

B, there is an old graveyard which was given by a resident for a public burying ground about ninety years ago. It was used by all, free of charge, until filled. About twenty years ago a property owner at the rear end opened a new one, surveyed it and sold it in lots. This man has a provision in his will for the maintenance of that portion, both being in the same enclosure. This ground is not in connection with any church or society. The township council made a grant towards building the present fence about twenty-five years ago, which needs renewing. My question is—Who should fence it, the township, or must it be done by private funds?

We do not see anything in the facts stated that would render the council of the township in any way liable for erecting or maintaining fences around this cemetery.

#### Law as to Cattle Running on Highways.

502—U. P.—1. I have been informed that there was an Act passed in parliament some time ago prohibiting stock from running on the Queen's highway. Is this so?

2. Is a man compelled to fence against such stock running at large on a public road?

3. Sheep and cattle are allowed to run at large in our township from May 1st until November 1st. Can a man impound stock (such as sheep, that are allowed to run at large) if he leaves his gate open?

1. No such statute has been enacted, but sub-section 2 of section 546 of the Consolidated Municipal Act, 1903, empowers councils of townships, etc., to pass by-laws "for restraining and regulating the running at large or trespassing of any animals, and for providing for impounding them."

2. No.

3. Yes. The owner of animals running at large on a highway, even if allowed by by-law of a municipality to so run at large, should see that they do no damage to nor trespass upon premises adjoining the highway.

#### Effect of Failure to Send Notice of Filing Award Under D. and W. Act in Time.

503—N. L.—Last Fall the township engineer made an award and filed the same with the clerk of the municipality on the 12th December, 1906, and the clerk notified the interested parties on the 5th day of January, 1907.

1. According to law was it too late for the interested parties to appeal against the award?

2. Will you tell me if the interested parties had appealed and being too late, if they can claim damages against the clerk?

3. Who is responsible for not having notified the parties interested in time?

1. Yes. At the time the award was filed sub-section 1 of section 22 of The Ditches and Watercourses Act (R. S. O., 1897, chapter 285) required that the notice of intention to appeal against the award should have been filed with the clerk within 15 clear days from the 12th December, 1906. Under the provisions of section 24 of the Act, the award is now binding on all parties concerned.

2. We do not think that any party interested has any cause of action against the clerk, unless he can show that he sustained substantial injury by the failure of the clerk to send the notice of filing the award within the time required by the Act.

3. From the statement of the facts, the clerk is apparently to blame for not having sent out the notices in time.

#### Power to Lease Public Weigh Scales.

504—T. R. L.—Last year our council built a public scale. We have two grain merchants in our village. One of them rented the scales, and since then he has gone into the coal business. The other grain merchant had been selling coal for a number of years, and he objected to have to weigh his coal on the scales operated by his opposition. Is he compelled to do so under the by-law, and is it legal for the council to rent the scales to any person dealing in any article that has to be weighed on the public scales? We have no established market.

We do not think the village council has any authority

to lease the weigh scales. Sub-section 1 of section 582 of The Consolidated Municipal Act, 1903, simply authorizes councils of villages, etc., to pass by-laws "for erecting and maintaining weighing machines in villages or other convenient places, and charging fees for the use thereof, not being contrary to the limitations provided by sub-section 8 of section 579 of the Act."

#### Finality of Assessment Roll.

505—J. T.—The assessor left his slip with me for an assessment of \$10250, on his book he charged me with \$10750. What shall I do, will his book or the slip he left be law?

If an appeal was not taken to the Court of Revision within the proper time against this assessment, the amount entered in the assessment roll filed with the clerk will be taken to be the proper assessed value. Section 66 of The Assessment Act, 1904, provides that "the roll, as finally passed by the court, and certified by the clerk as passed, shall, except in so far as the same may be further amended, on appeal to the Judge of the County Court, be valid, and bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll, or any defect, error or misstatement in the notice required by section 46 of the Act; or the omission to deliver or transmit such notice."

#### Statute Labor on Deviating Town Line.

506—J. F. T.—1. In the township of H, road beats are laid out by by-law. Now No. 7 beat is on boundary line between H and M. This road does not follow the line all the way on account of mountain being too high to cross, road running round end of mountain to boundary of H. This road runs parallel with line between M and H, about twenty rods apart. Is the township of H responsible for any part of this road when it is all in H, or is it town line just the same?

2. Has the pathmaster a right to leave this road and work on side roads?

1. From the statement of the facts this is evidently a road used in lieu of the town line between M. and H., and should be maintained and kept in repair by these two townships jointly.

2. A pathmaster can order statute labor to be done upon any road in his division, but he has no right to order any person to do his statute labor outside of the limits of his division without the order of the council.

#### Powers of Council as to Drainage of Roads.—Collection of Taxes on Lands Omitted from Roll.

507—A. J. M. S.—The owner of lot 3 objects to having two watercourses through his farm, and asks the council to cut a ditch beside the road from the north watercourse to the south one, a distance of 60 rods. The ditch would average less than two feet deep and would not cost more than fifty dollars.

1. Is the council obliged to take care of water drained to the road, whether by natural watercourse or otherwise?

2. Can the owner of lot 3 compel the council to take the water from the north watercourse to the south one, at the expense of the municipality?

3. If not, would it be legal for the council to do so?

4. Would the owners of lots 1 and 2 be liable for a part of the expense of ditching across lot 3, all being improved farms?

5. Are barbers and blacksmiths subject to a business assessment? If so, under what section?

6. How many years arrears of taxes may we collect against lands that has not been on the assessment roll for many years, the land being owned continuously by the same persons from the time it was assessed previously until now?

1. The council should construct such drains as are necessary to carry away water that comes to the highway from natural sources, so as to keep the roadway in a proper state of repair, but is not obliged to and should not construct ditches to carry away water that is brought to the road allowance by artificial means.

2. No.

3. No.