

put to him. He might give as a reason for not selling at the assessed value that a man cannot hunt up another place suitable or convenient to his place of business, and that it cost a good deal to move, carpets have to be cut and altered, etc.

Townships and Sidewalk Accidents.

251.—R. B. W.—1. Are township corporations liable for damages caused by defective sidewalks built by both village and council in unincorporated villages in their townships?

2. Can a justice of the peace cause to be arrested and commit a tramp if there is complaint made, and charge fees to the corporation where he is found?

1. Yes, if such damage is caused by the negligence of the township municipality. A municipality is not liable in every case where damage is sustained. Negligence must be proved. For example, a municipality may show that it had no notice or knowledge that the sidewalk was out of repair, and that the defect was so recent that it could not be presumed to have had notice in law. In that case, it would not be liable for the damage. The village, being unincorporated, is part of the township.

2. No.

June Gravel Contract Completed in Winter—Accident.  
See also 265.

252.—T. C. M.—The township road surveyor let a job of building a piece of road in June, 1897, no definite time set for completion of work. The party who took the job drew gravel in the winter and spread on the road, thereby spoiling the same for travel. A ratepayer, hauling a load along the road, broke his harness and injured his sleighs in passing over this piece of road. Who is liable for damages?

The township council knew nothing of the matter until suit was entered for damages. There was a better road to travel about a mile distant, and just as convenient for the party aggrieved.

You do not furnish sufficient information to enable us to say whether the township is liable or not. It does not appear whether the road surveyor had any authority from the council, nor is it explained why the surveyor, letting a job of building a piece of road in June, never took the trouble of seeing whether the work was finished or not. You say that you knew nothing about the matter. Who was the surveyor? Are we to assume that he was a stranger acting without any authority from the council? Surely not. The council must have known something of it. If we assume that the council knew nothing about the matter the municipality is not liable unless it can be shown that the gravel was on the road and made it dangerous, and for such a length of time that the council ought to have known that it was there, and was guilty of negligence in not having discovered it. Section 558 of the Municipal Act, R. S. O., 1897, provides: "No stone, gravel or other material shall be put upon the roads for repairs during the winter months so as to interfere with sleighing. There is no doubt but that the person who put the gravel on the road is liable if the injury was caused by it and was not occasioned by the negligence of the injured party.

By-Laws re Cattle Running at Large.

253.—Q.—The council of this municipality passed a by-law wholly prohibiting horses, sheep, etc., from running at large, but the by-law allows cattle over two years to run at large from 6 a. m. to 8 p. m., during the period of the year from 15th April to 15th November.

1. In view of section 103 of the Railway Act of Ontario, R. S. O., 1897, cap. 207, is the above by-law legal, inasmuch as it allows cattle to run at large while the G. T. Railway track enters the municipality and intersects two streets thereof?

2. Is the by-law legal in as much as it allows cattle to run at large while some other animals, such as those mentioned, are wholly prohibited?

1. Unless the by-law professes in express terms to permit cattle to run at large within the limit prohibited by section 103, we do not think it is illegal because it does not expressly except as much of the highways within the municipality as are within the limits provided by that section. We think that a by-law in general terms permitting certain cattle to be at large would be held to operate subject to section 103; that is, that it would apply to so much of the municipality as is outside the limits provided by that section.

2. It does not discriminate between different individuals. There may be a good reason, or at all events some reason, for permitting one class of animals and not permitting another class to run at large.

Voters List—Owners and Tenant—School Rates on Roll.

254.—J. R.—1. Our Court of revision will be held on the 4th June. In case of no appeals to the County Judge, is July the 6th the date at which the assessment roll stands finally revised? If not, what is the proper date?

2. A., B. and C. are assessed as follows:—

A—F	} \$200
B—T	
C—T	

Does section 93 Municipal Act apply in such cases as if they were joint owners or joint tenants? If not, who should be placed on the Voters' List?

3.—Is it imperative to place in a separate column (as has always been done in this township) the amount levied on whole township for schools, i. e. the \$150, for each school?

Reading sub-section 19 of section 71 and sub-section 2 of section 75 of the Assessment Act, R. S. O., 1897, we think that a person complaining of an assessment has the whole of the 6th day of July within which to serve a notice of appeal, so that the roll cannot be said to stand finally revised until the 7th of July in the case you put.

2. A is entitled to vote on the property as owner, and even if B and C are regarded as joint tenants the assessment is sufficient to give each a vote in a township or village, and therefore all three should be put in the Voters' List.

3. Yes. See section 132 of the Assessment, R. S. O., 1897.

Cost of Polling Booths.

255.—CLERK.—A village municipality at the election for the Legislative Assembly prior to the one in March last, furnished for one of the polling divisions of said village a polling booth in the town hall and paid for the other booth.

At the last election the returning officer made no application for booths to the council but engaged booths from private persons and the deputies sent into the Council bills for \$4.00 each for said booths. Is the village liable for both, one or any of the booths. If not, who is liable?

The village is liable for both. The council ought to have made arrangements before election for providing booths if it desired to do so. If it had provided suitable booths before election and had notified the returning officer and his deputies in proper time, and the returning officer and his deputies had declined to accept them, there would have been some reason for refusing to pay the bills.

What are County Bridges.

256.—G. R. B.—What length of proportions must a bridge be when it shall be built and maintained by the County? Who is responsible for the building and maintaining of bridges on the boundary between the townships?

In the absence of a by-law of the county the county has to erect and maintain all bridges over streams forming or crossing boundary lines between two local municipalities other than a city or separated town, and this is so without regard to any particular width so long as a bridge is required as distinguishable from a mere culvert. See section 617, Municipal Act, R. S. O., 1897. But the County Council may pass a by-law under sub-section 3 of the same section, that the words "rivers, streams, etc.," mentioned in section 613 or 617, shall not apply to a river or stream less than 80 feet in width, and in the event of a county council passing a by-law the councils of the local municipalities must erect and maintain all bridges required over such streams, etc., less than 80 feet in width. This power is not given to the county councils in respect of bridges over streams which cross or separate boundary lines between counties.

Assess Telegraph and Telephone Poles.

257.—CLERK.—In your answer to question 106 in the April number of THE WORLD 1897, you say you do not think that Telephone and Telegraph Company's are liable to assessment on their poles and attachments, in the municipality in which they happen to be. Will you kindly mention on what portion or portions of the Statute you base your opinion?

If you will look at the November (1897) number of the WORLD you will find that we expressed the opinion that telephone poles are assessable and they ought to be assessed in the municipality where situate. The opinion which we expressed in the April number was based upon the case of Fleming vs. Toronto Street Railway Company, where it was held by the Court of Appeal that the rails laid along the streets were not assessable but Chief Justice Strong who was a party to that decision, said in delivering judgment in the Consumers' Gas Company vs. Toronto in the Supreme Court: "The chancellor attempted to distinguish that case from the present, but I confess I do not think it is susceptible of distinction. I was a party to that decision, but