

benefited, pro rata according to their assessments for the original construction.

Employment of Township Engineer—Payment of Fees of Fenceviewers—Location of Fences.

560—INQUIRER.—1. At the beginning of the year our council engaged an engineer for our township at a certain sum per day, including expenses. Would this include an award and profile?

2. Is he engaged only for the road allowance?

3. Council thought he was engaged for the ratepayers as well. Was he?

4. What is an engineer's allowance where no special engagement is entered into?

5. A and B are neighbors, with line fence between them. A being a new neighbor, called on two fenceviewers to run the line and divide the fence, which they did. A built a new wire fence on his portion of the line, but B did not touch his. A's horses went over B's portion of fence on to B's land and then on to the road and got lost three or four times. A called on the fenceviewers the second time, who made out an award agreeable to both parties. Fenceviewers did not ask for any compensation the first time, but are demanding \$2.00 each for the last trip, but as yet have not been able to collect any pay. B paid \$9.00 to A for lost time looking for his horses. Was he obliged to do so?

6. Who should pay the fenceviewers the last time?

7. Would the council be justified in paying the fenceviewers under the circumstances and run the risk of collecting from the parties?

8. How should a straight rail fence or line be built, the rails on yourself and the posts on your neighbor, or vice versa?

9. How should a wire fence be built under like conditions?

1. We assume that reference is made to an engineer appointed pursuant to the provisions of sub-section 1 of section 4 of the Ditches and Watercourses Act (R. S. O., 1897, Chap. 285). Whether the provision in the by-law mentioned covers the engineer's fees for preparing an award and profile depends on the language used in the by-law, and not having seen it, we cannot give our opinion as to this.

2 and 3. Not having seen the by-law, we cannot say as to this, but the by-law should be in accordance with Form A appended to the Ditches and Watercourses Act, and appoint the engineer to carry out the provisions of the Act, whether they affect the municipality as to its roads or the property of private owners.

4. This allowance depends on the circumstances of each particular case, and we can give no estimate as to what would be fair and reasonable, without being fully informed as to all the facts, that is, the length of the award, the number of parties to it, the time it took to prepare it, etc.

5. No.

6. This depends upon the terms of the award made by the fenceviewers.

They should therein provide by whom and in what proportion the costs should be paid. Not having seen the award, we cannot give an opinion as to this. (See sub-section 2 of section 12 of the Line Fences Act, R. S. O., 1897, Chap. 284.)

7. Not unless the fenceviewers have stated in their award by whom and in what proportion these costs are payable. If they have made a provision of this kind in their award, these costs should be collected in the manner provided by sub-section 2 of section 12 of the Act.

8 and 9. In the case of *Cook v. Tate* (26 O. R. 403) it was held by Mr. Justice Ferguson, agreeing with Mr. Chief Justice Armour, that a boundary fence under R. S. O., Chap. 219, (now R. S. O., 1897, Chap. 284,) should be so placed that when completed the vertical centre of the board wall will coincide with the limit between the lands of the parties, each owner being bound to support it by appliances placed on his own land.

Liability to Fence Bush Land—Tenant's Qualification as a Municipal Voter.

561—C. B.—1. Owner of lot No. 3 has cleared and works his land to the rear end of lot. Owner of lot No. 4 has bush on the rear of his lot. Is owner of lot No. 4 obliged to fence his share along the bush portion, he having a lane back to bush and his cattle allowed to run in bush, or is the bush portion reckoned as occupied land according to sections 2 and 3 of Act Respecting Line Fences? If No. 4 is not obliged to put up his portion of fence, can he allow his cattle to run at large in the bush, or is he responsible if they trespass on No. 3?

2. Can a person not assessed, but a tenant on the property occupying a house, etc., and engaged with the owner of the property be a municipal voter?

Lot No. 3	to	lane	4
	No.		
Bush			

1. By sub-section 1 of section 2 of chapter 284, R. S. O., 1897, it is provided that "occupied lands" shall not include so much of a lot, parcel or farm, as is unenclosed, *although a part of such lot, parcel or farm is enclosed and in actual use and occupation*. The latter part of section 3 provides that owners of unoccupied lands (as is this "bush land") which adjoin occupied lands, shall upon their being occupied be liable to the duty of keeping up and repairing such proportion (of the line fence), etc. The owner of lot 4, therefore, is not bound to erect and maintain a proportionate share of the fence between his bush land and lot 3 until his bush land is enclosed and be-

comes occupied. The owner of lot 4 is bound, however, to take care of his cattle, and if any of them escape from his bush to the adjoining lands, and occasion damage thereon, he will be liable to make good the amount, and the animals trespassing will be liable to be impounded.

2. This tenant can vote at municipal elections if his name is on the voters' list for the municipality used at the elections in parts one or two, and he is a British subject of the full age of 21 years, provided he is a resident of the municipality in which he tenders his vote, and has resided therein for one month next before the election, and that at the date of the election he is, or his wife is, a tenant in the municipality. (See section 86 of the Consolidated Municipal Act, 1903, clause SECONDLY of sub-section 1.)

Payment of Expenses of Persons Quarantined.

562—E. G.—We had four cases of diphtheria in our township last winter. The doctor was called by the families afflicted, and after pronouncing the case diphtheria, he notified the secretary of the Board of Health to quarantine these families, which he did, and also appointed a guard to attend to them, without consulting the Board of health, as it would take some time to call a meeting as the members live from eight to ten miles apart. The doctor was called by these parties several times, and considering he lived about twenty miles from the infected families, it has cost considerable. The doctor in question was appointed by the Board of Health, medical health officer, but refused to accept the appointment, saying at the same time he would nevertheless do the work if called on to do so. Each of these families have paid the doctor's first trip. After the trouble was over the Board of Health held a meeting and bills amounting to \$420 were laid on the table, consisting of doctor's bills, guard's bills, store-keeper's bill and secretary's bill. The board accepted these bills, except the guard's, which they thought exorbitant, \$168.00, and the doctor's bill, not before he had made a statement in detail of his account, \$118.00, which was in a lump sum. The guard was offered \$113.00 by the board, which he would not accept. The council has since tried to borrow the money to pay these bills, but find they cannot do so before a money by-law can be voted on by the ratepayers, as the municipality is not assessed high enough to borrow money without consent of ratepayers. Now the guard and doctor are looking for their money and the board does not know what to do, as the parties quarantined are poor people, but the majority of board (and ratepayers) think they are able to pay their own bills.

1. Is the Board of Health liable for those bills?

2. If the Board of Health order those bills paid, can the council reject them?

3. As the parties are poor, should the Board of Health be willing to pay half the expenses? Would this make them liable for the whole amount?

4. The Board of Health not having taken their oath of office, are they acting legally in paying these bills?

8. Would it not be as well to let the doctor and guard collect their money of the parties who were quarantined? The Board of