

and if the objectionable matter be not removed within twenty-four hours after such notification, "The inspector may prosecute the person so offending, and *he may also cause the same to be removed at the cost of the person or persons so offending.*" The penalty for the above offence and the mode of enforcing it, will be found in section 18 of schedule B. Nothing can be recovered from the party referred to in this case, unless the proceedings above provided for have been taken.

Proceedings by Municipality Under the Ditches and Watercourses Act.—Cutting of Shrubs on Streets.

**420**—A. B.—What proceedings are necessary to be taken by a township council in calling the engineer under the Ditches and Watercourses Act?

2. Would it be necessary for the council to pass a by-law before calling the engineer?

3. Who should serve the notices required by the Act on behalf of the corporation?

4. Can a township council be compelled to cut down alder bushes or other shrubbery growing on the highway?

1. A township council occupies the same position as a private owner as regards its power to initiate proceedings under the provisions of the Ditches and Watercourses Act. These proceedings will be found fully set forth in the Act. Sub-section 1 of section 7 renders the declaration of ownership unnecessary when the proceedings are initiated by a municipality.

2. No—a resolution of the council authorizing the initiating of proceedings under the Act to construct the drain (describing it) and empowering and instructing the reeve to sign all notices and requisitions required by the Act in carrying these proceedings to completion is all that is necessary.

3. These notices may be served by the clerk or any other person whom the council employs to do so.

4. Township councils should cause all alder bushes and other shrubs, which may be obstructing or impeding traffic on a highway, or interfering with the flow of water through drains thereon to be cut down, but unless they are causing injury or damage, or are likely to do so, the council is not compelled to cut them, provided they do not come within the definition of "noxious weeds." As to the destruction and prevention of the growth of these, see sec. 8 of Chap. 279, R. S. O., 1897, and sub-section 2 of section 547 of the Municipal Act.

Statute Labor and Expenditure of Moneys in Police Village.

**421**—J. A. C.—C is a police village situated partly in the township of S and partly in the township of H. The police trustees have an agreement with the township councils whereby they collect and pay to the trustees the amount of the village statute labor and also refund to the trustees the proportion collected in the village for road improvement purposes in the township.

1. Under these conditions have the councils of the townships power to appoint pathmasters or road overseers for the road divisions in the village and may these councils direct where and what work shall be done by such pathmasters, even when the majority of the trustees object?

2. Does the law respecting police villages give to the trustees the power to put into a general

fund the money received from the two townships in the manner before stated, and to expend the same (the whole amount) in one portion of the village which is altogether in one township? The trustees propose to construct a new cement walk on the south side of the village and pay for same with the money contributed in taxes by residents on both H and S portions. Can they legally do this?

3. What officials have control of the road work, side walk, construction and other such work in a police village?

1. Notwithstanding the fact that an area has been set apart for police village purposes, it still remains a part of the township or townships out of which it is formed, for all general purposes. We assume that the township councils have passed a by-law pursuant to section 103 of the Assessment Act, commuting statute labor within the area of the police village. If this is the case, the commuted statute labor must be collected by the township councils and expended by them through the pathmasters appointed by them in the road divisions within the limit of the police village. The township councils still have authority to appoint pathmasters for the road divisions within the limits of the police village to supervise the expenditure of the moneys collected by the township for commuted statute labor. The statutes do not give township councils any authority to pay these moneys over to the trustees of the police village. In this case, we do not see, however, what the pathmasters appointed can do. They cannot expend the commuted statute labor moneys as it has been paid over to the police trustees, and they cannot require the ratepayers to perform statute labor. We might add that there could be no objection to the appointment of the police trustees as pathmasters within the limits of the police village.

2. The trustees of a police village have the power to expend all or any part of the moneys legally under their control for the purposes mentioned in section 741 of the Municipal Act, in any part of the police village where they may deem such expenditure necessary and advisable.

3. Subject to our answer to question number one, the trustees, especially the inspecting trustee, appointed pursuant to section 735 of the Municipal Act are the proper officials to look after the work mentioned in section 741, and perform such other duties as are authorized by the Act within the limits of a police village.

Statute Labor in Unorganized Districts.

**422**—W. J. E.—1. In the township of H we have a road commission under the Bettes Act. Many of the lots which are settled upon have had only five dollars paid upon them, and in a few of these cases the holders claim that in as much as the title of the land is still held by the Government that they are not liable for statute labor. The Government price is fifty cents per acre. Are they right?

2. One man on a main road has three acres bought off a lot and is residing thereon. The assessor of the school section neglected to assess his lands for school taxes separately, and he claims that therefore he is not liable for road work. The commissioners contend that the school section's assessment is entirely distinct from the statute labor, and that the man is liable after being notified. Which is right?

1. Sub-section 1 of section 123 of the Assessment Act provides that "each owner or LOCATEE of land may be required each year to perform two day's statute labor for every one hundred acres he holds, etc. The parties referred to are LOCATEES of land in the township and are therefore liable to perform statute labor under the provisions of the above sub-section.

2. The commissioner's contention is right.

Licensing Peddlars in Villages.—Prevention of Disturbance in Building.

**423**—M. H. H.—1. Our incorporated village is situated nine miles in another county from a city, but the city grocers send travellers to solicit orders from private houses in our village and country round about for groceries, wines and liquors and deliver same next day. We have hotels paying \$300 a year license. These grocers do business, drive over our streets and roads and pay no toll or taxes. Can our village, county or township councils pass a by-law compelling them to pay a license or tax?

S. T. O.—Will you please inform me what power a village council has over a drill hall owned by the government, a captain having charge but has handed his keys to a corporal or sergeant. This drill hall is a nuisance. Some young men carry liquor there Saturday night and carouse all day Sunday, the building being frame, their voices can be heard several blocks away, cursing and swearing, being in order. The reeve has spoken to the captain without any result. Can our constable arrest these men for disorderly conduct, or can the council take any steps to have this building closed?

1. If these persons are the owners of the respective businesses mentioned in the adjoining municipality, they cannot be required to obtain licenses under a county by-law, before they can legally do business in this way in the municipality, the village council has no legal authority to pass a by-law imposing a license on hawkers and peddlars. (See sub-section 14 of section 583 of the Municipal Act.) In the case of Reg. v. Henderson (18 O. R., 144), the defendant, a wholesale and retail tea dealer residing and carrying on business in the city of Hamilton, sold tea by samples in the County of Halton to persons not being wholesale or retail dealers therein, and forwarded the orders to his own place of business at Hamilton, whence the tea, made up in parcels, ready for delivery, was sent to him at Milton for distribution to the purchasers. He was convicted of carrying on a petty trade. On appeal from this conviction it was held following the authority of Reg. vs. Coutts, (5 O. R., 644), that he was not a hawker, "since he was not carrying goods for sale," nor did the amendment of sub-section 14 by clause (a), bring him within its purview, since the Act as amended, applies only to "agents" and does not include a principal. See also Reg. v. Marshall, (12, O. R. 55)

2. It may be that the cursing and swearing are being carried on to such an extent that the thing is a nuisance. It depends upon whether the public is affected as distinguished from one or two individuals. If the public is affected the persons offending may be indicted for causing a nuisance. We would, however, suggest that a complaint be laid with the proper authorities.