the returning officer may act as a deputy, and where the duties of the two officers do not conflict. We can see no reason why he cannot act in both capacities

The Municipal Act of 1896, requires the clerks in cities and towns to be at their offices to receive the ballot-boxes, which are to be delivered the same day, after the close of the poll. In these municipalities we think the clerk should not be appointed a deputy-returning officer.

Tenant Assessed not Liable to Statute Labor Tax.

278.—J. McD.—Where a tenant rents a place, and agrees to pay the taxes and do the statute labor as rent for the use of the place, the owner being assessed as owner on the assessment roll, and the other party assessed as tenant, is the tenant liable to do one day as poll-tax, or is he exempt from statute labor, he having performed the statute labor for the owner?

The tenant is not liable to poll-tax under the circumstances stated.

Municipality not to Borrow from Treasurer.

279.—A SUBSCRIBER.—Having noticed in September issue of THE MUNICIPAL WORLD, answers re municipality loaning money from treasurer, Nos. 257, 266 in legal department.

Be so good as to state in what part of the Municipal Act in the Revised Statute defines it illegal. I would here premise, that municipal treasurers are not members of the council, and are therefore not subject to the law that prohibits corporation members to enter into any contract with the corporation?

The New York Commission of Appeals regarded an Act of the Legislature making it unlawful for a member of the common council to become a contractor under any contract authorized by the council, and declaring such contract to be void at the instance of the city, as but declaratory of the common law, which, on the ground of public policy, prohibits a trustee from contracting with himself. We think it is not in the public interest that councils should borrow money from or enter into contracts with their own officers. The oath of office provided by section 271 of the Consolidated Municipal Act, 1892, is sufficient to show that municipal officers ought not to enter into any contract with the corporation except the contract involved in their appointment to office.

When the Electors to be Entered in one Division Only of Voters List.

280.—A. B.—Is it intended by statute labor that the names of electors having property in more than one polling division in municipalities not divided into wards, should be entered in voters lists, for each of the polling divisions in which such property is situated?

No. They should be entered in one polling subdivision only.

Court of Revision—Decision not to be Changed.

281.—M. F. S.—A's assessment is appealed against as being too low. Court of revision consider it, and find some of the real estate assessed higher than adjoining lots, and reduced the assessment seventy dollars, and confirm the assessment so reduced. A then leaves the court, in his absence the court reconsiders the case and then adds the seventy dollars. Has the court the power to do so in the absence of the party assessed? Is it legal?

If the Court of Revision passed upon the assessment and reduced the amount, as stated, it could not reconsider the matter. The court, however, was not bound to give its decision in the presence of the appellant. It could hear the evidence and take time to consider the case and give its decision. But if a vote of the members of the Court of Revison was taken in the presence of the party and a majority voted for a reduction of $70 the court exhausted its power, and the only remedy left was an appeal to the county judge.

Statute Labor Returns—After Collector's Roll Closed—Work not Performed.

282.—A TOWNSHIP CLERK.—Suppose a pathmaster does not return his road list until after the collector's roll for the current year is closed, and some of the persons whose names are on the list have refused to work their statute labor: or suppose the pathmaster has not called out his men to work until after the fall seeding, and some of them say, "you have allowed the regular time for doing the work to go by, you can't make us work it now, and they do not work it." The pathmaster returns his list to the township clerk, with "refused to work" opposite the names of the parties so refusing. Can the township clerk, in either case, enter on the collector's roll for the following year the amount so in arrears for statute labor to be collected as other taxes, under the provisions of section 101 of the Assessment Act?

No. The overseer ought to have demanded the performance of the work in sufficient time to have enabled him to return the person refusing as a defaulter before the 15th of August. This duty appears to be clear and imperative, and the overseer has rendered himself liable to the penalty provided by section 225 of the Assessment Act.

Barbed Wire Fences—By-law—Prosecution—Information Before the Council.

283.—X.—A man was fined for having a barbed wire fence near a sidewalk, and because he refused at first to remove the barbs. There were several others, perhaps a dozen people, that had barbed wire fences also.

Was it a just thing to fine the one man and let the others go free; and have the council, by resolution, the power to legally remit back the fine to the man prosecuted?

During the discussion as to the remitting back the fine, a councillor called on the chief of police, to state if there were others that had barbed wire fences, who had not removed their barbs. The acting mayor, ruled that it was out of order to allow the chief to give any information of that kind. Now, was it in order or was it not?

NOTE.—There is a by-law of the town, to the effect that barbed wire fences must not be near the sidewalks. The fence that the man was fined for was in the suburbs, where there were no houses, and was a two plank walk, plank placed lengthwise.

If the fine has not been actually paid over the council is not bound to enforce payment of it. It was not bound to pass the by-law in the first instance, and though it passed the by-law it was not bound to prosecute any person who offended against it. If the council, however, has prosecuted and the offender has actually paid the fine over it has become the money of the municipality, and the council has no more right to direct its payment than it has to direct any other money of the municipality to be paid out to a person who has no legal claim to it. It was not just to prosecute one offender and allow the others to go free. We think it was perfectly proper to ask the chief of police for information in regard to the matter.

Widening Roads.

284.—J. W. K.—What is known as a road with us here, was made many years—fifty or sixty, for ought I know to the contrary—diagonally across the lots, from say lot fourteen in second concession, to lot ten in first concession. It was made winding, about as crooked as a cow path, whatever width it may have been chopped out, it is now fenced, and has been for thirty years, in some places scarcely more than thirty feet wide. It is a very bad place to drift in the winter time with snow. The land is not first-class agricultural land. What process would have to be gone through by the municipal council? Could they force it open wider, and if so, how wide—forty, sixty or sixty-six feet wide? Could the council force the parties to sell, and how could the price to be given be arrived at? This land, I do not think, was ever given in lieu of any other road, neither were the then owners, when first opened or since, ever paid anything for it. A petition with a very large number of ratepayers could be obtained asking for it to be widened.

Section 550, Consolidated Municipal Act, 1892, empowers councils to widen roads, but the preliminary proceedings provided by section 546 must be taken before the road can be widened. Section 483 provides that any claim for compensation for lands taken by the council in the exercise of its power shall be determined by arbitration if they cannot mutually agree. An existing road may be widened to any extent necessary to make it sufficient for public travel. See section 465.

A Seconder not Necessary.

285.—J. M.—Is a motion a motion without a seconder? At the council board one councillor makes a motion and gets no seconder. Has the reeve a right to put said motion? And if the reeve puts it and it is carried, is it correct, and must there be a seconder?

In the absence of any rule of the council requiring a seconder, the reeve has the right to put the motion, and if carried it is a valid act of the council.

Council Consent to Diversion of Watercourse to Road Ditch—Damages—Re-opening Watercourse.

286.—SUBSCRIBER.—Considerable surface water gathers on A's farm, and the natural watercourse is across the road and over a part of B's farm, thence down into the river. The council some years ago built a culvert across the road, but B, not wishing to have the water flow over his land, got leave of the council to close the culvert and deepen the ditch of the road so as to cause the water to flow down the ditch. The water has gradually been washing towards the centre of the road, as shown by C. Now B refuses to put the ditch in repair, and also objects to the council opening the culvert. A part of the council is willing to pay B $25 for fixing the ditch, and the other part thinks he should either fix the ditch free of charge or allow the council to open the culvert and let the water take its natural course.

1. In case a township council gives a ratepayer the privilege of changing the natural watercourse of the surface water off his farm