

tion engines commonly in use with threshing outfits?

Yes.

Defaulting Collector.

429.—SUBSCRIBER.—Last year we appointed a collector and took as sureties himself and two others, expecting everything was all right. He collected all the available taxes, but it was a hard matter to get him to return the roll and he did not return it until the treasurer threatened a warrant. According to the general audit in February a considerable sum was shown to be in the collector's hands. We could not get him to return the roll until the 16th June. One of his sureties sold out and moved away to the northwest before the roll was returned. Before our August meeting we had a special audit to see how matters stood and we found that the collector was \$126.60 in arrears. The auditors notified him to produce his vouchers but neither he nor his vouchers appeared. Then we called a special meeting of the council and had to send a messenger after him to bring him and his vouchers to the meeting. The vouchers he brought agreed with the audit leaving him \$126.60 in arrears. He declared to us that he had paid all the money he collected to the treasurer and that he had lost the receipts for part of the money amounting to the amount of arrears. When he told us such a plausible story we let him go for the time, thinking that all would be right yet. I neglected to state that we had found out in the meantime that neither he nor his other surety were worth anything. The treasurer positively denied having received any money beside what he produced vouchers for.

I called the council together again, a second special meeting and notified the collector also to attend. He gave us a written document acknowledging himself a defaulter to the municipality for \$126.60 and agreed to pay in a month from that date. Now what I would like to know is, can we make it a criminal act, or have we to run chances of getting it, or what steps would you advise us to take?

The collector is liable to a criminal prosecution for the fraudulent conversion to his own use of the moneys of the municipality, unless the written document he gave the council is in effect a promissory note, or new security given by the collector and accepted by the council for the payment of the amount in default.

Expenses Destitute, Insane.

430.—C. S. R.—In case a destitute insane person is sent to the public Insane Asylum, under section 7 and 8, etc., cap. 317, R. S. O., can the authorities of the asylum before admitting the patient, compel the township municipality to guarantee \$3 per month for maintenance?

No.

Drainage.

431.—ENQUIRER.—We have a certain drainage scheme in our township, which consists of the deepening of the upper part of a creek or stream which branches off in several directions which were feeders to said stream, but are now ditches, having been made under the Ontario Drainage Act. We have now to face the necessity of cleaning said ditches as they are becoming choked up with weeds and alluvial soil. One small branch has been cleaned out this season and the proper mode of levying for the amount of said cleaning is now a matter of dispute, some claiming that said branch cleaned out *i. e.* the lots benefited only should bear the cost pro rata as specified in The Ontario Drainage Act, while others claim the cost should be levied on the other branches and that the whole scheme must bear pro rata any repairs on any one part thereof. What is the meaning of the Act in such a case?

We assume that each branch of the creek is now an independent drain, constructed under the provisions of the Municipal Drainage Act, or some prior drainage act whose provisions are embodied therein, that each and all these drains have a sufficient outlet in the creek, and that the construction of the drains did and does not necessitate the cleaning out, enlarging or improving of the creek. If the facts are as above, only the parties benefited by the construction, cleaning out, improvement, etc., of each particular drain should be proportionately assessed for the cost of the drainage work. It would be different, however, if the creek and all its branches (the drains) formed one complete drainage system.

Mayor's Property Qualifications.

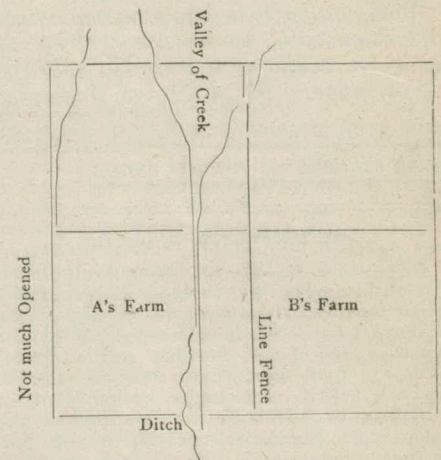
432.—T. I. T.—If candidate for mayoralty is elected and his property qualifications are all right, is he legally qualified, or must the Assessment Roll be considered?

Section 76, subsection 1, of the Municipal Act, provides that no person shall be qualified to be elected a mayor of any municipality unless, *at the time of the election* (amongst the other qualifications mentioned in the subsection) he has, or his wife has, as owner or tenant, a legal or equitable freehold or leasehold, or an estate partly freehold and partly leasehold or partly legal and partly equitable, which is *rated* in his own name, or in the name of his wife, *on the last revised assessment roll of the municipality*, to at least the value following, over and above all charges, liens and incumbrances affecting the same: Freehold to \$1,000; leasehold to \$2,000. If the person seeks to qualify under the last clause of this subsection he must also be actually rated on such assessment roll for the amount necessary to enable him to qualify thereunder. If the person was elected mayor, took his seat as such, and the necessary oaths, and no proceedings were taken to unseat him within the time mentioned in the Municipal Act, he is legally qualified to retain his seat and act in his official capacity as such mayor. From the foregoing it will be seen that only property which has been assessed can be taken into account.

Drainage.

433.—E. W.—A certain creek, or rather a valley emptied its drainage over what was once a swamp. This swamp has been drained for probably fifty years, and this water was carried through it by a straight ditch, which ditch some say started by the water running down a cow path, but has since been dug out in places by those along it. Now this creek runs through the upper part of B's farm, but the straight ditch is on A's side of the line fence, but just over the line and that is all. During the spring freshets the lower part of the ditch is not sufficient to carry off the water (which comes at least for two miles above) and the flood runs over on B's farm, as it is the lower and wears its way down his furrows, causing great damage. B has often dug out parts of the ditch for his own benefit, but still a large piece remains closed. The unopened part would be over half a mile long. A has put up a wire fence to keep snow from banking up in the open part.

1. Can those above A and B, whose farms drain into this be made to help open it?
2. Can A be made to help?
3. If B is willing to open the ditch himself can he throw all the dirt on his own side, thus forming a bank, and can B go to work without permission or authority?
4. In case others have to help open it would the work which B has formerly done be considered?
5. Can A collect damages, and from whom?



This appears to be a case in which B or any other owner of land desiring drainage must proceed under the Ditches and Watercourses Act, chapter 285, R. S. O., 1897. The engineer will, under this act, apportion the cost of the work among the lands affected and the owners thereof, according to his estimate of their respective interests in the ditch, and if A shall be found to be interested in the ditch it will be the duty of the engineer to allot a part of the work to him. See subsection 2 of section 16 of the Act. Except under the authority of an award made under this Act B has no right to go upon A's lands to do any work. We cannot find any provision in this Act authorizing the engineer to make any allowance for work already done, as is the case under subsection 4 of section 9 of the Ontario Drainage Act. The law is that no person has the right by means of drainage to collect surface waters to a point and discharge them upon the lands of another person so as to occasion damage, and if B is doing that A may bring an action to restrain him and to recover damages, if he has sustained any. We are not furnished with sufficient information to enable us to express an opinion as to whether B has rendered himself liable to such an action or not.

Civic Holidays.

434.—SUBSCRIBER.—1. The mayor of a town at the request of some citizens proclaims a civic holiday. Is it binding on the citizens to observe the same?

2. What is the proper form of proclamation?

1. No. Subsection 16 of section 8 of chapter 1, R. S. O., 1897, contains a list of the statutory holidays in Ontario.

2. To all whom it may concern:

Pursuant to the prayer of the petition of and other citizens of the of, I do hereby