Qualification of Reeve or Councillor.

286.—G. G. S.—Is a person qualified for the office of reeve or councillor if assessed at $725, freehold, and has a mortgage on the same for $700.00?

No. See section 76 of the Municipal Act, which provides that a person shall not be qualified for the offices mentioned, unless at the time of the election he has, or his wife has, freehold property which is rated in his own name, or that of his wife, on the last revised Assessment Roll of the municipality, for $400 *over and above all charges, liens and incumbrances affecting the same.*

Compensation for Sheep Killed, When no Dog Fund.—Description of Land in Voters' List.

287.—J. R.—1. In December, 1866, the council of this municipality passed a by law appointing a treasurer for "dog-taxes." The dog-tax was levied during the next three years and claims for damages for sheep killed paid, but since 1870 no dog tax has been levied. The council in office at that date seems to have ceased levying dog tax without passing by-law "to dispense with the levy of the aforesaid tax" as per chapter 271, section 21, R. S O. If by-law were passed, a copy was not made and original is lost. At last meeting of council a claim for damages for sheep killed was presented under section 18 of the above Act. Can the claim be enforced, there being no dog fund, and the "Act for the protection of sheep, etc ," not enforced since 1870?

2. In making out Voters' List, (a) is it necessary to give full description in column headed "Lot" as W. ½ 2 or part 2? (b) Is the number of lot not sufficient without the prefix?

1. Section 7 of chapter 271, R S. O., 1897, provides that the money collected under the act and paid to the treasurer or clerk, etc., shall constitute a fund for satisfying such damages as arise in any year from dogs killing or injuring sheep, etc. If there is nothing to the credit of the dog fund in a municipality, as in your case, the council cannot pay claims for compensation under the act.

2. (a) and (b) The Voters' List should be prepared from the Assessment Roll, and the latter should contain as accurate a description of the property of each person assessed as the limited space will permit, and this should be inserted in the proper column of the Voters' List. The insertion of the lot number only, would not invalidate the list or a vote, but the more accurate description giving the part of the lot in respect of which the voter is assessed is much to be preferred.

Compensation for Sheep Killed—When Owner of Dog Known.

288—I. F.—A sheep is killed by a dog; sheep owner takes affidavit that he has found the owner of dog and killed the dog. The council intend to pay the full amount of damages.

1. Has the township to pay in this case?

2. Should not the sheep owner proceed against the owner of dog?

1. No. Section 18 of chapter 271 (R. S. O. 1897) in part provides that "if the council is satisfied that the aggrieved party has made diligent search and inquiry to ascertain the owner or keeper of such dog, and that such owner or keeper cannot be found, they shall award to the aggrieved party for compensation a sum not exceeding two thirds of the amount of the damage sustained by him." The owner of the dog in this case being known he must be proceeded against in the first instance.

2. Yes. See section 15 of the Act. If for want of sufficient distress to levy the same, the amount of the damages, cannot be realized from the owner or keeper of the dog, then the owner of the sheep killed is entitled to apply to the council for and obtain compensation, under the provisions of section 17 of the Act.

Improvement of Municipal Drain.

289.—DRAINAGE.—We have a drain in our township running alongside of the roadway from its outlet into Judge's Creek, on lot 15, thence south to lot 8, there is rock in the bottom of the ditch in one place on lot 10. The owners of lots 8 and 9 want the township council to lower said rock, claiming it backs water onto their lots. They also want the council to build them a road in front of lots 8 and 9. This the council cannot do at present, as it is too wet. The council are willing to lower said rock, but the owners of lots 11, 12 and 13 object to the lowering of said rock, as they claim the present ditch can barely carry the present water, and that any more water let into the present ditch will cause it to overflow on to their lands, and they will hold the council liable. Will the council be liable for any damage that may be done by a future overflow if they lower the rock in the ditch?

The drainage was constructed as part of a drainage scheme under The Ontario Drainage Act several years ago. The water running in it is spring water rising on lot 8.

It would seem from the statements of the owners of lots 11, 12 and 13, that the lowering of the rock would allow an additional quantity of water to flow through the drain, and that the enlargement of the outlet would be necessary. If the cost of the work will not exceed one-fifth of the cost of construction or in any case $400, the council may pass a by-law pursuant to section 74 of the Drainage Act (R. S. O., 1897, chap. 226) providing for the doing of the work, and the assessment of the costs against the lands and roads benefited, as provided in this section. If the cost of the work will exceed the above sum the council should proceed under section 75 of the Act. The municipality will be liable for damages recoverable by action if the work be done negligently, and if there is no negligence in the performance of the work, the damages, if any, resulting from the work must be determined by arbitration in the manner provided by the Municipal Act.

Assessment of Wires, etc., of Telegraph Companies.

290.—I. A.—A certain railway company own the telegraph poles on their right of way for railway through this municipality, and are assessed for right of way, poles, etc., and the railway company have allowed certain telegraph companies to place wire on said poles and instruments in their railway stations. Are these telegraph companies liable to be assessed for wire and instruments? and if so, in what shape, and if not, who should be assessed for them?

The Telegraph Companies should be assessed for the wire, switch-boards, telegraph instruments and their attachments, as realty belonging to the companies. See Re Canadian Pacific Telegraph Co. 34 C. L. J. 709. The Assessment of this species of property is not of much consequence, however, because it can only be assessed as so much dead material, and not upon the basis of its value as a part of a going concern.

Seizure of Personalty Bought Conditionally.

291.—G. M. B.—In 1898 our collector seized and sold a fanning-mill in order to get taxes. The sale was made in accordance with the law, but about a month ago the collector for the payee of the note came along and took possession of the mill, saying there was a lien on the mill. The note at this time was about two months past due,

(I enclose a copy of note, also a certified statement of repossession on the back.)

1. Was the sale illegal, there being a lien on the mill at the time of sale.

2. If so, can the taxes for 1898 be replaced against the land?

3. Is there any redress for the council to regain the taxes for 1898. If so, please give your proposed plan of doing it, or, in short, is there any way out of the difficulty?

1. The party in whose possession the fanning-mill was at the time of its seizure, was entitled to such possession under a contract by which he was to become the owner thereof upon the performance of a condition, that is, the payment of the note, a copy of which you enclose. Therefore, the collector should satisfy himself of this fact, and could only seize and sell the interest of the party in possession of the fanning-mill at the time of the seizure. See clause 2, of sub-section 1, of section 135, of The Assessment Act. Assuming it to be a fact that the note was unpaid at the time of the sale, the sale of the mill absolutely was illegal. See also Q. 294, 1899.

Appointment Under the Ditches and Watercourses Act.

292.—A. M.—A ditch made in the summer of 1899 from concession 2 to concession 3, along the dividing line between A, C, B, D and E by agreement under The Ditches and Watercourses Act. At the time the agreement was entered into it was the opinion of the interested parties that, if the ditch was made to the third concession, there would be sufficient outlet where the ditch enters on the west half of lot 18, in the third concession. From the second to the third concession the ditch runs through a sandy loam and during the high water this spring the earth has been taken from it and filled up the water course on west half of 18, in concession 3. B now asks for a reconsideration of the agreement and claims that the watercourse will have to be cleaned out across the west half of 18, in third concession, and extended about five acres on to lot 17, owned by F, who was not a party to the agreement. You will notice that B owns the west half of lot 19, in the second, and the west half of 18, in the third concession. We want you to say what portion of this work should be done by the several parties interested, and also the portion that should be done by F, who was not a party to the first agreement?