

of the new Public School Act to be carried out? Can the trustees of such a section require from the organized municipality the full amount of the general school rate and then levy a rate on the unorganized portion equal to the sum of the general and special rates in the organized, or should it not be that the total revenue of the school from the rates should be in proportion to the total assessment of the different parts forming the union? which makes a great difference when the assessment in the organized portion is low.

The School Act does not appear to provide for a case of this kind. Section 66 does not apply to this union section. Section 26, sub-section 1, authorizes trustees to appoint an assessor. An appeal from the assessment is to the secretary treasurers of three sections or the inspector, according to circumstances (see section 25.) The assessor appointed by the school trustees should act with the assessor of the organized township in equalizing the assessments as provided by section 51. The total amount required for the purposes of the section is apportioned according to the assessor's award. The council of the organized township is to levy and collect the amount required from the portion of the section within the township, and the trustees under section 28, appoint a collector to collect from the portion of the section situated in the unorganized township.

#### Clerk Not on Committee.

274.—M.—At last meeting of our town council a committee of assessment was appointed being composed of three councillors, the reeve and clerk of the council. Can the clerk legally act as a member of that committee?

No. The council cannot delegate their powers to others than members of the council.

#### Number of Town Councillors.

275.—ENQUIRE.—Gananoque has a population of nearly 4,000. Shall we elect for 1898 only a mayor and six councillors? or a mayor and eleven others as at present, or what is the legal number?

See section 69, Consolidated Municipal Act, 1892. You do not give us the number of wards in the town.

#### Police Villages and Telephone Companies.

276.—P. K.—Has a police village power to make telephone companies set their poles back to sidewalk, they being too far out in the street to look well, and can the said company be stopped from cutting the branches of shade trees along their line, such trees being planted in accordance with a by-law of the township, which sets apart six feet foot-paths and the planting of trees?

We do not think a police village has power to make telephone companies set their poles back. Telephone companies have no right to cut the branches of trees and they render themselves liable in damages for so doing.

#### County Pupils High School Fees.

277.—D. J. W.—The county of Frontenac comprises a high school district (except one township withdrawn). The city of Kingston is a separate district, having a Collegiate Institute established therein. There are many pupils who reside nearer the city than they do to the county high school, and attend the city Collegiate Institute.

1. Is the county compelled to pay for those pupils who attend the city Collegiate Institute? If so, in what proportion, or how much per pupil per month?

2. Have the trustees of the city Collegiate Institute power to fix a monthly fee on each pupil, and how high can they charge?

3. Can the county council compromise with the trustees of the city Collegiate Institute and pay so much per month, or can the city Collegiate Institute trustees compel pupils attending from the county to pay so much per annum to cover all cost of their tuition?

1. If the trustees of the city Collegiate Institute have notified the county clerk that the Institute is open to county pupils on the same terms as high schools in the municipality not separated from the county, the county must pay the cost of maintenance of county pupils attending the Institute, which may be mutually agreed upon or settled by the county judge. See sub-section 6 of section 31, High Schools' Act, 1896.

2. If the Institute has been declared open to county pupils as provided by sub-section 6 of section 31, the trustees have no power to fix fees at all. That power rests with the county council. See sub-section 10 of section 37.

3. The trustees by declaring the Institute open for county pupils as provided by sub-section 6 of section 31 may insist upon payment of the cost of maintenance of such county pupils. The amount to be paid in that case may be settled by mutual agreement.

#### Road Wanted—Power of Council.

278.—C. A. S.—1. A located lot two years ago, and has no road out. C claims he can close public road, said road having been travelled twenty years, if council open side line.

2. Can A compel council to give him a road out?

3. Can C close public road if council opens side line?

4. Have council power to give concession or side line in lieu of given road, said road having been travelled twenty years?

1. Whether C can do so or not depends upon whether the road has become a public highway or not. Twenty years' use does not necessarily make it a public highway. Without a fuller statement of the facts of the case we cannot say whether it has become a public highway.

2. No.

3. C cannot close the road if it has actually become a public highway.

4. See section 551, Consolidated Municipal Act which states the circumstances under which a person may become entitled to an original road.

#### Assessment Educational Institution.

279.—W. N. B.—There is a large property in our municipality, some thirty acres on which is erected an educational institution, twelve acres of which has been used for farm purposes. Our assessor has placed the said twelve acres among the rateable property of the village at a rate per acre.

The said assessment has been appealed against on the ground of exemption by-law. Now what I would like to know is:

1. Is there any precedent?

2. Can their appeal be sustained?

1. There is no precedent.

2. If the institution is one within sub-

section 4 of section 7, Consolidated Assessment Act, 1892, and the twelve acres are rented so that the tenant can be said to have a distinct occupation from the part used and occupied by the institution the twelve acres is rightly assessed and the appeal ought not to succeed.

#### County or Village Bridge.

280.—W. H. M.—1. On page 54, March number of your journal, the question is asked and answered in reference to county bridge on deviated town line, but the question does not state that the Willow Creek bridge, which is the one in dispute, is in the municipality of the village of Paisley, but the map sent to you shows that this Elora road, which is used instead of the boundary line, runs through the village of Paisley. Does the fact of Willow Creek bridge, being within the boundaries of an incorporated village, relieve the county of their liability to build this bridge?

2. Is the county bound to build bridges over streams less than 100 feet on leading boundary roads, or what is used in lieu of boundary roads, or deviated boundary lines between incorporated villages and adjoining townships?

1. Yes, if under 100 feet in width.

2. Yes.

Section 535 of the Consolidated Municipal Act, 1892, provides "It shall be the duty of the county councils to erect and maintain bridges over rivers forming or crossing boundary lines between two municipalities (other than in the case of a city or separated town) within the county."

Sub-section 2 of the same section makes the county liable for the maintenance of a bridge upon a road though it does not mark the true boundary line between the two municipalities but deviates from the true line, but which is used as a boundary line. The statute makes no distinction between different kinds of municipalities and therefore there can be no distinction between a village and any other municipality except where a bridge is over a stream over 100 feet in width and such bridge is wholly within the village. In the latter case the county is wholly liable.

#### Ordinary Current Expenditure.

281.—F. J. C.—In view of section 50, Municipal Amendment Act, 1897, will you give us an opinion as to what classes of municipal expenditures will come under the term "ordinary current expenditures?" also what classes of municipal expenditure cannot be classed under that head? This "ordinary current expenditure" is more than likely to get very different interpretations in different municipalities, and it is important that something uniform and definite should be understood, if possible. Have the council any authority to borrow money to pay debentures falling due in any year before the taxes levied therefore have been collected?

We are of opinion that ordinary expenditure does not include regular payments on account of debentures and coupons. (Assessments for this purpose should be levied in advance.) Ordinary expenditure would include only such items as are for the yearly ordinary business of the council.