

in two divisions in the township at fifty cents a day, any other divisions or persons, of course, who desired to commute had to pay seventy-five cents a day.

1. What authority has the council to refuse the privilege to commute at fifty cents a day to those who desire to do so, that is granted to these two divisions?

2. If a ratepayer notified the clerk or council that he desired to commute, could he demand, or would the council be obliged to accept fifty cents a day?

3. Is not the transaction, commuting at fifty cents a day, illegal?

We are of the opinion that the acts of the council are legal for these reasons: The resolutions passed by the council having the seal of the corporation attached to them are, in effect, by laws. See note (d) to section 277 of the fourth edition of Harrison's Municipal Manual, where the author says an order or resolution duly signed and sealed is virtually a by-law, and under section 103 of the Assessment Act the council of any township may by by-law direct that a sum not exceeding \$1 a day shall be paid as commutation of statute labor for the whole or any part of such township. The only objection which can be urged against the by-law is, that it discriminates as between the ratepayers of different parts, of the township, but we do not think there is anything in this objection, because the council clearly has the right to pass a by-law directing a commutation of statute labor for a part of a township, leaving the ratepayers in the other part to perform their statute labor and the doing of the work might be worth more than the rate of commutation in the part in which the statute labor is commuted.

Exemption of Farm Lands in Towns from Local Improvement Rates.

342—H. M.—In answering question 310, in the June number, are we to infer that the council are compelled to pass a by-law pursuant to sub-section 2 of section 8 of the Assessment Act, exempting farm lands, whether the notice provided for by sub-section 3 be given or not? or is it an essential preliminary step to passing of such by-law that notice be given pursuant to sub section 3?

Section 8 of the Assessment Act is not clear upon the point raised by you, but after the best consideration which we have been able to give the matter, we are of the opinion that the council need not pass a by-law under this section unless some person claims exemption. The time fixed for returning the assessment roll is the 30th of April, and a person claiming exemption under this section must make his complaint within one month from that time, and the council is not in default in not passing a by-law within that time, because it is only required to pass a by-law at least two months before striking the rate of taxation for the year. The usual time for striking the yearly rate is the middle of August, and it cannot be struck earlier than the first day of August, because school trustees have until that date to submit estimates of the moneys required by them for school purposes to the council.

Opening Road for Private Individual.

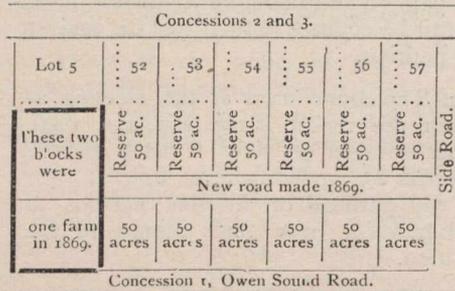
343—C. B.—Can one person compel a municipal council to open a portion of a concession road for said person's benefit only. Said portion has never been open on account of obstructions which would cost a large outlay to remove, to make a passable road. When asked the question, I gave the opinion that when it was not for the public in general, a council could not be compelled to open the road for the benefit of one person only. Will you kindly give your opinion?

The road would be of no benefit to any person, only the one desiring the opening, who is a non-resident. There is no one living on the property, and probably never will be.

It is optional with a municipal council whether it opens and establishes a new road when requested to do so. If the road you mention, when opened, would be for the use and benefit of one individual only, and public convenience does not require it, the council should not open it.

Opening of Road for Private Individual.

344—D. A.—You will notice that on concession 1, O. S. Road, the lots are fifty acres each and were free grants. On the 2nd concession, the front fifty acres was a free grant and the back fifty acres was a reserve and sold at \$2 per acre, and in all the deeds on the 2nd concession there is a road allowance dotted for the owner to reserve to get out to concession 2. But the owners of the front 52, 53, 54, 55 and 56 clubbed together in 1869 and bought or rather paid for a new road as marked such across west end of the reserves down to the sideroad, and the deeds are in the council's name, but no mention of giving up all claim through the front fifty acres to concession 2. The reserve of 51 was owned then (1869) by the owner of the fifty acres abutting it on concession 1, O. S. road, hence he was on a good road and the new road is only bought up to 51 but now the reserve of 51 has come into other hands, viz., the owner of reserve 52, 53 and 54 and he wants to open the road allowance through 51 to concession 2. I have found no document showing that road allowance through to concession 2 of any of the lots was signed away. The present owner of 51 says that the owner of reserve in 1869 had nothing to do with making this new road, and would sign nothing. I am served with a notice to get a by-law passed to open the road through front of 51 to concession 2 for the benefit of the reserve.



It is optional with a municipal council whether it opens a new road on being applied to, to do so, or not. This road appears to be required to be constructed for the benefit of a private individual only, and not for the convenience of the general public, and the council should not open it.

Right to Hold Inquest—Payment of Expenses.

345—A SUBSCRIBER.—1. The body of a man was found in the township of Stamford in the

county of Welland, which was run over by an electric car on the Niagara, St. Catharines and Toronto Railway, and the body was brought to the city of St. Catharines through the town of Thorold in the county of Welland, where there is a coroner for that county. Has a coroner in the county of Lincoln jurisdiction to hold an inquest?

2. If he had, which county is liable for the fees?

1. Since the body is now in the county of Lincoln, if a coroner in and for that county deems it necessary, he is the proper coroner to hold an inquest. A coroner appointed in and for the county of Welland has no jurisdiction to conduct an inquest in any other county.

2. The county of Lincoln.

A Legal Assessment—Belting, Etc. Acquired with Mill—Part of the Realty.

346—SUBSCRIBER.—Our municipality on the 13th of May appointed an assessor, by motion of council, and asked him to have the assessment completed by the 20th of May. The assessor went to work and completed the assessment.

1. Is the assessment performed in the month of May legal, no by-law having been passed by the village council?

2. Can the ratepayers be compelled to pay their taxes on an assessment performed in the month of May?

3. Have the village council power to sell the belting, pulleys and shafting of a woollen mill, acquired by foreclosure of mortgage?

4. Have the council power to give away or lease the above mentioned articles?

1. Yes. The Assessment Act, section 56, requires the assessor to complete his roll and deliver it to the clerk of the municipality on or before the 30th day of April, but if, for any reason, the assessment can not or has not been completed by that date, it may be proceeded with and completed as soon as possible thereafter.

2. Yes.

3. Yes. The belting, pulleys and shafting were held to be fixtures in the case of Gooderham, et. al., vs. Denholm, (18, A. R., P. 203) and as such passed to the municipal corporation on foreclosure of the mortgage, as part of the realty, with the mill and the land on which it was erected.

4. The articles are the property of the council as trustee for the municipal corporation, and should be dealt with in a way that would be most advantageous to the municipality. They should not be given away, unless there is no possibility of them being disposed of otherwise for value.

These Are Manhood Suffrage Voters.

347—CLERK.—How should the following names be placed in Voters' List?

- Jones, Wm., T. M. F. No assessed value.
- White, Geo., Occ. M. F. " "
- Smith, J., Householder & M.F. " "

Since of these parties are, according to the assessment roll, possessed of no property qualification, they cannot be in either parts one or two of your voters' list; but as manhood franchise voters they should be placed in part three.