

this case. The proceedings appear to have been wholly irregular. An appeal should be filed against each individual assessment, and the party assessed should be duly served with the notice of appeal, as is required by section 71 of the Assessment Act. The statutes do not require any assessor to arrange his roll alphabetically—this is a matter of taste, and should be arranged for by the council with the assessor at the time of employing him. If this was not a condition mentioned at the time the assessor was engaged, if he has prepared and returned his roll in accordance with the provisions of the Assessment Act, he is entitled to be paid his salary whether the roll is arranged alphabetically or not.

2. We do not think that D is entitled to any extra pay under these circumstances. He was not bound to attend this court of revision, or do any further work in connection with the assessment roll after he had prepared and returned it, in accordance with the provisions of the Assessment Act. He should have made a new contract with the council to do this extra work, if the council had any legal authority to employ him or anyone else to do it, which we do not think it had.

3. No, for the reason given in our answer to question number 2.

Appraisement of Damages by Fence-Viewers Under the Poundage Act.

440—W. C. D.—1. Where cattle are impounded and the distrainer claims damages and the owner of the cattle protests against the amount charged, what proceedings should the pound-keeper take?

2. Should the owner, the distrainer, and the pound-keeper each name a fence-viewer?

3. Who should notify the fence-viewers?

4. In naming a fence-viewer has it to be done in writing?

1. The proceedings to be taken in a case of this kind will be found in sections 20, 21 and 22 of chapter 272, R. S. O., 1897.

2. Yes. See section 20 of the Act.

3. The owner, distrainer and pound-keeper should each notify a fence-viewer.

4. The statute does not require these notices to be given in writing, but to facilitate proof of the giving and receipt of the notices to and by the fence-viewers, in case of dispute, it is better that written notices should be given.

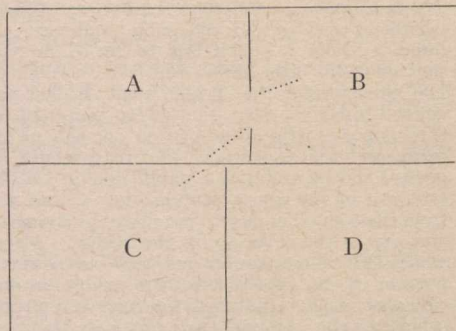
A Deviating Townline—Statute? Labor of Person Unassessed.

441—J. A. G.—A is one municipality, B and C another and D the third. The dotted line is a road that strikes the townline between A and B, runs south on it about 30 rods, then runs southwest through first concession of A 100 rods, crosses townline between A and D, runs southwest 40 rods through corner of D and crosses townline into C.

1. Is the road that runs through corner of A in lieu of townline between A and B? None of the road shown is on road allowance only where it strikes townline between A and B, but it is the recognized road, as townline between A and B was not opened up by them.

2. Can a man who is not assessed, but lives on a road beat be compelled to do one day's

statute labor? If so, what steps should be taken to compel him, and by whom?



1. If this deviating road was made only for the purpose of obtaining a good line of road, it would most likely be held to be a road established in lieu of the town lines between the several municipalities, and under the joint jurisdiction of these municipalities. (See section 622 of the Municipal Act.) This was the opinion of Mr. Chief Justice Robinson under similar circumstances in *County of Brant v. County of Waterloo* (19 U. C. R. 450), and this decision was approved in *County of Victoria v. County of Peterborough* (15 O. R. 446; 15 A. R. 617.)

2. If this man is not otherwise assessed or otherwise exempt by law, he is liable to perform one day's labor in the township under section 100 of the Assessment Act. If he neglects or refuses to perform the statute labor, he is liable to the penalty mentioned in sub-section 2 of section 107 of the Act.

Early Closing By-Laws in Townships.

442—H. L. B.—We have no incorporated town or village in our municipality. Can we (upon petition from a number of ratepayers) pass a legal by-law making it compulsory on our merchants to close their places of business at 7 o'clock p. m. two or three nights during each week? In other words has a township council any such power?

Yes, if the petition is signed by a sufficient number of the ratepayers. See section 44 of chapter 257 of R. S. O., 1897, particularly clauses (d) and (e) of sub-section 1 and sub-section 2.

Requisites of Petition for Construction of Cement Sidewalks.

443—J. B.—A petition has been presented to this council to construct as a local improvement, a cement sidewalk and has been signed by a two-thirds majority of the owners fronting and abutting on said street according to the last revised assessment roll. It is claimed that there are other owners whose names have never appeared upon the present or any other assessment roll, and have never been assessed as such owners. We are threatened with proceedings if we build the walk. The petition, in so far as value is concerned, is largely in excess of the value of the property not represented; but the numbers if the owners, not represented by signature nor not appearing on the roll is not enough to qualify said petition. Have the council the right to build the walk under such circumstances.

If the petition is signed by at least two-thirds in number of the owners of the real property to be benefited by the construction of this sidewalk, as shown by the

LAST REVISED assessment roll of the town, and the owners so signing the petition represent at least one-half in value of such real property to be benefited, the council has legal authority to go on with the work. If the above requirements of the statute are complied with, the fact that there are owners of property to be benefited, whose names do not appear on the assessment roll, does not affect the question.

Clerks Certificate to Collector's Roll—Requisition for School Moneys—Payment of School Moneys to Union Section.

444—J. H.—1. I want to know if the clerk should attach warrant to the collector's roll. If so, where is his authority for so doing? I have never seen it done, and cannot find anything in the municipal law requiring him to do so.

2. The trustees of a school section send requisition to clerk asking for say \$500. The requisition says farther on "This does not include special grant of \$150 (new law)." Should the clerk levy for the whole \$500, or should he deduct the \$150, and levy the balance? The clerk not knowing anything further than is contained in the requisition.

3. The treasurer of an incorporated village school board union with township asks the township treasurer to send him the amount due from township without sending an order. Should the township treasurer send him the money under the circumstances?

1. We agree with you that there is no statutory authority for the attaching of a warrant by the clerk to the collector's roll prior to its delivery by him to the collector. After the clerk has prepared his roll in accordance with the statute, all he is required to do, is to append thereto the table mentioned in sub-section 2 of section 130 of the Assessment Act, and to certify to the roll under his hand as required by section 131.

2. We think it quite clear from this statement of the facts that the clerk should levy the whole \$500 on the taxable property of the public school supporters in the section whose trustees have filed this requisition.

3. The township council should by resolution authorize the issue of an order for this sum to the treasurer of the union school board, and the township treasurer has no authority to pay the amount, until such an order is presented to him.

Payment of Expenses of Ditches and Watercourses' Drain.

445—T. B.—In 1900 the engineer on requisition made examination of certain property under the Ditches and Watercourses' Act, and laid out a ditch to be completed first November 1900, by parties owning properties that ditch ran through, the work was done and expenses paid by owners.

In 1902 by requisition of other parties to get an outlet into same ditch, engineer came on and gave an outlet into it and taxed the first parties with part of his expenses as he claims he had to make a new award. Was it legal to make them pay the second time after the construction of the ditch?

It does not appear whether the persons interested under the first award who were charged with a part of the engineer's fees were notified of the proceedings which led