

rated and entered as such, entitles him to exemption from performance of statute labor under section 106 of the Assessment Act. I fail to get that meaning from section 106. Will you kindly explain?

The answer quoted is inadvertently misleading. It should read "The fact that a farmer's son is rated and entered as such does NOT entitle him to exemption from performance of statute labor, etc." A farmer's son is so exempted only when he is assessed as a joint owner with his father or mother as provided in section 14 of the Assessment Act.

#### Requisites of Petition For Silex Walk.

**477**—S. L. M.—Will you kindly advise us as to the following; viz: Over three-quarters of the freeholders on the north side of a street petition for a silex walk, agreeing to pay 60% of the cost of the same, the town, as is the custom here, paying the 40%. One of the freeholders on this street objects to the council putting down the walk, on the ground that the people on the south side of the street did not sign the petition, and that according to a recent Act, a three-quarter majority of the freeholders on both sides of the street must sign the petition, and both sides of the street pay their share of the 60%.

We assume that the council is doing this work in pursuance of the provisions of section 678 of the Municipal Act. The petition required is that mentioned in sub-section 1 of section 668 of the Act. This must be signed by two-thirds in number of the owners of any real property to be benefited by the construction of the works or improvements according to the last revised assessment roll of the municipality, such owners representing one-half in value of such real property, and there is no recent legislation affecting any change in the provisions of this sub-section. Sub-section 2 of section 678 provides that the remainder of the cost of the work in excess of the 40 per cent shall be assessed and dealt with in the manner provided in the Act as to assessments for local improvements in other cases. Sub-section 1 of section 665 provides that "the special rate to be assessed and levied shall be an annual rate according to the frontage thereof upon the real property immediately benefited by the work or improvement." The real property immediately benefited by the construction of the silex walk on the north side of the street, is the real property abutting thereon on that side.

#### Illegal Exemption From Taxation—Personal Liability of Councillors—Collection of Taxes.

**478**—A. B. C.—1. Does a municipal councillor render himself personally liable for supporting or allowing an illegal exemption from taxes, as such exemption requires an annual recognition by the council?

2. Could there be a distress issued and collected for taxes, party whom distress was issued against taking the stand that his taxes were not the amount stated owing to the fact that all taxes were not collected that should be, therefore making his taxes more by reason of the illegal exemption?

3. Can there be a valid sale of lands for taxes when an illegal exemption is in existence?

1. No. If the council has no power to exempt property the vote of a member in favor of such exemption has no validity and he can incur no liability for so voting.

2. The existence of a by-law, it illegally providing for the exemption from taxation of certain property in the municipality is not a ground for the neglect or refusal of any ratepayer therein to pay his taxes and if they are not paid within fourteen days after notice or demand (as the case may be), the collector may distraint the goods and chattels of the person liable therefor to realize the amount.

3. Yes. This fact cannot affect the validity of the sale of lands for taxes in the municipality.

#### Oath of Census Enumerator—Method of Taking Census.

**479**—N. H. P.—1. When the enumerator of this village gave in his returns when the last census were taken, he reported 407 persons. The county commissioners on these grounds were asked to do away with one of the hotels and cancel one of the licences, which they did, the law requiring 500 people to have two hotels. The village council thought that perhaps now there might be 500. What I want to know is, what oath the enumerator has to take, if any, before or after he has taken the census. Of course the council had to pass a by-law before an enumerator could be appointed?

2. Can the enumerator appointed to take the census for this incorporated village put on his roll people who just come here to spend one or two months of the summer and then go away again?

1. We assume that reference is made to an enumerator appointed to take the Dominion census in your village in 1901. Section 14 of chapter 58 of the Consolidated Statutes of Canada, 1886, provides that "every officer, census commissioner, enumerator and other person employed in the execution of this Act (that is, the "Census Act,") before entering on his duties shall take and subscribe an oath binding him to the faithful and exact discharge of such duties, which oath shall be in such form, taken before such person, and returned and recorded in such a manner as the Governor-in-Council prescribes." A copy of this oath could be obtained by writing to the Minister of Agriculture, Ottawa, Census Branch.

2. Yes.

#### Proceedings For Maintenance of Municipal Drains.

**480**—R. J. H.—A township council receives written notice from parties assessed for drains constructed under Municipal Drainage Act to repair same. The council authorize engineer to make report on same. The engineer's report combines the repair of both drains and says it is virtually one system, although constructed under separate by-laws.

Is it necessary to notify parties assessed to meet to consider report?

2. If the parties at said meeting to consider report decide that they do not want the work done, where are the expenses of the engineer to come from?

3. If the council decide to abandon the work can the parties who served notice compel the council to carry out the repairs?

4. Would the council be justified in going on with the work (even the parties or quite a

number of those assessed object) by serving the by-law and giving chance to appeal?

5. Does section 83 of the Drainage Act prevent debentures being issued for a longer term than seven years for repairs?

1, 2, 3 and 4. As we understand this matter the drain referred to is said to be out of repair and notice has been given to the council by one of the persons interested in its maintenance. If the drain is confined to one municipality it comes within sub-section (a) of section 68 of the Drainage Act and it is the duty of the municipality in which it lies to maintain it by doing the necessary repairs and the cost of such repairs is to be levied upon the lands and roads assessed for the construction of the drain according to the assessment for the original construction, and if the municipality neglects or refuses to maintain it upon reasonable notice in writing, it is compellable by mandamus to do the necessary repairs. (See section 73). If the drain is out of repair and a person interested gives notice in writing, he is entitled to have the repairs done and he is not concerned about the opinion of the engineer as to whether there are two systems or one. If the engineer reports that it is necessary to change the course of the drain or make a new outlet, etc., as provided by section 75, the procedure in that section must be followed, or if the cost of deepening, widening or extending the drain comes within section 74 the council may, without a report, deepen, widen or extend the drain in the manner provided by the section. If this is simply a question of repair the parties interested are not entitled to notice. The council must make the repairs without regard to them.

5. Yes.

#### Council Not Liable for Defective Walks on Private Property.

**481**—J. W.—In our village has been built on a main street cement sidewalks. Opposite one block of five stores the owners built from walk level with the walk to their store doors of cement and had step at door. The next block post office and five other business places made step next to walk near level with their doors, and several coming out of post office have fallen. If an accident should occur who would be liable for damages, the village or the parties who put in cement platform?

It is not stated whether the cement structure between the sidewalk and the buildings adjoining built by the private owners is on the highway or the lands of such owners. If the latter is the case, the municipality cannot be held responsible for any accident that may happen by reason of its unsafe condition.

If the structure is erected on the highway between the buildings and the sidewalk, the municipality is responsible for any accident that may happen by reason of its non-repair or unsafe condition. The municipality is not bound to build approaches on the highway from the sidewalk to the adjoining buildings, but if they are so built on the highway