

Your idea is that the county must build the necessary approaches in their entirety and that the local municipalities are only bound to maintain them after they are no longer beyond the 100 feet, but with you we cannot agree.

#### Collection of Arrears of Taxes.

221—W. R. M.—A lot of 100 acres was advertised in 1897 to be sold for arrears of taxes, and it was sold at adjourned sale on January 27th, 1898. Now there are arrears of taxes against the said lot for the years 1897, 1898, 1899, 1900 and 1901. Can these taxes now be legally collected if the party owning said land refuses to pay them? Can the land be sold for the taxes at next tax sale, and if they cannot all be collected, for what years can they be collected? A party has just bought the land and he seems to say that the taxes for all these years cannot be collected.

If the different municipal officers have performed all the duties required of them, by the Assessment Act, in respect of these arrears of taxes and the lands were "unoccupied" during the years for which they accrued, the arrears, for the years named, can be realized by sale of the premises in accordance with the provisions of the Assessment Act.

#### Municipality's Liability for Defect in Highway.

222—W. H. B.—1. If parties building, dig holes on the side of the public highway in township, and the council know nothing about it, and a farmer turns his horses into his yard to water and they break into the road and one of them falls into one of the holes dug on side of road and is nearly killed, and left unfit for work, can the owner of horse come on the township for damages, or should he come on the parties who dug the holes, as there are four or five. These holes were dug to take out building sand, I understand. This case came before our council yesterday and we decided that he should come on the other parties, as we were not responsible to him.

2. On a concession in our township there is a very steep bank down to river, and the water going down the ditch on side of road to river. The freshet every spring washes out a quantity of dirt on this bank and when water gets scarce on the farms they drive the cattle down this steep bank to get water. One farmer, especially, notified us yesterday that if we did not make this place safe for him before July and anything happened to his stock by falling into this washout he would come on the township for damages. There is no bridge over the river here and water is very deep. We told him he could not bluff the council in that way. These are the facts as near as I can tell. Can we prevent him turning his cattle on to the road to get water, as the river runs through his farm at back, and he could build himself a lane to the river?

1. Your council should take steps to prevent the excavation of these holes on the highways, otherwise there is a constant risk of actions for damages being brought against the municipality by parties sustaining injury by reason of their existence. We are of opinion that your council is not liable, in damages, to the owner of the horse injured, as it had escaped from its enclosure and was running at large, unattended, when the accident happened.

2. The council cannot prevent the turning of his cattle out into the highway by this man, but if he does so, knowing

of the existence of the dangerous locality, and being morally certain that his cattle will seek it, and thereby sustain injury, if they are injured, the municipality will not be liable to the owner, in damages, for the injury sustained. The council can pass a by-law prohibiting cattle from running at large. See section 564 of the Municipal Act, subsection 2.

#### No Statute Labor in Incorporated Village.

223—A. E. S.—Can statute labor be levied and collected in an incorporated village? As far as I can find, from reading the statutes, there does not appear to be any provisions regarding villages, similar to that contained in section 102 of the Assessment Act, respecting townships. The only provision I see, affecting villages, is \$1 from male inhabitants twenty-one to sixty years, not otherwise assessed, or whose taxes do not amount to \$2. This village has been in the habit of collecting statute labor on a sliding scale, similar to the provisions of section 102, but it seems to me that any ratepayer might lawfully refuse to pay the sum so added for statute labor.

Section 102 of the Assessment Act, applies to townships only. The course hitherto pursued by your village, in this regard, is, therefore, illegal, and any ratepayer is justified in refusing to perform the statute labor or to pay the commutation tax charged against his lands. The only provision as to statute labor in villages, is contained in sections 97, 98 and 99 of the Act. Section 107 makes provision for the enforcement of the payment of commuted statute labor in villages.

#### Changing Boundaries of Union School Section.

224—T. R. K. S.—There is a union school section, composed of parts of townships O and N, with the school building in the village of S, on the N side. Now the trustees of said union section and a number of ratepayers in said union section and other adjoining school section have petitioned the council of O to enlarge the boundaries of the union section by taking in parts of two other sections in the township of O. Now, can the council of O change such boundaries, or would they have to appoint an arbitrator in accordance with section 46, School Act, 1901?

The council of O cannot change the boundaries of the union school section in question. The change, if any, must be effected by arbitrators appointed in the manner provided by section 46 of the Act.

#### Exemption from Statute Labor—of Town Offices from Taxation—Interest Should Not be Charged School Board by Town.

225—J. H. K.—1. This township, some years ago, granted exemption from taxation to a saw-mill established here. During the time they have performed the usual road work which the law requires them to do. This year, however, they have not done any road-work, and contend that the exemption from taxation also exempts them from road-work, and I shall be glad to know if this is correct?

2. The clerk and treasurer of this town are each paid a certain salary, no allowance being made for office rent, lighting and fuel. At the present time, the council chambers, the clerk's office and the treasurer's office are all in one block of buildings belonging to a private individual, the town paying rent for the council chambers, and the clerk and treasurer both

paying rent for their respective suites of offices. The bank, which has a branch in the town, is now erecting a very handsome structure, the two upper flats of which will be occupied as follows: First flat, clerk's offices and treasurer's offices; second flat, council chambers. But in making lease with bank, the clerk and treasurer both agreed to pay a certain rent without taxes, it being contended in our court of revision in former years that property occupied by town officials was not assessable. Our assessor, however, states that he intends to assess the bank for the whole building, and if he does the bank will consequently have to increase the rent. Kindly say if the portion of this property, occupied by council and officials, is liable to taxation?

3. This town advances the school board money, as required from time to time, amounting in all to about \$5,000 during the year, and, as the treasurer of the town, I have heretofore charged them bank interest on amounts so advanced, as the town does not get this money until the taxes are collected in December, and consequently have to pay the bank interest for the money so borrowed. This year, however, the school-board refuses to pay this interest, contending that the town is bound to furnish them with whatever money they require, without interest. Kindly say if this is correct?

1. Unless the by-law, exempting the saw-mill from taxation, also contains a specific exemption as to statute labor, the owners are liable for the performance of the statute labor properly chargeable against this property, or for payment of the commutation therefor. It is doubtful, however, whether a council has the power to exempt any particular property or individual from the performance of statute labor or the payment of commutation, as no authority of this kind is conferred by the statutes.

2. It has been held, under subsection 1 of section 7 of the Assessment Act, that property whether freehold or leasehold, in the use or occupation of the Crown or of any person or persons in his or their official capacity as servants of the Crown, is not assessable (*Shaw v. Shaw*, 12 U. C. C., P. 456), but the language of this subsection and that of subsection 7 is not the same. The former refers to "all property vested in or held by Her Majesty, etc." and the latter to "the property belonging to any municipality, etc." The premises occupied by the clerk and treasurer in this instance do not belong to the municipality but to the banking corporation, and are therefore properly assessable to the latter.

3. We agree with the contention of the school board. Subsection 9 of section 65 of the Public Schools Act, 1901, provides that it is the duty of the trustees "to submit to the municipal council on or before the first day of August or at such time as may be required by the municipal council, an estimate of the expenses of the schools under their charge for the current year." Assuming that the trustees have complied with this provision, subsection 1 of section 71 provides that the council shall levy and collect upon the taxable property, etc., such sums as may be required by the trustees for school purposes, "and shall pay the same to the treasurer of the public school board from time to time, as may be required by the board for teachers' salaries and other