

days, and the council having paid the damages, could any ratepayer sue the council for having paid illegally?

1. The fact that the planks covering this culvert were not spiked down, or otherwise securely held in position, is evidence of negligence on the part of the municipal corporation, and since the injury complained of by the owner of the threshing machine was admittedly caused by the loose condition of the plank covering of the culvert, the corporation would be held liable for the amount of the damages he sustained.

2. No.

Collection of School Taxes in Unorganized Territory.

606—U. P.—The Government offers their land for sale here in 160-acre lots at 50c. per acre, one-half down at time of sale, but later on they saw fit to modify their terms, accepting a deposit as low as five dollars. Would venture to say at the present time that two-thirds of the land are held here on deposit. The Crown Lands agent here states that taxes cannot be collected on Crown lands, as it is still considered Crown lands until the half payment is made. The Public Schools Act makes provision for organizing school sections on application from five heads of families. The public school inspector draws up a formation of a school section. Two-thirds of section may be in (most cases are) lots held on deposit, some residents and other non-residents. A Board of Trustees is elected; they appoint their assessor to make a levy. He makes an assessment, delivers his notices, then the trustees appoint a collector to collect the rates. The collector finds, on trying to collect the taxes, a number of those lots have changed hands, the party assessed perhaps has left the country, cannot collect any thing of theirs. The collector finds another in possession. He tries to get the taxes from him, but he refuses to pay on the grounds that he was not assessed for the land and holds that he is not liable.

1. Can taxes be recorded in the office of the Crown Lands Agent for school taxes in unorganized districts against lots mentioned?

2. If the Crown Land Agent refuses to record taxes in his office, on the grounds that taxes against the lands mentioned, is still Government land held merely by settlement deposit, what can be done in the matter?

3. In case of first election organizing into a municipality, have non-residents of the township a vote?

4. Is it legal to hold an open vote?

1. No.

2. Nothing.

3. No.

4. Yes. (See section 11 of chapter 225, R. S. O., 1897.)

By-Law for Sale or Purchase of Township Hall Does Not Require Assent of Electors.

607—S. M.—Our council is contemplating the disposal of the township hall and the purchasing of a building in another place which would answer the purpose very well, the building being for sale at a reasonable price. I am of the opinion that the council has not the power to do this without the sanction of the ratepayers. That is, to either buy a hall or choose a site and build one. Kindly give your opinion of same.

The assent of the electors of the municipality is not a requisite prelim-

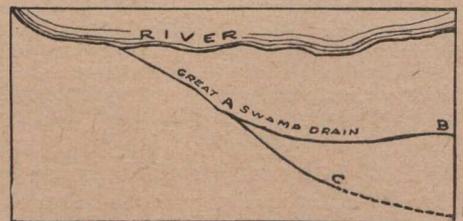
inary to the passing by the council of a by-law of this kind. (See sub-section 1 of section 534 of the Consolidated Municipal Act, 1903.) In the case of Re Hawke and the Township of Wellesley (13 U. C. R., 636,) it was held that a township council may dispose of a town hall and the site upon which it stands when they consider that a new town hall in another situation would be more convenient for the public. Of course, if the money required to buy the new site and build the new hall, is not to be repaid within the year in which it is expended, a by-law providing for the raising of the necessary funds will have to be submitted to and receive the assent of the duly qualified electors of the municipality before its final passing by the council. (See section 389 of the Consolidated Municipal Act, 1903.)

Assessment for Cleaning Drainage Outlet.

608—D. D.—That part of the drain, indicated by a continuous line, was constructed in 1874 under the provisions of the Ontario Drainage Act. That part which is indicated by a dotted line, was constructed in 1880 under the provisions of the same Act. Since its construction the drain has been repaired a number of times, but always in sections; thus from the point A to the river the drain was repaired in 1890; from A to B was repaired in 1892; from C to D repaired in 1890 and again in 1901.

The surveyor has recently made an examination of that part of the drain from C to the river and proposes to assess also those owners from A to B and from C to D, as he claims that by the present repairing they will have an improved outlet. Length of drain from D to the river is about five miles.

1. Will it be legal for him to do this?



If as a result of his examination the engineer is of opinion that the property owners from A to B and from C to D will be benefited by the repairing of the outlet of this drain from A to the river, we are of opinion that he can assess these owners for what he considers their fair proportion of the cost of making the repairs.

Same Person Can be Assessor and Collector of a Municipality.

609—S. M.—In the year 1902 I acted as assessor and also as collector for the incorporated village of B. This year I am again acting in the same capacity of assessor and collector, having been re-appointed by the council.

Some of the ratepayers of the village claim that I cannot legally hold both offices.

I have both your Assessor's Guide and Collector's Guide. I cannot find in them anything very definite on the point. I have also read the Municipal Act and found nothing definite there.

As I am anxious to know the law on this point. I take the liberty of asking you to give me your opinion, and please cite the sections of the Act on which you base your opinions.

We are of opinion that there is no legal objection to the holding and discharging the duties of the offices of assessor and collector of a village by one and the same person, as these offices are in no way incompatible.

Collection of Taxes.

610—J. A. S.—A owns 100 acres, has leased an acre, and a factory was on it owned by C. The factory was burned and the only thing on the acre is about seven cords of wood. D, the collector, has mailed a tax notice to C and put another on the wood, but C has not paid any notice to the same, and the last day of our taxes is the 15th December.

1. Can D legally go on and distraint? Has he done right with the notices, and is the tax notice the same as a demand?

2. Or if he does not get them out of C, can he come against A, the owner of the land?

3. There are some other articles of C's in the near neighborhood. Could D distraint them?

C does not live here now, only comes at times and sells a load of wood, but cannot say he is dodging his taxes.

1. We are of the opinion that the collector should make a personal demand upon C for the taxes, and then if the taxes are not paid within 14 days after such demand he should then distraint upon his chattels to make the taxes.

2. The collector must make the taxes out of C's chattels if found anywhere within the county within which the local municipality lies in order that they may be returned against the land in case they cannot be made out of the chattels.

3. Yes, if they are within the county.

The annual catalogues will be forwarded during this month in souvenir form to every municipality.

The Peterboro Light and Power Company has obtained the contract for street lighting at \$50 per lamp, agreeing also to operate the electric street railway.

Mr. F. H. Macpherson, chartered accountant, of Windsor, who has been making an audit of the accounts of the City of Chatham, has made his official report. It shows that there is a deficit of \$49,734 in that city's finances, caused by the councils of each year not paying their way, striking too low a rate, and then over-spending their appropriations.