LEGAL DEPARTMENT.

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Municipal Councils.

THEIR POWERS AND JURISDICTION—HIGHWAYS.

It may be observed, that according to section 532 of the Consolidated Municipal Act, 1892, prior to the vesting of exclusive jurisdiction over roads and bridges lying within any township, town or village in the county, in the council thereof, such roads and bridges must be assumed by a by-law of the said council as a county road or bridge with the assent of such township, town or village municipality. The said section does not in terms require that the three subjects lastly mentioned in the said section should be assumed by by-law of the council. It is the positive duty of the county to perform the necessary acts with respect to subjects two and three set forth in said section, although the county council has passed no by-law assuming such subjects. This section must be read as modified by sections 538 and 556, and as meaning that every road dividing different townships, shall, when assumed by the county council, be within the exclusive jurisdiction of the county. A township boundary line (or a road which forms the boundary line of a township or boundary line between townships, and a road forming the boundary line of a county or boundary line between counties) may be assumed, made and maintained at the expense of the county, or the county may grant such sum or sums from time to time for the said purposes as they may deem expedient. Section 535 makes it incumbent on county councils to erect and maintain bridges over rivers, forming or crossing boundary lines between two municipalities (other than in the case of a city or separated town) within the county. A bridge has been defined as being a structure of wood, stone, brick or iron, raised over a river, pond or lake for the passage of men and animals. The word "bridge" may include such abutments as are necessary to make the structure accessible and useful. There appears to be no legislative definition of the word "river," and there is, therefore, some difficulty in stating with authority what size the stream should be in order to bring it within the section under discussion. A stream crossing the public road between the townships of Elice and Downie at Sebringville, which is from thirty to forty feet in width, with clearly defined banks, and which is called and known as "Black Creek," has been judiciously held to be a river, within the meaning of this section. A bridge over a river forming a crossing or boundary line between two or more counties, or a county, city or separated town, shall be erected and maintained by the councils of the counties or county, city and separated town respectively, and makes provision for the settlement of the respective portions of the expense to be borne by the municipalities interested, by arbitration, in the event of the disagreement of the councils. It is well to note that a road which lies wholly or partly between two municipalities shall be regarded as a boundary line within the meaning of the section last quoted, although such road may deviate so that it in some place or places wholly within one of the municipalities, and a bridge built over a river, crossing such road where it deviates shall be held to be a bridge over a river, crossing a boundary line within the meaning of said section. In this connection, the case of Ashton vs. the county of Elgin, now under consideration by the Divisional Court in Toronto, is interesting. The decision, when given, will be duly set out in these columns.

SMITH VS. FORT WILLIAM SCHOOL BOARD AND OTHERS.

In this case it was held that the school board of a city, town or incorporated village have no power or authority to enter into any contract for the building of a school house until the necessary funds have been provided, under section 116 of chapter 55 of 54 Vic., Ont., and that if a certain sum has been provided under that section for the purpose of building a school house, they cannot be allowed to enter into any contract or undertake any work involving the expenditure of any greater sum, and therefore the plaintiff, a freeholder, a ratepayer and elector of the town of Fort William, and a supporter of the public schools therein, sueing on behalf of himself and all other ratepayers, was entitled to an injunction, to restrain the public school board of that town, certain individuals, members of the board, and the contractors for the building of a schoolhouse, from proceeding with the erection thereof, in a case where the contract price exceeded the amount provided under section 116, and to an order compelling the payment to the school corporation of certain sums paid by individual members of the school board to the contractors for a certain portion of the work already performed.

DYER VS TRENTON.

In this case it was held that the intention of the "special provisions" in reference to assessments in cities, towns and incorporated villages, contained in section 52 of the Consolidated Assessment Act, 1892, is not that the rate of such assessment made under that provision may be levied for the current year. The function of the assessment under that section is defined only with reference to future years, and what is said is that this assessment so taken at the end of the year may be adopted by the council of the following year as the assessment on which the rate of taxation for said following year may be levied.

NOTES.

In the case of Orrange vs. the township of Euphemia referred to under the heading of "Dangerous County Roads" on page 172 of THE MUNICIPAL WORLD, vol. 3, an application was made by the defendant corporation for a new trial of the action. The Divisional Court has recently refused to entertain the said application, which means that the verdict of $6,000 and costs obtained by the plaintiff at the trial against the defendants, still stands.

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Proceedings of a somewhat criminal nature were recently taken by one John White, a ratepayer of the township of Aldborough against the said municipality. Mr. White complained that the said corporation was guilty of maintaining a nuisance by reason of the neglect or refusal of the said corporation to build a bridge over a stream in a gully on the 14th concession of the said township. An information was laid before a local justice of the peace. The matter was heard by two of such justices, and the defendants' counsel objected to their entertaining the matter, on the grounds that there was no precedent or legal authority for their so doing, and that, being interested parties, as ratepayers of the said township, the magistrates had no right to adjudicate upon the subject matter of the complaint. On the latter ground the justices dismissed the summons. An indictment was then preferred against the said municipality at sittings of County Court, held in St. Thomas in December last. On the application of the defendants the hearing was adjourned until the sittings of the said court to be held in June, 1894.

The seems to be slight misunderstanding as to the intention of the act respecting the duties of treasurer, amended last year. The treasurer is not required to attend at all council meetings, but only at such meetings as he may be directed to produce his cash book for inspection by the council. This does not interfere with any by-law or other regulation of the council regarding the attendance of the treasurer at all meetings.

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The county council of Leeds and Grenville, Lambton and Huron have passed resolutions favorable to the establishment of houses of industry, and active committees have been appointed to arrange details.

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The Perth county council has again voted down a motion to establish a house of industry. A long discussion was indulged in, all the old time arguments of economy, crowding the goal with innocent criminals, and humane treatment of the poor, would not weigh down the item of expense, which in more liberal counties makes these institutions popular, as they are found to be economical.