

passed, and there is a dispute between the county council and the councils of the local municipalities as to whether the bridge is a county bridge or not, section 618 of the Act provides the proceedings necessary to be taken to settle the matter in dispute. In a case where the stream is less than 80 feet in width we think the county council can pass a by-law under sub-section 4 of section 617 after an action has been brought to compel it to maintain such bridge, but the county would in all probability in such a case be ordered to pay the costs of the action as far as it went.

2. Section 1 of chapter 240, R. S. O., 1897, (An Act Respecting Snow Fences), empowers councils of townships to require owners or occupiers of lands adjoining highways therein to remove fences that cause an accumulation of snow, and to replace them with others that will not have this effect. It also empowers such councils to compensate such owners for the additional cost of the new fences required to be erected. If there is any dispute as to the amount of this compensation, provision is made for a settlement thereof by arbitration in the manner provided by the Municipal Act. In case the owner or occupant refuses or neglects to comply with the requirements of the council in this regard within two months after the compensation has been settled, section 2 of the Act authorizes it to remove the old fence and erect the new, and to recover the amount of all costs and charges thereby incurred by the council over and above the amount of the compensation agreed upon or settled by arbitration from the occupier or owner in any division court having jurisdiction in the locality.

#### Enforcing Performance of Statute Labor in Districts.

431—A. E.—Will you please let me know how the commissioners are to go about enforcing the statute labor on lots where the owner is not living in the township. You said in your reply of April 15th, that a land owner who does not live on his lot and who has no improvements can be compelled to do statute labor. By what means can we enforce it. Can we register it against the lot or how are we to go about it? That is unpatented land. If he won't do the work, won't pay for it, and we cannot put it against the place, what can we do?

Section 127 of the Assessment Act provides the remedy in this case. It enacts that "any person liable to perform statute labor under the next preceding sixteen sections, who, after six days' notice requiring him to do the same, wilfully neglects or refuses to perform at the time and place named by the commissioners the number of days statute labor for which he is liable, shall incur a penalty of \$5, and in addition \$1 for each day in respect of which he makes default, the same to be paid to the commissioners and to be expended in improving the said roads, and upon such person's conviction thereof before a Justice of the Peace, having jurisdiction in the township, such justice shall order

the penalty together with the costs of prosecution and distress, to be levied by distress of the offender's goods and chattels." In connection with this we may say that a Justice of the Peace cannot summon a person who is outside of the territory over which he has jurisdiction, and in such a case we do not think that any procedure is provided for enforcing the performance of statute labor.

#### Qualification of Arbitrators—Validity of Award—Time for Moving to set Aside—Limit of County's Borrowing Powers.

432—F.—An arbitration was held between two municipalities; one municipality appointed a member of their council, the other appointed their treasurer, the two met and appointed a third. Both municipalities appointed their arbitrators by by-law. No objection was made to the legality of the appointments, nor any motion made to quash said by-law, although the appointments are apparently contrary to R. S. O. chapter 223, section 457. The arbitrators took evidence and made their award, which apparently is satisfactory to all concerned, no property of any kind being in any way affected.

1. Is said award valid or legal?
2. If said award is invalid or illegal is there a limited time in which application can be made to set same aside?
3. What is the limit of time to set same aside?
5. What is the largest sum a county may raise by debenture for the improvement of highways without submitting by-law re the same to the ratepayers for their approval?

1. This arbitration being authorized by the Municipal Act, and by the Act Respecting the Grant of Provincial Aid for the Improvement of Highways, this award is valid, unless and until it has been set aside as a result of proceedings instituted with that object in view. The fact that two of the arbitrators were disqualified by section 457 of the Municipal Act to act in the matter, does not of itself render the award void or illegal, but would be a ground for setting it aside on application made for this purpose.

2 and 3. Yes, within six weeks after the publication of the award. (See section 465 of the Municipal Act.) The award is "published" when the arbitrators give the parties notice that it may be had on payment of the charges, but the High Court or a Judge thereof may, under special circumstances, allow the application to set aside an award to be made after the expiry of six weeks.

4. Yes.

5. \$20,000. See sections 388 and 390 of the Municipal Act and section 9 of chapter 32 of the Ontario statutes, 1901. We are not to be understood to mean that in every case where the amount required to be raised for the special purpose mentioned a county council can without the consent of the ratepayers raise \$20,000. If a county council for example has in any one term raised say \$10,000 over and above what is required for its ordinary expenditure not more than \$10,000 could be raised for this special purpose over and

above other sums raised in addition to ordinary expenditure for other purposes.

#### Payment of Damages for Sheep Killed.

433—G. W. T.—At a recent session of council two ratepayers applied for compensation for sheep killed and injured by dogs. The dogs were two in number, both parties saw the dogs and after diligent search found the owner of one dog who acknowledged, that, although his dog was tied and fed at night, yet on that particular night he was absent, and he agreed to pay one-half of the loss. No owner could be found for the other dog. Under these circumstances is the township liable to the owners of these sheep for two-thirds of the one-half of their value?

Assuming that the council of the township has not passed a by-law pursuant to either section 2 or section 8 of chapter 271, R. S. O., 1897, if the council is satisfied that the owner of the dog identified has agreed to pay the full extent of the damage committed by his dog, whether it be one-half or any other proportion of the whole amount, then the council is liable for and should pay these ratepayers two-thirds of the difference between the whole amount of the damages they have sustained and the sum they have received or are to receive from the owner of the dog identified.

#### Owner of Sheep Running at Large Liable for Damage to Hedge.

434—W. D. M.—In the absence of a by-law permitting sheep to run at large in our township, who is responsible for the damage to a hedge fence along road side caused by sheep eating same from the road allowance?

2. What procedure should the owner of the hedge take to restrain the owner of the sheep from allowing his fence to be damaged? Can he obtain damages?

1. The owner of the sheep.
2. The owner of the hedge can bring an action in the proper court for the damages which he sustains.

#### Removal of Obstruction on Road Allowance—Power to Close Road.

435—X.—In 1852 a public road was legally opened through private property and used for some time; statute labor performed thereon. For some years however part of the road has not been used by the general public, owners of lots being allowed to put fences or bars across at different parts. A town site has been laid out on the banks of the Rideau Lake and this road is in the vicinity of the said town site. Two petitions will come before the council at next meeting, one praying that the above road be closed, the other that the obstructions be removed therefrom.

(a). In case the council passes a by-law ordering the pathmaster to have obstructions removed, and in case the present owners who possibly found said obstructions thereon when they came into possession, refuse to remove said obstructions, what provision is made in the statutes for collecting from the parties the expense of removal?

(b). Some claim said expenses can be entered on the collectors roll. I cannot find any authority for that contention. Am I right?

(c). As this road is not an "original road allowance" it will not be subject to section 660 (2) (b) in case the legal steps be taken to close it. Am I right?

(d). One J. P. claims that the council cannot close this road as it is the shortest distance