

also have a copy of the agreement you speak of in order that we may judge whether it has any force or effect.

#### Township's Liability for Hospital Account.

**412.**—F. M.—Is a township council under any obligation to send a person to a hospital for treatment when the medical health officer for the township (without consulting the Board of health) certifies that the person needs hospital treatment and is not able to pay for it? We have a county House of Refuge.

No.

**413.**—J. E. S.—I want to know if there is anything in the Ontario Statutes to prevent a Provincial Land Surveyor or Drainage Engineer doing drainage work and acting as commissioner, and laying out and making assessments on ratepayers in two or more municipalities in the district, acting as county councillor? The party may be a candidate for 1899.

No, provided he is not acting for the county.

#### Dispute re Road Established Forty Years.

**414.**—S.—A dispute having arisen between the municipal council of S and a number of landowners regarding the width of a blind line which was established by by-law about forty years ago; said by-law called for a 66 foot road, but when first located the settlers placed their fences only 33 feet apart, and have so remained ever since. Lately the council ordered owners on each side of line to move their fences back to make the road 66 feet according to by-law. They refused, contending that when the road was established the land belonged to the Crown, that no notice then or afterwards was given to the Crown Land Department of the establishing of said line, consequently patents were issued without any reservations being made for said road, that they were willing to give the two rods now used for road without compensation, but desired to be paid for the extra two rods claimed by the council. A satisfactory settlement could not be reached and the matter was referred to arbitration. The arbitrators allowing said owners at the rate of \$25.00 per acre, for the extra 33 feet claimed by the council, the parties to move fences and other obstructions, leaving the road allowance 66 feet wide.

1. In accordance with decision of the arbitrators, will it be necessary for council to pass another by-law and conform to sections 375 and 376, R. S. O., 1897?

2. Would each of the parties receiving compensation under award have to give a deed of the land given by them?

3. Has the by-law, if one is necessary, and the award to be registered?

4. If registration is necessary would that not be sufficient title for municipal ownership to said road?

1. We do not think that sections 375 or 376 apply to a case of this kind. If the by-law passed forty years ago is a good by-law, it can be registered under subsection 2 of section 633, cap. 223, R. S. O., 1897. There is no provision for registering the award. We think that the best and safest course is to proceed under section 632, have notices prepared setting forth the fact that the council of the municipality intends to pass a by-law for the purpose of opening up a public road across certain lots, naming them, which said road is described as follows, (here describe the road by metes and bounds) and that a meeting of the council will be held on the—day of—, at— etc., at which time and place all parties inter-

ested or affected and desiring to be heard are required to attend.

The by-law will require to be registered under the authority of section 633, but if all the owners made deeds the by-law need not be published in a newspaper. If you will look at the September number of the WORLD you will find at page 141 an article on opening or closing up roads.

#### Electric lighting in Township Adjoining Town.

**415.**—H. S. M.—In our township there is an incorporated town that has its electric lighting from a private firm. Said firm offer to extend their system outside the town limits into our municipality if we contract with them to do so. A certain number of ratepayers of the township just outside the town limits have petitioned the council to enter into a contract with the said firm and to cause a special rate to be levied on their properties to meet one-half the expense, the other half to be paid from the general funds of the township.

1. Is it legal for the council to enter into a contract with a firm that are under contract to a neighboring municipality?

2. Would it make any difference when they do not set up a separate plant for our use, but only give us a lamp or two from the plant used in the town?

3. Have the council power to levy a special rate on the properties of the parties who petition them to do so for either one-half of the cost or the whole of it, and if they have, what steps are necessary to make it legal?

4. In the event of any of said properties changing owners, would the purchaser be holden for the special rate?

5. If he is, what steps would he have to take to relieve his property?

Section 568 of the Municipal Act provides: "Every municipal council shall have power to contract for a supply of gas or electric light for street lighting and other public uses for any number of years not, in the first instance, exceeding ten, and for renewing such contract from time to time for such period not exceeding ten years, as the council may desire." Section 686 of the Municipal Act empowers the council of townships to pass by laws on a sufficient petition for lighting certain areas by means of a special rate on the property.

1. Yes.

2. No.

3. We think so. We refer you to the above sections of the Municipal Act for the procedure.

4. The rate is a charge upon the property the same as taxes.

5. The property would have to bear the burden during the period fixed by the by-law of the council passed upon the strength of the petition.

#### Tender of contracts.

**416.**—SUBSCRIBER.—We think of letting all our municipal contracts by the lowest bid, instead of by tender. Do you approve of it and is it legal?

Sub section 2 of section 320, cap. 223, R. S. O., 1897, provides: "No municipal council shall assume to make any appointment to office, or any arrangement for the discharge of the duties thereof by tender, or to applicants at the lowest remuneration." Section 3, chap. 20, R. S. O., 1897, requires the councils of counties to

ask for tenders for the publication of the lists of corrections by Justices of the Peace and the contracts is to be given to the newspaper making the lowest tender. There are only cases which we are aware of where councils are limited to a certain prescribed mode of contracting. In other matters councils may take such measures as they deem proper in letting contract so long as they are not calculated to prejudice the interests of the municipality. In other matters of importance we think the tender system better than the method proposed. It affords better means for protecting the interests of the municipality.

#### Losing a Road in Summer — Statute Labor of Non-Resident.

**417.**—J. S.—1. Some time ago our council passed a by-law opening a piece of road, which cannot be used during the summer owing to its passing through a bog. Can the council now legally pass a by-law or resolution allowing the road to be fenced during the months which it is impossible (i. e., a fence across the road) the fence to be taken down during the winter?

2. A is assessed as a non-resident on the resident roll for \$150. He spends a short time each year on the lot, and thinks he is liable to only half per cent for statute labor, instead of for two days' labor. I hold that he must do two days work to commute therefor at the rate fixed by council for residents. Am I right?

1. It is the duty of the council to take precautions to protect the public, and if it is found that a particular road is, for any reason dangerous to the travelling public, the council may do whatever may be reasonably necessary to protect the public from danger. We do not see the necessity of passing a by-law or resolution. It will afford no protection to the council, itself. The council should, when the proper time arises, direct the pathmaster or employ some person to put up a fence, and also a warning that it is not safe to travel on.

2. We cannot agree with you. It may be that he ought to have been placed upon the assessment roll, but we express no opinion upon that because we do not know the facts of the case. His land is assessed as non-resident land, and we assume that he has not required his name to be entered upon the assessment roll. This being so, the clerk must be governed by the roll, and he must discharge the duty imposed upon him in such a case by sub-section 2, of section 102 of the Assessment Act, Cap. 224, R. S. O., 1897.

#### Assessors and Equalization Union School Sections.

**418.**—CLERK.—When assessors meet to equalize union school sections does s. 85 of Cap. 292, R. S. O., 1897, cover their remuneration? If not, is the rate anywhere fixed by statute?

We understand that the Minister of Education has given the opinion that assessors performing the duties of equalizing union school sections under section 51, of the Schools' Act are to be regarded as arbitrators within the meaning of section 85, and entitled to the remuneration thereby fixed, from the funds of Union section.