any part, and if so, what part of the expense be paid by parties whose lands are specially benefited, having their cellars drained by this drain?

We are of opinion that the village corporation is not bound to take action in this matter. The party or parties interested should proceed under the drainage clauses of the Municipal Act, or under the Ditches and Watercourses Act, and then probably an obligation or liability in respect of the drain in question would be imposed by the engineer on the village corporation, proportionate to the amount of benefit derived by them from the construction of the drain.

E. W.—Separated from township and incorporated as village. 1st election January, 1892, employes of railway present themselves at poll and vote on income, most of them making declaration that they are in receipt of $400.00 or over per year income, or from some trade or profession, or calling, etc. These voters assessed following year at $400.00 each; Assessment reduced by council to $200.00; no appeals against assessment. They now refuse to pay tax. Can we collect it? Was it justice to assess them?

2. Citizens' fence encloses part of road allowance, what proceedings should be taken to have fence put back? Citizen notified to do so by council, but did not.

1. We assume that the income assessment was reduced from $400 to $200 on appeal by the parties assessed to the court of revision and that there were no appeals from the court of revision to the county judge. If this be the case we see no reason why the parties assessed should refuse to pay the income tax or why the council cannot collect it, nor can we see that there was any injustice in the assessment.

2. If the road allowance is well defined and the citizen's fence is without doubt enclosing part of the road allowance, and the citizen refuses or neglects to remove same, pursuant to notice given him to that effect, by the council, it seems in order for the council to compel the removal of same by mandamus or to place the same on the proper line at the expense of the citizen offending.

T. B.—Public road crosses a farmer's two lots of land with a fence on each side of road 42 feet wide. Said fence being up for more than 10 years, and made by the land owner. No statute labor done nor money expended on said road, nor by-law establishing same. Can owner move in the fences on each side to the wagon track as he threatens to do? Road has been travelled more than 20 years. What steps should be taken to prevent him closing the road?

The sole question here seems to be as to whether the road referred to answers the definition of a highway. We think it does. It would seem that the opening of the passage through his lands by the owner and his allowing the public to use and travel it as a road for the length of time mentioned would amount to a sufficient dedication of the same to the public for use as a public highway. It was stated in an English case that "an owner who opens a passage through his land and neither marks by any visible destination, nor excludes persons from passing through his land by positive prohibition, shall be presumed to have dedicated it to the public." The proceedings to be taken in case of an attempt to close the road would be the same as those to be taken against any person obstructing a well-defined and known highway.

SUBSCRIBER.—A merchant built a store on side of a government road, and the water comes in his cellar, he dug a drain across the road, and through another man's lot for the water to go through, and covered it up, and now it is filled up, and there is water in his cellar, at the present time; now he wants the council to put in a pipe drain at the expense of the township, to clear his cellar of water. What I want to know is whether he can compel the township to drain his cellar, or has he to do it himself at his own expense and across the other man's lot? He claims the township should do it at their expense.

We do not consider the township under any obligation whatever to construct the drain referred to by our correspondent.

T. U.—1. A is appointed pathmaster, but refuses to take his list unless the council will sustain him in removing all fences that encroach on road. Can the council compel him to act, or pay a fine! If they do not sustain him?

2. In a free grant district where colonization roads were built through the bush, and only cut 40 feet wide, and the road very often crooked, how shall the proper width of a road be determined after it becomes cleared on either or both sides?

3. On a road so laid out and built, can a municipality claim the full road width of 4 rods, and if so how shall it be determined about the lines when it was built so crooked?

1. If the council has passed a by-law pursuant to the provisions of sub-section 17*a* of section 479 of the Consolidated Municipal Act, 1892, they can have the pathmaster fined for refusing to accept and perform the duties of his office, unless he can show good cause for such refusal. If there are fences encroaching on the highway in the pathmaster's road-division, the council is responsible. It seems to us the compelling of removal would be a question between the council and party or parties complaining, and the excuse that the council would not sustain him in removing such fences, would not be "good cause" for the pathmaster to refuse to accept and perform the duties of the office.

2. We assume that this road was originally surveyed or laid out to the statutory width of sixty-six feet, and the width of the road and location of its limits would be determined from the notes of the engineer or surveyor who laid out the road, and from stakes planted on the ground.

3. On the above assumption that the road as originally surveyed was sixty-six feet in width, this extent of road can be claimed by the council, and the limits ascertained, as stated in our answer to question No. 2.

A VILLAGE CLERK.—Mr. A living in the incorporated village of W. owns $25,000 worth of stock in an incorporated Loan and Savings Company, situated in the town of H., upon which a dividend of 7 per cent. per annum is paid him. Is Mr. A liable to be assessed for his income from this source, and if so, where? in the village in which he lives or in the town of H?

We are of opinion that A is not liable to be assessed for the income he derives from the source referred to by our correspondent. Mr. Harrison, in a note to sub-section 19 of section 7 of the Assessment Act, says: "It is presumed that as the interest and dividends of building societies and real estate loan companies are liable to assessment in the municipality where they are situate [see sections 34 (1) and 35 (2)], that when this assessment has been paid by the companies the stockholders will be exempt from any further assessment on account of such dividends should they reside in another municipality;" and this seems sound logic.

G. E.—There is a doubtful case of typhoid. The father refuses to send for a doctor. The board of health sends for one in order to find out whether it is a contagious or inflectious disease. Who pays for the doctor, the father or the board? The former is quite able to pay.

There is no doubt that the board under the circumstances, are the parties directly responsible to the doctor, for his charge. As to whether the board can recover the amount so paid the doctor, from the head of the family afflicted is doubtful, especially since in their case the provisions of section 68 of the Public Health Act, do not appear to have been strictly complied with. And we would not advise the attempt.

TOWN CLERK.—Kindly give me your interpretation of sub-section 4 of section 616 of the Municipal Act, respecting as in our case the ditching and cleaning of lands by special assessments on the property benefited.

1. Is the notice of court of revision referred to therein to be given before or after the work is done, or does the notice require to be given in full? Does not the notice required to be given under sub-section 4 of 618 seem to conflict with sub-section 4 of 616?

2. Does section 623 *b* of the Municipal Act imply that a court of revision shall be held and notices given of assessments for the cost of the said work?

1. We are of opinion that the notice should be given before the work is done. We do not see that there is any conflict between the two sub-sections mentioned. Sub-section 4 of section 616 seems to require the giving of that part of the notice mentioned in sub-section 4 of section 618 which relates to the court of revision.

2. We think the inference to be drawn from the wording of this section is that the giving of notice of assessment and the holding of a court of revision are not necessary.

CITIZEN.—Our town council has not made any assessment for 1893, between the 15th of February and 30th of April, but wishing to introduce the system of collecting taxes by instalments, quarterly, or otherwise according to the provisions of section 53 of the Assessment Act, and for that purpose have passed a by-law requiring the assessment to be taken under the provisions of section 52 of the Assessment Act, which, when completed, on the 31st of December, 1893, the council of 1894 might adopt if the council of that year thought fit, as the basis of a levy to be made for 1894.

But no assessment has been taken between the 15th of February and 30th of April for the year of 1893, whereby taxes for the year of 1893 can be levied under the provisions of sections Nos. 357, 359, 360, 364 and 413, of the Consolidated Municipal Act. Under these circumstsnces how are