owing to the fact of its causing an accumulation of snow in winter time that in case of disagreement with the party as to removal of the old fence and replacement of a suitable one, the council can enforce the same to be done under the act?

Note. The inconsistency is not so much in the removal as in the rebuilding.

5. We have notified different ratepayers in our township regarding their fences being a nuisance in causing the highway to be blocked with snow, and have offered them compensation for removal and replacement as already mentioned, and in some cases they have taken away their fences and are not rebuilding, and say there is no power to make them build a fence. Are they right?

These highway matters are a little obscure, and any light you may throw upon the subject will be of timely service.

1. No.

2. There is no such authority, either statutory or otherwise. A municipality has no power to pass such a by-law.

3. Yes. A person should take care of his property, so as to cause no injury to that of another.

4. We do not see any inconsistency in this matter. If an owner has a fence erected adjoining a highway, which causes snow to accumulate thereon, and the council of his municipality compels him to remove it, or build a different kind of a fence in its stead, under the provisions of sub-section 5, of section 545, of The Municipal Act and R. S. O., 1897, chap. 240. This is done for the convenience and safety of the public using the highway.

5. Persons who have removed their fences along the highway to prevent the accumulation of snow, are not bound to rebuild them. See answer to question No. 1.

Tax Sales.

295.—J. D.—The Haliburton Mining Company holds 1400 acres of land in this township. It is chiefly covered with hard wood. The company obtained these lands partly purchasing the settlers' rights and part direct from the government. The taxes on these lands are three years in arrears.

1. Can the council advertise for sale those lands purchased from the settlers?

2. Can the council advertise those lands for sale purchased as mining lands from the government?

3. Should all these lands be sold as one lot, or lots, or should those purchased from the settlers be sold separate from the government?

1. The council has nothing to do with the sale of lands for taxes. Where a portion of the tax upon any land has been due for and in the third year, or for more than three years preceding the current year, the Treasurer and Warden of the county should perform the duties in regard to the sale of these lands laid down in section 173 and following sections of The Assessment Act. Under section 174, the council of the county may by by-law extend the time for the enforced collection by sale of non-resident taxes. If the statutory preliminaries have been observed, the county treasurer can advertise and sell so much of these lands, or the Company's

interest therein as may be necessary to satisfy the arrears of taxes.

2. No. The county treasurer is the proper officer to advertise the lands for sale.

3. A value should be placed on each lot, and each lot assessed separately by the assessor. The taxes should be calculated on such assessed value, and placed on the collector's roll against each lot. Each lot should be offered for sale separately, and so much of it "or of the interest therein sold as may be necessary to realize the amount of the arrears."

Removing Earth from Highway.—Obstructions on Highway.—Voting Machines.

296.—G. W. T.—1. There are certain parties in this municipality taking the earth from the roadsides and applying it to their private uses. Where are the statutes, if any, bearing on such a case?

2. Are there any rulings of similar cases tried before any Justice of the Peace or other Court of Justice?

3. If the reeve, as head of the municipality, has power to stop people taking earth off the highways in that municipality, what would be the mode of procedure?

4. A certain party wishing to burn a lime kiln builds one on the east side of his lot on concession line in spring of 1899. Parties are agitating for its removal. Can council compel said party to remove said lime kiln at five days' notice served by clerk, or on non-compliance can it be removed at party's expense, it being held to be an obstruction on the highway?

5. Did the legislature at the last sittings pass an Act authorizing municipal councils to use voting machines at all municipal elections?

6. Is this a compulsory measure or not?

The highways are vested in your municipality, and it is the duty of the council to see that they are kept in a condition of safety, and a proper state of repair, according to the provisions of the Municipal Act. No person has the right to remove earth from the highway unless permitted to do so by the council. If the council grants such permission they should see that the road is left in a condition of safety where the earth has been removed. See sub-section 7, of section 649, of the Municipal Act.

2 and 3. It was held, in *Wellington vs Wilson et al* (15 U. C. C., p. 296) that a municipal corporation can sue for injuries done to highways under its jurisdiction. If the party causing the injury refuses to refrain or desist from further acts of the kind, on being notified by the council to do so, he can be restrained by injunction obtained at the instance of the council. The only power the reeve has in the matter is to notify the party offending, by order of the council, to cease the removal of the earth. If further proceedings are necessary, recourse should be had to the courts.

4. This party has no right to build his lime kiln on the concession line. If it is an obstruction on the highway within the meaning of sub-section 3, of section 557, of the Municipal Act, he should be given the notice mentioned in sub-section 4 of said section. If he disregards the notice for five days after such notice, the lime kiln can be removed at the expense of the party placing it there. It is necessary to