

Compulsory Removal of Fences Causing Accumulation of Snow.

609—E. J. M.—A has a log fence running north and south along the west side of a concession wood. In winter time the snow fills the road on account of that high fence, and the fence on the east side of the road as well. This makes it harder driving in winter time. Usually A takes down his fence when the snow falls in early winter. Suppose A does not want to take down his fence for the winter :

(1) Has the Pathmaster the right to order A to take down his fence, and has A to abide by the order ?

(2) If A does not want to take his fence down, can the Pathmaster cause the fence to be taken down, so long as he makes the fence good in the spring ?

(3) Can the council cause A to put down his fence without paying him ?

1. No.

2. No.

3. No, but the council of the township may, by by-law passed under the authority of sub-section 2 of section 545 of The Consolidated Municipal Act, 1903, settle the height and description of lawful fences, and regulate and settle the height, description and manner of maintaining, keeping up and LAYING DOWN fences along highways, or any part or parts thereof, and may make compensation for the increased expenses, if any, to persons required so to maintain, keep up or LAY DOWN such last mentioned fences or any part thereof. As to the compulsory removal of fences causing accumulations of snow see the provisions of An Act Respecting Snow Fences. (R.S.O., 1897, chapter 240).

Regulation of Erection of Poles, etc., by Telephone and Telegraph Companies.

610—W. M. S.—The Municipal Amendment Act, chapter 34, 6 Ed VII., section 20, states that township councils may pass by-laws for permitting and regulating the erection and maintenance of telegraph and telephone poles, etc., etc.

1. Under this section may council pass a by-law, general in its terms, setting forth that permission to erect poles, etc. must first be obtained from the council ?

2. Regulating the distance of poles from highways ?

3. As to keeping the highways clear of fallen poles and wires ?

4. As to the right of the council to grant like privileges to any person or persons at any time ?

5. Should the by-law be specific granting certain privileges to one party but including points as noted.

1. We think a provision of this kind in any general by-law would be superfluous, as a telegraph or telephone company has no authority to erect poles, etc., on a highway in the municipality until it has first obtained the permission of its council to do so, except in cases of companies whose charters grant them this permission, as for example : The Bell Telephone Co. and Great Northwestern Telegraph Co.

2, 3 and 4. We are of opinion that it would not be wise to insert these provisions in a general by-law.

5. The circumstances and conditions are apt to vary to such an extent that we think the council should pass a special by-law in each instance where application is made to it by a telegraph or telephone company to erect its poles, etc., on a highway.

The Oxford county council will co-operate with the councils of Waterloo, Brant and Elgin in the matter of the proposed establishment of a consumptive sanitarium. The county council at its special session appointed a committee to meet with representatives from the counties named. Most of the members expressed themselves as strongly in favor of the erection by the three counties of sanitarium where patients could be treated in the incipient stages nearer than Gravenhurst.

ASSESSMENT FOR SCHOOL PURPOSES

Following is the text of a judgment given recently by His Honor Judge FINKLE, in the matter of an appeal against the decision of the Court of Revision of the township of West Zorra, relating to certain assessments for school purposes :

"In pursuance of appointment issued by me on the 7th of January and forwarded to the clerk of West Zorra, I proceeded with the taking of the evidence as to whether the assessment on the lands was correct or not as to amount and as to how same was made.

"It was shown by the owners that prior to the assessment of 1906, the owners were assessed prior to the assessment appealed against in the school section in which the respective parties reside and which it is argued was correct.

"Appellants contended that such lots could only be assessed as stated above, and referred to 16 Vic., chapter 185, section 16.

"The township submitted that this Act was repealed by 37 Vic., chapter 28, section 191—that section 33 of 22 Victoria was included in the Consolidated Act of 1874, and is section 58 of chap. 37, Victoria 187. (Municipal Officers of Ontario)

"This same section reappears in the consolidation of the Revised Statutes of Ontario for 1877, and is section 106 of chapter 204 R. S. O. 1877, and the part of the section on which appellants rely, namely : 'Every undivided, occupied lot or part of lot shall only be liable to be assessed for school purposes in the school section where the occupant resides,' is omitted, and if that section were still law as contended by the counsel for the appellants they would be entitled to have their assessment struck out of the school section where they did not reside.

"I agree with the argument of counsel for the township, namely, that the law was repealed as contended for by the township, by chapter 49 of 48 Victoria, 1885, and section 120 reenacts the first part of the above section 106, but the latter part of section 106 is omitted, and section 120 of the School Act of 1885 is identical with section 12 of sub-section 2 of the School Act of 1901.

"As above pointed out the clause of the statute on which appellants rely last appeared in the Revised Statutes of 1877 as sub-section 2 of section 106, of chap. 204 and the whole of the statute (chapter 204) was repealed by The Public Schools Act of 1895, 58 Victoria chapter 47, as appears in Schedule 'B' of that part of the Act at page 260.

"Appellants were obliged to admit on the argument that the statute originally cited was repealed, and that as the law now stands such property is to be assessed as it has been in this case, but that it can only be by by-law passed under the present law.

"I do not, however, agree with this contention, but do agree with the argument advanced on behalf of the township at the sitting of the court, that the assessment of the land so purchased by the railway should be assessed for school purposes against the railway, and the assessor is to change the assessment in accordance therewith."



H. H. BEAM

Ex-Warden Welland, who presided at session held by delegates representing Counties and Townships.