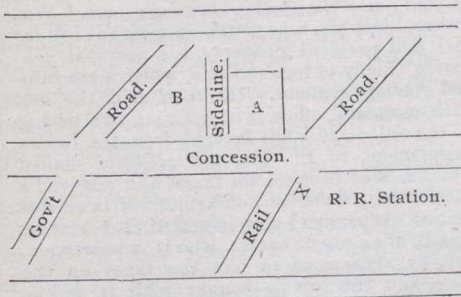


1. Has township council power to close side-line and rent or sell it?
2. Is it lawful for council to appoint a path-master owning property in township but living across townline in the next township?



1. Section 637, of the Municipal Act, authorizes the councils of townships to close, rent, or sell roads in the municipality, but, before doing so, the preliminary proceedings prescribed by section 632 must first be strictly observed and carried out. In closing this road the council should also consider subsection 11 of section 640, sections 629, 641 and 642.

2. Yes.

Payment of Damages to Owners of Thoroughbred Sheep.

237—R. M. T.—There has been several pure bred sheep killed in our township and though they are not valued more than they are worth, the valuation was very high. One ram valued at \$25.00 and three ewes valued at \$18.00 each.

1. Are we enforced to pay two-thirds of the valuation of pure-bred animals?

2. If not, what is the price set for rams and ewes?

1. Yes, assuming that the council has not passed a by-law pursuant to section 2 or section 8 of chapter 271, R. S. O., 1897.

2. The sum to be paid by the municipality for sheep killed or injured by dogs is not fixed by the statutes. Section 18 provides that on furnishing the proof required by this section the aggrieved party shall be awarded for compensation a sum not exceeding two-thirds of the amount of the damage sustained by him. The "damage sustained," if sheep are killed, is the value of the sheep as proved to the satisfaction of the council whether it be \$5 or \$25.

Payment of Damages to Owners of Thoroughbred Sheep.

238—R. W.—Our council at its first meeting appoint sheep valuers, whose duty is to value sheep killed and otherwise damaged by dogs, of which value our council has been paying two-thirds. From four to eight dollars has been the regular prices in the past but lately they have been asked to pay in some cases from 18 to 25 dollars for sheep. The owner claims they are registered sheep and cost or are worth that money to him and has convinced the valuator of the same. What I want to know is "are municipal councils obliged to pay these fancy prices?"

The statutes do not definitely fix the sum to be paid by a municipal council for sheep killed or injured by dogs. Section 18 of chapter 271, R. S. O., 1897, provides, that on furnishing the proof required by this section the party aggrieved shall be awarded, by way of compensation, a

sum not exceeding two-thirds of the amount of the damage sustained by him. See also our answer to question No. 237 in this issue.

School Rates in Townships Should be Paid on or Before 15th December Yearly

239—J. C.—Can municipal council of township hold back rates due school sections until taxes from which such rates are payable are collected during the following year?

Under subsection 6 of section 65 of the Public Schools Act, 1901, it is the duty of the trustees of a public school to submit to the municipal council on or before the 1st day of August, or at such time as may be required by the municipal council, an estimate of the expenses of the school under their charge for the current year. Subsection 1 of section 71 requires the municipal council to levy and collect this amount upon the taxable property of the school section and, yours being a rural school, to pay this sum to the secretary-treasurer on or before the 15th of December of the year in which it has been levied. The council has no authority to hold back moneys beyond this date. The trustees can compel its payment then, and, if the council has not the money on hand to meet the payment, it should borrow it. See section 223 of the Assessment Act.

A Line Fence Agreement.

240—J. C. C.—M has kept up the south half of the line fence between his farm and that of his neighbor G. Recently G sold off 25 acres lying along M's portion of the line fence to W and then M and W made a new division of the fence along the 25 acres, each agreeing to keep up half of it. (There are no buildings on the south half of either lot). Now W proposes to remove his half, which is rails, and to replace it with a stump fence. M doesn't like to see these rails (which he put there) appropriated by W; but W contends that so soon as he and M made the division, it was within the right of either to remove his allotted half, provided he promptly replaced it with a fence that was in accord with the township by-law regulating the height and description of lawful fences. Is W right?

The agreement between M and W being verbal, is not an agreement within the meaning of section 14 of the Line Fences Act, and is therefore not enforceable under that Act. In any event W has no right to move what he claims to be his portion of the line fence between him and M, until he has given the latter six months' notice of his intention so to do. See clause (a) of subsection 1 of section 15 of the Line Fences Act.

Collection of Water Rates by Frontage Tax.

241—T. G. W.—I have to thank you for your favor on the subject of frontage tax for waterworks. Section 687 of R. S. O., chapter 223 gives this power to townships and villages, but towns do not appear to have such power except as regards petitioners. See R. S. O., chapter 235, section 48. If my view of this is incorrect, I shall be glad to hear further from you.

Section 687, of chapter 223 of the Municipal Act, does not apply to a town and therefore it does not help you. We

cannot see what application section 48 of chapter 235 has to the question at all.

Qualification at Time of Election Sufficient.

242—J. H.—Two of our councillors (since the election) have sold their property and do not now own sufficient property in the municipality to qualify them. Another councillor lost his property through fire. Are these councillors eligible to hold their positions until January 1st, 1903?

Yes, if these parties possessed the qualification required by section 76 of the Municipal Act "at the time of the election," that is from nomination to polling days, both days inclusive, or if they did not then possess such qualification, and no proceedings were taken against them to unseat them within the time prescribed by the Act, they cannot now be compelled to vacate their seats.

Statute Labor in Villages.

243—MUSKOKA.—Kindly give me the sections in the act that provide for the commuting of all statute labor by the council of an incorporated village. I have been referred to sections 97 and 98 of Assessment Act but I do not think they cover the ground, nor do sections 561 chapter 223, or 103, chapter 224, seem to apply to villages.

Section 561 of the Municipal Act and section 103 of the Assessment Act apply to townships only. Sections 97 and 98 of the latter Act apply only to the persons therein mentioned who have not been assessed on the assessment roll of the city, town or village, or whose taxes do not amount to \$2.00. There is no legal authority for charging any statute labor against lands in an incorporated village, nor, as a consequence, is there any provision for commuting the same.

Township Not Liable.

244—J. O.—A man driving a team of horses in a sleigh, on which was a light load, got his horses down in the snow and had one of them so badly injured that it died six days afterward. The place where the accident occurred was about midway on a hill about forty rods long with a grade of about one foot in ten. The hill is cut down about fifteen feet. The cut was filled with snow by a storm in January. The pathmaster had it cleaned out, the snow carted away and the road tracked with a team and a sleigh. There were no complaints made about the highway, which is one of the leading roads of the township. The accident occurred during the spring thaw. The complainant was driving up the hill, the near horse sank into the roadway and shoved the off-horse into the soft snow at the side of the track. Neither of the horses fell down but in striving to get out of the soft snow the off-horse got injured as above stated. The snow was about three feet deep where the accident occurred. The complainant knew the condition of the hill as he lives near by. He has notified the council, through his solicitors, that he wants full value for the animal. Is the township liable for damages?

We are of the opinion that, under the circumstances stated, the township is not liable in damages to the owner of the horse. Notice of action must be given in the manner mentioned in section 606, of the Municipal Act, within thirty days after the happening of the accident, and the action must be commenced within three months after the damage was sus-