

Sub-section 1 of section 304 of The Consolidated Municipal Act, 1903, provides that "the auditors shall examine and report upon all accounts affecting the corporation or relating to any matter under its control or within its jurisdiction for the year ending on the 31st day of December preceding their appointment." A voucher produced to an auditor is simply evidence that the amount therein mentioned has been paid by the treasurer to the person or persons therein named on a certain date. It is not conclusive as to whether the money was legally or properly paid or not, and it is the duty of the auditors, in case of doubt, or the suggestion of suspicious circumstances, to investigate and ascertain the facts attending the payment. If, after investigation, they deem that any payment made by the treasurer, on municipal account, was excessive or irregular, the auditors should so report it to the council which appointed them.

#### Ownership of Boundary Line Between City and Township.

257—W. J. P.—Who is the owner of a boundary road between city and county, and how is it to be established?

Some years ago the city and adjoining township did work on it (separately). Since then there has been no work performed on it, as neither one claims the ownership of it, and it is now in a bad shape.

Since this is a highway lying between a city and a township, it is under the joint jurisdiction of the two adjoining municipalities (unless it has been assumed by a by-law of the county council) and should be maintained and kept in repair at the joint expense of the city and the township. (See section 622 of The Consolidated Municipal Act, 1903.)

#### Mode of Calculating Statute Labor.

258—A. B.—I have 97 acres in one lot and 114 in the other. My assessment is \$5,350 for the 211 acres. I am charged with two days' extra statute labor every year for the 11 acres. Is this right? I own parts lots 15 and 10. I have two deeds.

Sub-section 2 of section 109 of The Assessment Act provides that "wherever one person is assessed for lots or parts of several lots in one municipality, not exceeding in the aggregate two hundred acres, the said part or parts shall be rated and charged for statute labor as if the same were one lot, and the statute labor shall be rated and charged against any excess of said parts in like manner." The method hitherto followed in calculating this statute labor seems to have been correct; if two days is the proper number of days for the valuation of the eleven acres according to the ratio of statute labor in vogue in the municipality.

#### Qualification of Councillor of One Municipality as Assessor in Another.

259—RATEPAYER.—The assessor for M— township has property both in M— and S—. He resides in S— and sits in the council there. He holds the office of collector for M— township. Can he legally hold the office of assessor for M— township?

We are of opinion that this man can legally hold the office of assessor for the township of M—. While filling this office, we do not think, however, that he can legally hold his seat in the council of S—. Sub-section 1 of section 80 of The Consolidated Municipal Act, 1903, provides that no assessor of ANY municipality shall be qualified to be a member of the council of ANY municipal corporation.

#### Power of Police Trustees as to Abatement of Nuisances.

260—C. O. L.—Have the trustees of a police village power to pass a by-law compelling residents to keep their yards and out-houses in a sanitary condition? If so, can the trustees be compelled to look after the same?

The trustees of a police village have no authority to pass a by-law of this kind. They are empowered by

section 746 of The Consolidated Municipal Act, 1903, to enforce the provisions of clause number 15 of that section, but these only apply to filth or rubbish deposited in or upon a street, lane, or public place. Clauses 4, 5 and 6 of schedule 3 appended to The Public Health Act (R. S. O., 1897, chapter 248), make it the duty of the sanitary inspector of the municipality in which the police village is located to cause all premises therein to be kept clean in the manner and to the extent in these clauses mentioned.

#### Powers and Liabilities of Police Trustees.

261—J. R.—We have an unincorporated village, with police trustees appointed, and they have taken over the sidewalks from the municipal council and are talking of laying down cement walks, as plank is out of the question, and although I wrote you before in regard to some questions, I have to trouble you again.

1. Are there police trustee villages incorporated and unincorporated? If so, what is the difference?
2. Can The Frontage Act be made applicable to village for police trustee purposes and be assessed as such, providing they have taken over the sidewalks from the municipal council? If not, can they get it enforced through the municipal council?
3. Would the trustees of an incorporated police village (if there be such) be liable for damages from accident arising from defective sidewalks?

1. A police village is an unincorporated village, that is, it has no corporate existence separate from the township municipality in which it is located. The Board of Trustees may become incorporated in accordance with the provisions of section 751 and following sections of The Consolidated Municipal Act, 1903.

2. Section 752 of the Act provides that "after the passing of the by-law incorporating the police trustees of any police village the Board of Police Trustees shall have power from time to time to pass by-laws for the construction and maintenance of any of the works, improvements, and services, to be paid for by local rate mentioned in section 664 and following sections of this Act, which may be undertaken by the corporation of any incorporated village." Until the Board of Police Trustees becomes incorporated under the above sections, and passes a by-law pursuant to the provisions of section 752, these works (including the construction of cement walks in the police village), must be undertaken and carried to completion under the authority of a by-law passed by the council of the township in which the police village is located under the authority of section 664 and following sections of the Act.

3. Not until they have become incorporated under the provisions of the sections of the Act above mentioned. After such incorporation, sub-section 2 of section 755 provides that the remedy for the non-repair of the work shall be against the Board of Police Trustees.

#### Qualification of Clerk of Village.

262—J. H. M.—At the last municipal election a man was elected by acclamation to fill the unexpired term of a trustee, and at the first meeting of the village council for this year was appointed an auditor for the village. Can this man, while holding these offices, hold the office of clerk of the village?

If this party was appointed an auditor of the accounts of the corporation for the year 1903, has performed his duties and received his pay, he is practically out of office as an auditor, and will not be incapacitated from accepting the office of clerk. As clerk his duties are ministerial, and therefore we are of the opinion that he can act as such, though he is at the same time a public school trustee.

#### Liability of Party Obstructing Highway.

263—CITIZEN.—If a party leaves an obstruction on the highway, which causes damages, can the party damaged bring an action against the party leaving the obstruction on the highway or is his only recourse to the township council?