

and allowed by the municipality to remain there, the corporation is bound to keep them in a condition of safety.

**"Ontario Municipalities Fund" Should Not be Invested in Railway Bonus.**

**482—P. F. S.**—A considerable amount of railroad talk is in circulation in our municipality, and our councillors have been approached on the subject of bonusing towards the construction of such a road. Now what I want to ask you is this, viz.: Is our council allowed to appropriate our municipal loan fund money towards bonusing such a road? Certainly we would have to amend our present by-law.

We assume that reference is made to surplus moneys belonging to the municipality derived from the "Ontario Municipalities Fund" mentioned in sub-section 1 of section 423 of the Municipal Act. This sub-section prescribes the securities in which these surplus moneys may be invested. There is no provision for investing these surplus moneys in bonuses to railways.

**Expenditure of Commuted Statute Labor Money in Police Village.**

**483—W. C.**—We have a police village, and we elect three police trustees. We are in two townships and the police trustees asked the councils of both townships to appoint the pathmasters for the village from among the trustees and they did so. The pathmasters are the trustees. The council of H gave the trustee the statute labor money. Can he hold the money and spend it himself? Or should he hand it over to the treasurer of the village?

We assume that the councils of the respective township municipalities out of which this police village was formed passed by-laws commuting statute labor therein pursuant to section 103 of the Assessment Act. This commutation money should be collected by the collectors of the respective municipalities at the same time and in the same manner as other municipal taxes, and paid by them to the treasurers of the municipalities. These moneys should be expended by the police trustees who have been appointed pathmasters, and paid out to the persons entitled thereto by the treasurers of the respective township municipalities on the order of the police trustees. The latter in issuing their orders should be guided by the report of the trustees who, as pathmasters, have directed and supervised the expenditure of the commutation money.

**Time for Effecting Change in Composition of County Councils.**

**484—J. S. B.**—The Municipal Act is amended by adding thereto the following section as section 68a:

"The council of any local municipality within a county, at a special meeting called for that purpose, may by resolution declare that it is expedient that the council of such county should be composed of the Reeves of townships and villages, and the mayors of towns not separated from the county, instead of representatives of the county council divisions constituted under this Act, and may cause a copy of such resolution duly certified by the clerk and head of the council, under the corporate seal, to be deposited with the clerk of the county, on or before the first day of October in any year

immediately preceding a year in which county councillors are to be elected under this Act."

Now as the nomination for county councillors takes place in December, 1904, and, as many of them, possibly all, will be elected on the day of nomination, would it not be necessary to have a copy of the resolution mentioned deposited with the county clerk before the first day of October of the present year?

No. See our answer to question number 465 in this issue.

**Recovery of Wages, When no Contract to Pay.**

**485—P. M.**—A is married to B, C is the father of B. B. is the female. A and B stay with C, both working as if everything belonged to them, that is B does the interior work and A the exterior work of the house and the farm. C gave B a farm. C has still a farm on which they live, and both are worked together. C has only two children, that is B and John. A and B live with C, for a few years then C dies, and the property is divided between B and John.

(a) Can A claim wages for the time he has worked with his father-in-law?

(b) Can B claim wages for her work of taking care of the house?

(c) What wages can they each get?

(d) Should B die instead of C, could A claim wages for his own work or for his wife's work?

(a) No, unless he can prove some binding agreement on the part of his father-in-law to pay him wages.

(b) No, unless her father agreed to pay her such wages.

(c) Our answers to the two previous questions renders it unnecessary to reply to this.

(d) No, in the absence of such an agreement as is above mentioned.

**Refund of Taxes Wrongly Collected.—Collection of Drainage Assessments.**

**486—Y. R. H.**—1. In township A, one drainage assessment more than the by-law authorized was levied and paid two years ago. Can council now be compelled to pay it back?

2. Owing to an error in calculation of rate \$10 more was charged in collector's roll and paid. Can it now be paid back?

3. Work on drain to be cleaned out is ordered to be paid by one assessment which is levied before cost is known. Drain sells for less than amount on roll. Can surplus collected be paid back?

1. Yes, since the assessment was paid by the ratepayers paying it, under a mistake of fact.

2. Yes, and the ratepayer who paid it can recover it for the reason given in our answer to question No. 1.

3. No. The only provision made by the Drainage Act (R. S. O., 1897, chapter 226,) for the return of the money to the ratepayers is that contained in sub-section 3 of section 66 of the Act.

**Council's Jurisdiction Over Closed Road.**

**487—G. A. J.**—Can the township council control and hold a road granted by them by by-law some eleven years ago and the deed not taken out or given in any way?

If a by-law is passed in accordance with the Municipal Act closing a highway, it then ceases to be a highway and the obligation to keep it in repair is at an end, and section 606 of the Act which makes

it the duty of the municipality to keep every public road in repair and renders the municipality liable for default in not keeping it in repair does not apply. We would, however, advise the council to put up a notice showing that the road has been closed, and that it is no thoroughfare.

**Power of Town Council to Construct Electric Light Works on Expiry of Contract With Existing Company.**

**488—J. A. S.**—Under an agreement between the town corporation and a firm of private individuals, owners of an electric lighting plant in the town, which agreement is dated 1st April, 1898, the firm agreed to supply and furnish the corporation with electric light for street lighting in the town for a term of five years in consideration of certain monthly payments, and the agreement expired on 1st April, 1903. The firm continued to supply electric light subsequent to 1st April, 1903 and the town paid for same in monthly payments, (as if the expired agreement was still in force), pending the settlement of a proposed new contract which is not yet executed as the terms thereof are not accepted by the firm. The corporation gave the firm a month's notice to discontinue the street lighting which month expired on the 31st ult. and the firm discontinued the lighting on 11th inst. The agreement of 1st April, 1898, contains the following clause No. 10: "That on the termination of this agreement the parties of the first part, (the firm mentioned), will immediately unless otherwise agreed between the parties hereto at the sole cost and expense of the said parties of the first part remove such poles, wires and lamps owned and placed by them in the said town as may be in the way of or in places required by other persons placing poles, wires and lamps for electric lighting in the said town."

The agreement makes no provision for the purchase by the town of the firm's electric plant nor does it contain any reference to the construction of an electric light plant by the town on the expiration thereof. The only by-law passed respecting electric lighting is the law authorizing and directing the mayor to execute the agreement on behalf of the corporation; it does not provide for raising funds for street lighting, but the council has annually passed by-laws for the annual general rates which by-laws provide funds for electric lighting. It will be observed that the agreement of 1st April was entered into prior to the date (1st April 1899), mentioned in clause (g) of sub-section 4 of section 566 of the Consolidated Municipal Act, 1893, (formerly sub-section 5 of section 35 of the Municipal Amendment Act, 1899 known as the Conmee Act.)

1. What is now the town corporation's position under section 566, sub-section 4? Can the town corporation proceed as if the Act had not been passed and establish an electric lighting plant of its own, without communicating with the firm, or must the council by by-law fix a price to offer for the works of the firm?

2. What is the effect of clause 10 of the agreement above quoted? Could it be interpreted as excusing the council from fixing a price to offer for the works of the firm?

3. Would the temporary supplying of electric light for street lighting since 1st April, 1903, that is to say, since the expiration of the agreement of 1st April, 1898, bring the corporation under the Act and render it necessary for the council to fix a price to offer for the works and property of the firm, supposing the council otherwise excused from so doing by reason of the agreement being entered into prior to the passing of the Act?

4. Referring again to clause or article (g), sub-section 4, section 566, does this mean that where such a lawful by-law had come into effect or a contract had been lawfully made or