county as well as outsiders and it should do so. If it did not apply to all alike, it might be quashed for discriminating against one class of persons in favor of another.

2. Whether such a person can peddle goods in your county depends upon the nature of the goods and upon the way in which he disposes of them. In the case of goods of the kind mentioned in clause 4 of the by-law, he cannot sell them or take orders for future delivery without a license, but if the goods are not of the kind mentioned in clause 4, he may take orders for them, delivering the goods subsequently pursuant to such orders.

3. If you are the storekeeper above referred to, and desire to sell your goods from a wagon, travelling from house to house, and wish to avoid having to pay the penalty imposed by the by-law, we would advise you to pay the fee and take out the license.

Equalization of Union School Assessment.

184—J. S. E.—We have a union school section made up of parts of two townships and the village. Last year was the year for the assessors to meet and equalize the school-rate, but our assessor overlooked the matter until statutory date for doing it was past, he not being aware that that was the year for having it done. Will three years more have to elapse before the matter can be taken up, or can our assessor notify or summon the other two assessors to meet him in order to perform that duty this year?

No. The fact that the assessment of this union school section was not equalized before the 1st of June last year, as it should have been, does not render now or at any other time after that date inoperative. The machinery of municipal government assumes that certain things are done by certain days in the municipal year, so that other things may, in their order, follow. Municipal officers, therefore, cannot regard provisions as to time with too much strictness. But, if the thing required to be done by a fixed date is not done, it does not follow that it cannot be done afterwards. It is, no doubt, important that it should be done within the time limited, but Pollock, C. B., remarked in the case of Hunt vs. Hibbs, (5 H. & N. 126): "It is still more important that it *should be done*, and, therefore, if owing to some uncontrollable circumstances, it is not done on the proper day, it ought to be done on the next or some other."

Authority of Disqualified Justice of the Peace.

185—CLERK—We have in our vicinity a man who acts as magistrate who cannot qualify at present, but could and did some years ago. He has lost all his property, and is not to-day worth one cent. He is at present a member of our council, and is determined to officiate as magistrate. Has this man a right to qualify officers of the municipality, such as pathmasters and fenceviewers, and to take affidavits and to sign his name to such as justice of the peace?

Unless he is reeve, this person should not act as a justice of the peace in or for his county, unless he is qualified as such according to the true intent and meaning of chapter 86 of the Revised Statutes of Ontario, 1897. If he does so act, he shall for every such offence, forfeit the sum of $100, to be recovered and applied as provided in section 16 of the Act. It has been judicially held, however, that in such cases his acts are not invalid, he being still commissioned a justice of the peace. (Margate vs. Hannon, 3 B. & A., 226.) See also section 473 of Municipal Act.

A Drain Under the Ditches and Watercourses Act.

186—W. D. M.—Some years ago a drain was constructed under the Ditches and Watercourses Act, (which we will call drain No. 1) an outlet to which was given by the owner of land where there was sufficient fall allowing it to flow on to his property.

Two years ago proceedings were commenced, in the regular way, under the Municipal Drainage Act to construct a drain (called drain No. 2) from where drain No. 1 stopped to the outlet in the Maitland river, the parties who had constructed the first drain being assessed a certain amount for this improved outlet. This second drain is under construction now.

It now happens that the owners of land above the head of drain No. 1 wish to construct a drain (drain No. 3) and empty the water from same into drain No. 1 from whence it will flow into No. 2. The estimated cost of this last drain without figuring anything on outlet will be about $500.

What we wish to know is,

1. Can the parties on drain No. 3 proceed under section 5 of the Ditches and Watercourses Act, providing the assessment for outlet does not exceed $500. The total length of the three drains which would then form one continuous drain would be from seven to eight miles.

2. In the event of drains Nos. 1 and 2 being of sufficient capacity to accomodate the increased amount of water being brought into it by this last drain, would the owners on drain No. 3 be liable for assessment for outlet?

1. If drain No. 3 will not, when constructed, pass through or into more than seven original township lots, and will not cost over $1,000, or if it will pass through or into more than seven original township lots, and the council of the municipality has passed a resolution pursuant to a petition of a majority of the owners of all lands to be affected by the ditch, authorizing the extension of the drain through or into any other lots, proceedings may be taken to construct the drain under the provisions of the Ditches and Watercourses Act. The amount that the contributories to the construction of drain No. 3 would be assessed for for outlet into drain No. 2, or the total length of the three drains does not affect the question in any way.

2. Yes. And they should be so assessed.

Sale of Horse Impounded.

187—RATEPAYER.—1. A resident of this municipality distrained and retained in his possession a young horse that came on his premises Jan. 31st, giving notice to clerk of municipality Feb. 7th. The clerk then posted notice of same, as per section 10, chapter 272, R. S. O., 1897. As the animal has not been claimed yet, the regular notice having been published in two county papers, when will the clerk be required to post notices again, and on what date will it be legal to have the sale?

2. How many days prior to sale will the notices posted by the clerk require to be posted in the three public places, that is, does it mean (section 13) three days after the two months are up, or that time before the two months expired?

3. Sometime in winter of 1901 some person or persons unknown upset with a load of small timber or poles and left them lying on the road (one of our main travelled roads) and have not returned for them yet. Last year's pathmaster moved them over to the edge of the road and they still remain there, liable to cause damage if driven upon. What action should the municipality take to cause the poles to be removed? Could they be advertised by posters and sold? If so, what would be done with the proceeds?

1. The only notices the CLERK is required by the Act to post up are those mentioned in section 10 of the Act (R. S. O., 1897, chap 272). Having done this his duties in this regard ceases. All subsequent notices will have to be prepared and posted up by the party who distrained the horse and retained it in his possession. The sale cannot take place until after the expiration of three days after the expiration of two months after the animal has been taken up. See sections 13 and 14.

2. The notices of sale should be posted up, as required by section 14, by the party who distrained the horse for three days prior to the sale, AFTER the expiration of two months from the time the horse was taken up. The notices of sale should not be posted up before the expiration of the two months, as this course would not be a compliance with the provisions of section 13.

3. Your council should pass a by-law pursuant to subsections 3, 4 and 5 of the Municipal Act providing for the removal of these poles by the pathmaster for the road-division. Since the person or persons who placed them there is or are unknown, they cannot be removed at the expense of such persons as provided in subsection 4. There is no provision made for the advertising and sale of material left on a highway, under the circumstances in this case.

Confiscation of Bread.

188—T. A. M.—By this mail I send you a copy of our town by-law. See section 174, page 36. You will observe loaves are to be 1, 2 and 4 pounds, except fancy bread. The question is, can an outside baker send in bread stamped 1½ lbs. by calling it home-made bread, regardless of our by-law? Acting under the by-law, we confiscated sixteen loaves to-day. Are we acting within our power?

The expression, "fancy bread," used in section 174 of your by-law is a very indefinite one. The by-law should show what was intended to be meant by the word "fancy." If it means bread made of any other ingredients or in any other shape than those usually and ordinarily used and employed by bakers generally, or otherwise different from bread made and sold ordinarily by bakers, and the "home-made" bread seized is such, it should not have been confiscated, but as to this we cannot give a definite opinion, not having the facts before us. Of course your by-law applies to outside bakers of bread and vendors of the same within your town, in the same manner and to the same extent as to local bakers.