

from the clerk, are not entitled to be paid any fee for their attendance, unless their presence is enforced by a subpoena issued and served pursuant to sections 25 and 26 of The Ditches and Watercourses Act (R. S. O., 1897, chapter 285). It is optional with these parties as to whether they attend the hearing or not, and if they do so voluntarily they are presumed to be present to look after their personal interests in the matter and must bear and pay their own expenses. If, on the other hand, they are present in obedience to a subpoena, issued at the instance of either the appellant or the municipality, and the presiding Judge so orders, as empowered by sub-section 7 of section 22 of the Act, the municipality must pay their witness fees on the Division Court scale.

2. Yes, if present in obedience to a subpoena regularly issued and ordered to do so by the presiding Judge.

3 and 4. By "engineer's report" we presume is meant the award made by the engineer, which was the subject of the appeal. If this is so, the award having been set aside, sub-section 7 of section 22 empowered the presiding Judge "to provide for the payment of the costs in the award mentioned." If these costs were not mentioned in the award, as stated, the Judge had no power to provide for their payment by the municipality, or any one else.

Where Statute Labor Should be Performed—Assessment of Premises for School Purposes.

231—D. B.—1. Has a person holding property in two different road divisions to do statute labor for each property in each road division?

2. A man holds property in one school section and lives in another. The sections adjoin each other. Has his school tax to go to the school he lives in or be divided, the amount on each property going to school section in which it lies?

1. The latter part of sub-section 2 of section 109 of The Assessment Act provides that "every resident shall have the right to perform his *whole* statute labor in the statute labor division in which his residence is situate, unless otherwise ordered by the municipal council."

2. Sub-section 2 of section 12 of The Public Schools Act, 1901, provides that "where the land or property of any individual or company is situated within the limits of two or more school sections, the parts of such land or property so situated shall be assessed and returned upon the assessment roll separately, according to the divisions of the school sections within the limits of which such land or property is situate."

Council Need Not Pass By-Law to Add Percentage to Arrears of Taxes.

232—D. C.—Is it necessary for a municipal council to pass a by-law to add 10% to all arrears of taxes not paid on the first day of May, or does the statute provide for that?

Since this is a municipality in one of the Territorial Districts of Ontario, section 53 of chapter 225, R. S. O., 1892, is applicable. This section provides that arrears of taxes due to any municipality in any of the districts shall be collected and managed in the same way as like arrears due to municipalities in counties. Sub-section 1 of section 169 of The Assessment Act provides that "if, at the balance to be made on the 1st day of May in every year, it appears that there are any arrears due upon any parcel of land, the TREASURER shall add to the whole amount then due ten per centum thereon." It is not necessary nor can the council legally pass a by-law to authorize or empower the treasurer to add this percentage. He should perform this duty in accordance with the provisions of the above sub-section.

Township Council Cannot Build Cement Walk on County Road.

233—X. Y. Z.—1. Has a township council the power to build cement walks on the sides of a county road running through the municipality over which they preside?

2. If so, can they issue debentures and pay for same by using a certain amount of the money received from statute labor (which is commuted in the township) each year until paid?

3. Can debentures be issued by the township council for building a walk on a county road without a vote being taken from the ratepayers of the municipality through which it runs?

4. Can a township council build cement walks in a municipality under The Local Improvement Act, and if so, would they have to allow the ratepayers to vote on it?

1. If this highway is a county road, as stated, the county council has exclusive jurisdiction over it, and the township council has no authority to construct cement walks or do any other work on it.

2 and 3. Our reply to question number one renders it unnecessary to answer these.

4. A township council has power to pass by-laws for this purpose without submitting them to the electors of the municipality, but not for the purpose of building such sidewalks upon a county road.

Council Should Not Settle With Party to Action Without Consent of His Solicitor.

234—C. A. W.—A man drives over the end of a culvert on a dark night and loses his life. His relatives do not come to the council personally, but bring an action against the township for damages through their solicitor.

1. If the council makes a settlement with the plaintiffs, without the knowledge of plaintiffs' solicitors, would the township be liable to pay any costs incurred with plaintiffs' solicitors?

2. If any agreement is made between the plaintiffs and the council, whereby the plaintiffs agree to pay their own solicitor, and the settlement is made, plaintiffs being not worth anything, would the law compel the township to pay plaintiffs' solicitors?

1 and 2. The plaintiffs' solicitor has a lien on the sum agreed to be paid to the plaintiffs in settlement of this action, and if the defendants pay it to the plaintiffs without the knowledge and consent of the solicitor for the latter, the solicitor can successfully look to the defendants for payment of his costs.

Liability of Council for Water on Road—Duration of Responsibility of Bondsmen.

235—X. X.—A ratepayer of our township notified the council thus:

Mr. _____, Reeve:

You are hereby notified that the water from the road has entered on my property and has caused me damages to the amount of four tons of hay (\$28.00). Please remit me the amount and oblige,

Yours truly,

(Signed)

F. _____ G. _____

1. Is the council liable for the amount claimed?

2. Have the bondsmen of a municipal officer to be notified every year in order that they may be legally held?

1. Unless the council has, by artificial means, conducted water from the road to this man's property and deposited it there, it is not responsible for the damages claimed. If water flows naturally from the highway to and upon F. G.'s land, he should institute proceedings to have a drain constructed in the locality, either under the provisions of the Ditches and Watercourses Act (R. S. O., 1897, chapter 285), or The Municipal Drainage Act (R. S. O., 1897, chapter 226), whichever is applicable to this particular case.

2. If the treasurer was appointed for a definite number of years, his bondsmen are responsible for the proper performance of his official acts for the whole of that period without any notice, and in the case of The Township of Adjala v. McElroy (9, O. R. 80) it was held that where a treasurer was re-appointed annually for several years, the appointments were not equivalent to removals and re-