

township. The powers vested in municipal corporations should, as far as possible, be exercised by by-laws, general in their nature, and impartial in their operation. There might be special circumstances warranting a by-law confined to a portion of a municipality, but as we have stated, no reason whatever appears for confining this by-law to a part of the township.

#### Exemptions from Assessments of Farmers and Merchants.

**319.—BILLINGS.**—1. Will you please give a list of exemptions on a farm. Is a farmer's machinery and stock exempt from taxation, and if so, is there a limited quantity or number exempt, or as much machinery and stock as he can keep? Some persons say that all should be assessed and \$100 exempt.

2. Our municipality had the goods of the merchants of our township assessed and at our court of revision had them struck off the roll. We now propose imposing business tax on merchants. Are we acting legally?

3. A merchant buys goods and gives promissory notes for them. Are those goods considered paid with those promissory notes, or is he in debt for them, thus leaving them not assessable?

1. Sub-section 16, of section 7, of The Assessment Act, exempts from assessment "all horses, cattle, sheep and swine which are owned and held by any owner or tenant of a farm, and when such owner or tenant is carrying on the general business of farming and grazing, and also all farming implements and vehicles, and all hay, grain and other farm products, being the property of said owner or tenant, and on the premises owned by him." It is only in cases where the net personal property of a person is under \$100 that the same is exempt. Under sub-section 25, of section 7, of The Assessment Act.

2. Yes. If your council passes a by-law under the authority and in accordance with the provisions of section 36 of The Assessment Act.

3. Sub-section 24, of section 7, of the Act exempts from assessment "So much of the property of any person as is equal to the just debts owed by him on account of such property, except such debts as are secured by mortgage upon his real estate, or are unpaid on account of the purchase money therefor." The giving of the promissory notes in this case was not a payment of the price of the goods within the meaning of this sub-section, and to the extent of the amount of the notes a reduction must be made.

#### Height of Fences and Cattle Running at Large.

**320.—W. H. S.**—On page 96, section 264 MUNICIPAL WORLD for June, 1900, I infer by your answer to questions 1, 2, 3 that, notwithstanding a municipal council may pass a by-law regulating the height of fences and also allowing cattle to run at large, yet damage can be obtained whether fence or no fence, whether the cattle be allowed to run at large or not and that the power to regulate height of fences only relates to line fences. You would much oblige by explaining more fully, stating chapter and clause confirming your contention, or if it be by a ruling of any of the higher courts, please mention precedent as it is a matter of vital importance to be fully convinced on this matter.

We are of the opinion that an owner of land bordering on a highway is not bound to erect a fence along the highway to protect his crops as against cattle running

at large upon the highway, even though there is a by-law of the municipality allowing them to run at large on the highway. This question has not been before the courts of this Province as far as we know. Our opinion is based upon the meaning which we have placed upon the Line Fences Act, and those portions of the Municipal Act relating to fences.

#### Voting on Money By-Law.

**321.—G. S.**—In your answer to question No. 302 in last month's WORLD you say that the clerk in making up his list for voting on a bonus by-law should make it up from the assessment roll alone. Would this be correct? See sec. 353 Municipal Act "Provided such person is on the voters' list."

2. Section 348 provides that a list shall be prepared in accordance with schedule C. Section 361 and section 362 provides for voters' list and poll-book. Would it not appear from the latter section that both a voters' list and poll-book were contemplated?

3. See section 353, "And is rated on the last revised assessment roll as such freeholder, provided such person is named on the voters' list." I suppose this would be our voters' list as confirmed by judge?

4. Our last revised assessment roll is for 1900, but our last voters' list is for 1899. Now, looking at sections 353 and 354, it would appear in making out our bonus by-law list, we should be guided by those sections, and upon such list should not be entered the name of any dead person, or owner who has sold out and removed or farmer's son who is not an owner or a leaseholder whose term does not cover the period of the indebtedness. Now how are we to arrive at the necessary knowledge. Farmer's sons are assessed with the father, and how is the clerk to know if all or any of them are actual owners or how long a term leaseholder's lease covers? I should very much like to get your opinion on above?

1. Yes. Section 353 should be read in the light of 348. The "voters' list" referred to in the latter part of sub-section 1, of section 353, means the voters' list which the clerk prepares under the authority of section 348.

2. Separate poll-books and voters' lists are not necessary, the two may be combined.

3. No. It means the list of persons qualified under the provisions of sections 353 and 354, to vote on the by-law prepared by the clerk of the municipality pursuant to section 348.

4. Your last revised municipal voters' list is not to be used in preparing the list of persons entitled to vote on the by-law. Section 348 states distinctly that the persons so entitled to vote are "all persons appearing by the last revised assessment roll, to be entitled to vote under sections 353 and 354 of the Act." Your list should be prepared from the assessment roll of your municipality for 1900, since it is the one last revised, and should contain the names of all persons appearing thereon to be entitled to vote under sections 353 and 354, of the Act. Except such persons who, to the knowledge of the clerk, (by the registration of deaths or otherwise,) have, since the final revision of the assessment roll, ceased to possess the necessary qualification.

#### Collection of Arrears of Statute Labor.

**322.—R. W.**—There are some road divisions in the township that have done no statute labor during 1898 and 1899. Some of the parties

claim they were not warned out; the pathmaster has not returned any list. I sent out the lists for 1900 with the work for the two previous years added and instructed the pathmaster to get all the work done. I hear they have performed the work for this year only. Can the council order the amount due for 1898 and 1899 to be placed on the collectors roll if the parties refuse to do the work, and can it be legally collected?

No. "The council should obtain returns from pathmasters who failed to make such in 1899, and the commuted statute labor due from defaulters named on such lists should be placed by the clerk on the collector's roll for 1900."

#### Accident on Road out of Repair

**323.—J. M.**—This is a township municipality. A government road has been cut out about seven years ago from here to Massey, the next village. There are no settlers along it to put it in good condition. The road is passable and no complaints have been made about it. A man coming into the village with a big load gets his horse mired in a mud hole. At this place there is a road to get around the mud hole. Is the council responsible for damages? There is another road built to answer the same purpose but it is a little longer. The council is not able to keep both roads in first class condition.

This is a question of fact, and therefore not easily answered on the statement which you have given. The rule is that a public road must be kept in a reasonably fit state for travel. What will be a reasonably good road in one locality might not be considered so in another locality. The amount of travel, the means of the municipality, and other circumstances must be considered. Unless the mud hole was palpably dangerous as compared with the road generally, the municipality is not liable, nor is it liable unless there was knowledge of its existence or it had existed so long that the corporation was guilty of negligence in not having discovered it. Another question to be considered is whether the party was guilty of contributory negligence.

#### Ownership of Driftwood.

**324.—J.**—A purchases a lot in the district of Nipissing on Lake Nipissing and made first payment to the government. A river near by lets out every spring, lots of floodwood that very often the wind blows ashore on the banks opposite A's lots. The Crown Lands Department sold these lots by number for what they contain. One of A's lots contains 340 acres and the other 270 acres, and the boundary on the lake side is stated by the department to be high water mark.

1. Can A claim any damage for cutting such floodwood on the lake shore on his lots provided no damage is done except the taking of the wood, and that below the high water mark, no trespass being made above the high water mark?

2. Who is the owner of floodwood on the banks of Lake Nipissing?

1. Without a copy of the description contained in the patents granted by the Crown for these lots we cannot answer this question. Usually the descriptions of lots bordering on lakes run to the waters edge and if A under the patents granted to him by the crown is entitled to the land to the waters edge, he is entitled to driftwood without any known owner, which is thrown or cast upon the beach by the action of the wind or water