

Duties of Collector and Treasurer as to Disposal of
Township Moneys—Treasurer's Books—
Payment of School Moneys.

189 F.—We have no chartered bank in our municipality. Can we legally pass a by-law instructing our collector of rates to deposit all taxes received by him in a chartered bank in an adjoining municipality? See R. S. O. 1897, chap. 228, section 19, sub-section 1.

2. We have passed by-law instructing our treasurer to deposit the monies of the municipality in a chartered bank named by us. Do we require to notify our treasurer in writing of the passing of said by-law, or is verbal notice sufficient?

3. Is the treasurer of a municipality obliged to keep the monies of the municipality in a bank where it may be examined by the auditors even if there is no by-law to that effect?

4. What penalty, if any, are municipal councils liable to if their treasurer fails to use the books prescribed by statute for the keeping of municipal accounts?

5. Should the council of a municipality enquire and see whether or not their treasurer uses the books for keeping the municipal accounts directed by statute to be used?

6. Should the treasurer of a municipality pay to the treasurers of the different school sections all their school monies not later than December 15th each year?

1. No. Section 19 of chapter 228, R. S. O., 1897, does not authorize the council of a municipality to pass a by-law requiring moneys payable to the municipality to be paid into a chartered bank outside of the municipality.

2. Verbal notice of the passing of such by-law is sufficient, but a written notice is always more satisfactory and easy of proof.

3. Yes. See section 291 of the Municipal Act, (subsection 5) which reads as follows: "The treasurer shall open an account, in the name of the municipality, in such of the chartered banks of Canada or at such other place of deposit as may be approved by the council, and shall deposit to the credit of such account all moneys received by him."

4. \$100 for every month it is in default. See subsection 1 of section 7 of chapter 228, R. S. O., 1887, subject to the provisions of subsection 2.

5. Yes. Especially since the statute renders the municipality liable for the treasurer's default in this particular.

6. Yes. See subsection 1 of section 71 of the Public Schools Act, 1901.

Conduct of Business of Local Board of Health.

190—F. G.—Will you please oblige me by telling me if two or three members of the board of health have any right to hold a meeting to pass their own personal account without informing the other members when there is no hurry to do so?

2. Also has the municipal council the right to verify the unjust expenses?

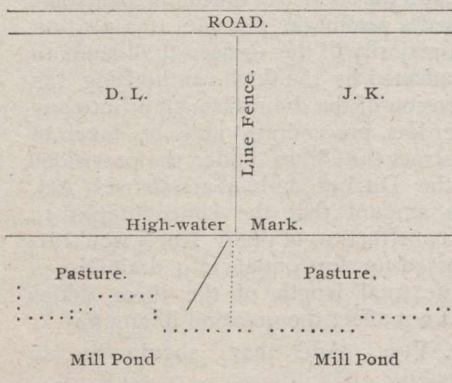
1. The business transacted at a meeting of your local board of health at which only two members of the board are present, would be illegal, as two members do not constitute a quorum of the board. See section 59 of the Public

Health Act (R. S. O., 1897, chapter 248). If all the members of the board were duly notified of the meeting and three members were present at the meeting at which the business was done, and the subject matter of the business was within the authority of the board, the proceedings would be legal and valid. It is not stated how, or for what purpose, these expenses were incurred. If they were legitimately incurred for doing the lawful work of the board we see no reason why they should not be paid.

2. The statute gives the council no authority in this matter. Section 57 of the Act provides that "the treasurer of the municipality shall forthwith, upon demand, pay out of the moneys of the municipality in his hands, the amount of any order given by the members of the local board, or any two of them, for services performed under their direction by virtue of this Act."

Fence Can be Placed in Proper Position.

191—SUBSCRIBER.—In the diagram below there is shown a line fence between the fields of D. L. and J. K., and about sixteen years ago there used to be a fence along the high-water mark. About that time the fence was removed and the line fence continued out to the water's edge, not where it should have been, on the dotted lines in a straight line with the other fence, but as there was a convenient stump a little further down the stream the wire-fence was attached to it. The stump moved a little farther down the stream, until at last about one-half an acre was taken by J. K. from D. L. and enclosed in J. K.'s pasture. Finally, a number of years ago, the stump went down stream altogether but the fence is rebuilt every spring just where the stump was before it finally went down stream. It might be mentioned that the ice nearly every spring knocks the fence down on the pasture lands and it has been rebuilt by J. K. Can D. L. compel the fence to be put back to the straight line where it should have been, and, if so, what steps should he take?



We are of opinion that D. L. can have this fence placed on the proper line, as it has apparently never remained in the same place a sufficient length of time to enable J. H. to acquire any right against D. L. under the Statutes of Limitations.

Drainage in Unincorporated Village.

192—W. A. B.—In this municipality is an unincorporated village situate beside a river, and the surface of the land is considerably lower in some places a distance back from the river bank, which causes the surface water to collect and flood the lots and also the side streets and

the cellars. The residents have applied to the council and to the local board of health for relief. Neither are willing to take action until they are advised as to their responsibility. Who is responsible for the expense, and can the residents claim any relief more than the necessary drainage to remove the surface water? There is no system of drainage other than along the roadsides.

If the owners of the lands in the unincorporated village desire to rid themselves of the water that is occasioning them injury and annoyance, they have their remedy under the Drainage Act, R. S. O., 1897, chapter 226, if the council sees fit to assist them, or the Ditches and Water-courses Act, chapter 285, R. S. O., 1897. The council is not, however, bound to initiate any proceedings to help them.

Assessment of Tenants of Railway Company—Agreement with Company Commuting Taxes.

193—W. H.—In our municipality there are several families living in houses belonging to the railway company (three and sometimes four in the station buildings) who have never been assessed, as they claim exemption on the ground that the railway company pays taxes on their property. Would it be lawful to assess them as tenants or occupants?

2. Some years ago the council then in office, made an agreement with the company's solicitor to have the company's property placed at a certain valuation. Had they power to do so?

3. For the past two years the company have tried to have their assessment lowered. Would that affect the agreement previously entered into with the municipal council?

1. It is the duty of the assessor to assess these persons as tenants of the lands or buildings they respectively occupy, and to bracket their names with that of the owner, the railway company, as required by section 24 of the Assessment Act.

2. We are of the opinion that your council has no power to enter into an agreement of this kind. Section 5 of the Assessment Act, provides that the real estate of a railway company shall be considered as lands of a resident, and section 28, of the Act, provides the method of assessing ALL property REAL and personal (except mining lands) namely, "at their actual cash value, as they would be appraised in payment of a just debt from a solvent debtor." The delivery, by the company, of the statement mentioned in section 31 of the Act, does not affect the assessor's duty to assess the property of the company as directed by section 28, without any interference on the part of the council.

3. No. But we do not think that the agreement is binding.

Councillors Interested in Motion Should Not Vote.

194—A. H.—Can a town council grant a rebate on assessment of town property, when the majority of council are shareholders in the property?

The members of the council, who are shareholders in the company, being interested parties, have no legal right to vote on a motion to reduce the assessment of the company or grant them a rebate of their taxes. In the case of re