

### Qualification of Auditor—Time for Submitting Local Option By-Law—Time for Payment of School Money.

307—X. Y. Z.—1. The township of M gave a bonus for the erection of wire fences along the highway. A is an auditor. He erects a wire fence along his property and receives the bonus. Does it disqualify him for the position of auditor?

2. The township of M passed a local option by-law which was carried by a vote of the people, but was subsequently quashed on a technicality. Can they vote on the question again next year, or will they have to wait three years?

3. The secretary of S. S. No. — sent a letter to the township treasurer saying that on the 1st of April for the use of the school section he wants \$200. He says that the inspector told him that when he wanted money for school purposes all he would have to do was to go to the township treasurer and he (the treasurer) would have to give it to him, and quoted some section of The School Act as his authority for so doing. The township treasurer refused to give him any money. Was he justified in doing so?

4. Could a township council pass a by-law authorizing the treasurer to lend to school sections certain sums of money, charging the said sections say six per cent. for the money—they (the council) being able to borrow it for 5 per cent. for township purposes?

1. We are of opinion that A cannot legally act as an auditor, as during the year previous to his appointment he had a share or interest in a contract with the corporation (see sub-section 1 of section 299 of The Consolidated Municipal Act, 1903).

2. There is nothing to prevent the submission by the council of another local opinion by-law to the electors on the day of the holding of the next annual municipal election. Since the by-law submitted last January received the approval of the required number of electors, sub-section 5 of section 141 of The Liquor License Act (R. S. O., 1897, chapter 245) does not apply.

3. We presume that the provision of the statute referred to is sub-section 10 of section 70 of The Public Schools Act, 1901, as enacted by section 39 of chapter 53 of The Ontario Statutes, 1903. This sub-section does not authorize the township treasurer to pay to the trustees of school sections in the municipality any moneys which have not been levied and collected and are in his hands for school purposes. If there was nothing to the credit of this school section in the hands of the treasurer at the time the secretary made application for this money the treasurer did right in refusing to pay him any. The trustees will have to borrow the money required under the authority of sub-section 10 of section 63 of the Act, and provide for the sum required to repay the loan in the next estimates furnished the council.

### Liability for Drainage of Cellars, etc.

308—T. W. S.—My cellar drain runs into a ditch about four inches higher than and opposite to the mouth of a tile drain which crosses the road.

The fall of the land at the outlet of the drain which crosses the road is four feet above the level as the land slopes from the outlet.

During the past winter the outlet to the road drain was allowed to fill with mud and the water froze in the tile and this spring backed the water into my cellar to the depth of fourteen inches, covering my potatoes and vegetables and spoiling them.

I notified the road overseer about it and he allowed the water to remain in my cellar for four weeks before he opened the drain across the road.

Am I entitled to damages from the township for the loss of my vegetables, damage to my cellar, and water standing around the roots of my fruit trees?

We do not think this owner has any claim for damages against the township which he can successfully prosecute. The council is not bound to construct, maintain and keep open drains for the purpose of draining the cellars or premises of owners adjoining the highway. If an owner's premises require draining he should institute proceedings under the provisions of The Ditches and Watercourses Act (R. S. O., 1897, chapter 285) and in

this way the rights and liabilities of all owners interested, including the municipality, can be properly adjusted.

### Compensation Cannot be Paid for Sheep Killed Outside the Municipality.

309—R. B. C.—A ratepayer in K township in which a dog tax is levied, had sheep killed in the neighboring township of G where they were pasturing on hired pasture land.

The council of G township does not impose a tax on dogs in their municipality.

Will it be legal for the council of K township to pay the ratepayer of K municipality for the damage sustained, not exceeding two-thirds value as they think he should be rewarded.

We are of opinion that the township of K. has no authority to pay this claim. Section 18 of chapter 271 (R. S. O., 1897) provides that "the owner of any sheep or lamb killed or injured by any dog, the owner or keeper of which is not known, may, within three months after the killing or injury, apply to the council of the municipality in which such sheep or lamb was killed or injured, for compensation, etc." In this case the killing took place outside the limits of the township of K., therefore its council has no power to pay the amount of the compensation.

### When a Dog is Assessable.

310—W. A. R.—At what age is a pup liable to assessment under a municipal by-law assessing a tax on dogs, but not defining any particular age?

A dog is a dog for assessment purposes as soon as it is born.

### Construction of Drains Under The Municipal Drainage and Ditches and Watercourses Acts.

311—W. H. W.—A few years ago the council of the township cut the drains wherever they were needed to drain the lands in the township. The last few years there have been a great many drains cut, either under The Ditches and Watercourses or Drainage Act. Now the last system is not fair to the parties who have to pay a special tax on those drains. There are drains where the road and the individual are both benefited.

What I want to know is, if we can legally collect the individual's share if he is willing, in his taxes, or will he have to do his portion of the drain himself, or, if we sell the drain, have the contractor take him for his portion? Some of them have not got the money now, but want the work done and agree to pay later on. I want to know how to keep the municipality secure from loss and do the work now?

We understand that these drains were constructed under the provisions of The Municipal Drainage Act, (R. S. O., 1897, chapter 226) or The Ditches and Watercourses Act (R. S. O., 1897, chapter 285). In either case, in order to secure the municipality against loss or trouble, the provisions of the Act should be strictly complied with. The construction of a drain under the former Act should be let as provided in the Act, and the cost assessed against the lands and roads benefited, in the proportion fixed by the engineer in his report. If the drain is being constructed under an award made pursuant to the latter Act, each owner should do the part of the work allotted to him by the award, within the time therein specified. If he makes default, the township engineer should let the work, as provided in section 28 of the Act, and the council should collect the cost, as provided in section 30.

### Business Assessment for Several Businesses Conducted on the Same Premises.

312—B. A. G.—A resident of our municipality owns a farm which is at present rented to a tenant. The owner has a gasoline engine and grain chopper in the barn which he uses to grind grain for the public. Some time ago he had notices posted up advertising his chopper to do grinding at stated periods during each week. He also buys in cattle and other stock and kills them on the premises, shipping part of the meat to an adjoining town and selling the balance to the farmers, peddling it from door to door.