

visions of whichever of these Acts suits best the circumstances of each particular case, should be strictly observed.

Cellar Drainage.

328—W. K.—A's cellar drain empties into the ditch at the side of the road opposite to a culvert that crosses the road several inches lower than the outlet of the cellar drain. The land at the lower end of the culvert slopes for several feet making plenty of fall for the water. During the fall the earth was allowed to stop up the lower end of the culvert and the water froze and when spring came backed the water into A's cellar nearly two feet. A notified the road overseer, but he allowed the water to remain for over three weeks before opening the culvert spoiling A's vegetables, etc.

1. Is the council liable to A. for the loss of his vegetables, leaving water around his trees and cellar wall?

We are of opinion that the council cannot be held responsible for the damages sustained by A. It is no part of the council's duty to drain cellars in the municipality. If A requires the drainage of his lands he should institute proceedings, under the provisions of The Ditches and Watercourses Act (R. S. O., 1897, chapter 285) and in this way, the rights and liabilities of all persons interested can be properly adjusted.

Assessment of Income.

329—R. N. K.—A householder and a head of a family received interest on mortgages and notes during 1906 amounting to \$240, and sold property for \$2,700 last June, being interest at 4 per cent., \$108, first payment of interest not due until the 1st of June, 1907. Is the above not exempt from any assessment for income for the year 1907?

If the income to be derived by the householder from investments in notes and mortgages, including the \$108 interest on the \$2,700, for the current year can be estimated, and this either alone, or with any income he may derive from any other sources, exceeds \$300, he should be assessed for the whole amount of such income, subject to the exemption mentioned in clause 19 of section 5 of The Assessment Act, 1904, as to any part of it that may be derived from personal earnings, etc. If this year's income cannot be estimated, the income received up to the 31st December last will have to be taken as the basis for the income assessment. If the income received up to that date does not from all sources exceed \$300, no part of it is assessable, but if it did exceed that sum, the amount of his assessable income this year, is the whole amount received last year, subject to the exemption mentioned in clause 19. (See sub-section 2 of section 11 of the above Act). If the party referred to has no income this year except the income derived from interest upon mortgages, notes and balance of purchase money, such income can be estimated, and it should be estimated by the assessor and the amount of such income is the sum for which the party should be assessed.

Assessment of Railway Companies—Duties of Pathmasters—Clerk's Power to Loan to Council—Duties of Constable—Meeting of Council—Widow's Right to Vote in Districts.

330—T. A. M.—The railway company in this municipality appeals against assessment for current year on the ground it should have remained the same as last year, the assessor having advanced the companies assessment some \$500.

1. Can the court of revision, provided all formalities have been observed, sustain or increase the companies present assessment, as last year their property was valued much too low and all the property not enumerated?

2. Do the amendments of 1906 cover this case?

3. Is the stationery machinery used for pumping purposes assessable on railway land?

4. Is it legal to allow pathmasters to collect commutation money?

5. Should they in cases of ratepayers commuting simply record in labor list commuted?

6. May the clerk legally loan money to the council to meet current expenditures?

7. May a constable appointed by the council legally act on any infraction of the law within the municipality or is he limited to the enforcement of the by-laws only?

8. Is there any limit to the number of meetings a council should hold during the year?

9. In the territorial districts are widows eligible to be placed on the voters' list?

1. If the Court of Revision is of opinion, on the evidence adduced before it, that the assessor has observed the provisions of the statute in assessing the property of the railway company, and that he has rated it at its proper value, we are of opinion that it should confirm the assessment.

2. The provisions of section 13 of chapter 36 of The Ontario Statutes, 1906, apply to this case.

3. We do not think so. A pumping station and the machinery therein are not amongst the structures on railway lands, enumerated between the brackets in the amendment to sub-section 2 of section 44 of The Assessment Act, 1904, enacted by section 13 of chapter 36 of The Ontario Statutes, 1906, and which are assessable.

4. Yes, and it is their duty to collect it from owners, who prefer paying the commutation money to doing the work.

5. They should enter in the proper columns of the statute labor returns to be made to the clerk on or before the 15th day of August in each year the amounts of commutation money received and expended respectively.

6. We think transactions of this kind are unwise, and, to prevent suspicions and adverse criticism, should be avoided, although we are aware of no legal objection to the making of such a loan.

7. Section 37 of chapter 225, R. S. O., 1897, provides that councils of townships in Territorial Districts shall have power "to appoint one or more constables within the municipality, whose duty it shall be to enforce and maintain law and order, and who shall perform all duties pertaining to constables."

8. No, but a council should hold no more meetings in the year than are absolutely necessary to enable them to efficiently transact the business of the municipality.

9. No. Sub-section 1 of section 18 of chapter 225, R. S. O., 1897, provides that the persons qualified to vote at every election in a township in a Territorial District after the first shall be "every MALE freeholder and resident householder whose name appears on the revised assessment roll upon which the voters' list used at the election is based for said municipality, and who is of the full age of 21 years, and a naturalized or natural born subject of His Majesty."

Assessment of Railroad Bridges.

331—H. L. P.—In our municipality there are three railroad bridges, two of them between two townships, ours and the adjoining township of T. over the W. river, and the other across the W. canal, but within our township. Can our assessor assess these structures, they never having been assessed and no return made of them by the railroad?

We do not think these bridges are assessable. They are structures on the right of way of the railway, and are exempted from assessment and taxation by clause (a) of sub-section 2 of section 44 of The Assessment Act, 1904, and the amendment to this sub-section enacted by section 13 of chapter 36 of The Ontario Statutes, 1906.