

his line fence is not in its proper place, and deliberately, without consulting council, moves said fence right out on said roadway. Can he lawfully do this?

5. What would be our lawful course of procedure in such a case?

1. Assuming that the village is unincorporated and still forms part of the township municipality, the latter is liable for any damages sustained by accidents resulting from the unsafe condition of these sidewalks.

2. Yes.

3. The council can grant moneys to be expended in repairing these sidewalks and should do so, in order to avoid liability for accidents, if they decide to allow them to remain. The making of such a grant will not add to the liability of the municipality, but rather lessen it, as, if the sidewalks are repaired, there will be less probability of accidents happening.

4. No.

5. If the fence has, without doubt, been placed upon the allowance for road, by the land owner, the council is authorized by sub sections 3 and 4 of section 557 of the Municipal Act to pass a by law directing the removal of the fence to its proper place, and, in case the party who placed it there, makes default in removing it, for five days after receiving notice to do so, providing for its removal at his expense. The offender may also be indicted for causing and maintaining a nuisance on the public highway and be compelled by injunction to remove the fence from the road allowance.

Payment of Fees of Engineer—Liability for Damages Caused by Cattle Running at Large.

411—J. H.—1. In regard to paying an engineer. A brings on the engineer, who goes down through the land of B, C, D, and E, and cannot get fall through to suit A. The engineer did not make an award. Who has the right to pay him?

2. If a council passes a by-law in regard to cattle running at large they put a tax of \$2.00 a head for every one that runs at large. Is the council responsible for any damage done by them or the parties who turn them out?

1. A is the person who employed the engineer to do this work, and should therefore pay the engineer's fees and charges. The municipality in any event is not responsible.

2. The owners of cattle running at large are liable for any damage occasioned by them, the council has nothing to do with it. The fact that cattle are allowed to run at large by a by-law of the municipality, and that a tax is imposed on them, does not affect in any way the responsibility of their owners for any damage they may occasion.

Proceedings to Clean out River.

412—E. H.—We have two branches of the Grand River running through our township and there are several Government drains emptying into said streams. The rivers, (or rather creeks) are blocked with float wood and trees, and in some places washes, which very materially affects the water emptying out of the drains. Now we as a Council wish to know how to pro-

ceed to have said streams cleaned out; under which of the Drainage Acts it would come, or if the parties property through which the streams run are liable for the cleaning out of said streams?

If the obstructions in these streams have been wilfully caused by persons owning land along their banks, the council may accomplish their removal at the expense of the several offenders, by passing a by-law pursuant to sub-sections 12 and 13 of section 562 of the Municipal Act. If, on the contrary, these obstructions are the result of natural processes, such as the falling of trees or timber across or into the streams, the accumulation of dead leaves, sand or gravel, their removal can be accomplished by a by-law passed under the provisions of the Municipal Drainage Act, (R. S. O. chapter 226) pursuant to a petition prepared and filed in accordance with section 3 of the Act.

Opening and Establishing of Road Allowances.

413—J. C. McM.—Our council passed a by-law establishing a road to connect with a road through one L. H.'s farm which had been used by the public for some 20 years to a private dock on the said L. H. farm. On the said road L. H. kept a gate, and about two months ago he told the public he would put a lock on the said gate. The public came to our council and asked us to give them an opening to the river any point within 66 feet of said water. It was a matter where immediate steps were to be taken to allow the general public to enter our town. Our council passed a by-law establishing a road from the road now striking his line fence to the nearest point on said river, and as I was appointed to notify L. H. re the decision of the council, and that the work of opening said road was to commence the following day, I did so personally. He protested against same, and said he would fight the case. I then asked him if he would allow the council to establish the old road to the river. To this he objected, so we had our men go on and open up the road as near the line of road allowance as possible through his field which is a meadow. He refused to put up a fence to keep the cattle from destroying his hay. I had a fence put across the road for 30 days to keep same out of field. Notices of the by-law were posted up in due form.

1. Can we be held responsible if any damages should occur to his crop after the 30 days?

2. Should he have had 30 days notice under the circumstances when he threatened to close up the said road, and the traffic was absolutely necessary?

3. If we have made a mistake, where? and how shall we arrange same, so the fence can be left open and no damages to us, or, under the circumstances, are we liable for any damages?

1. It is somewhat difficult without a diagram of the locality to understand the relative positions of the several roads mentioned. We gather however, that the council has passed two by-laws establishing roads in this vicinity, one to connect with the road formerly used through L. H.'s farm and the other, to connect with this road, through L. H.'s farm to the river, the latter being in lieu of the road formerly used through L. H.'s farm. We also gather that the latter road was never in any way dedicated to the public for use as a highway. The council is empowered by section 637 of the Municipal Act to pass a by-law to establish a road through L. H.'s land, after all the provisions of section 632 have been strictly observed.

L. H. is entitled to compensation from the council for the land taken for the purpose of establishing this road and for all damages he has thereby sustained, part of which is the cost of building such fences as the opening of the road renders necessary. If the amount of this compensation cannot be agreed upon between L. H. and the council, it must be settled by arbitration under the Municipal Act. (See section 437.)

2. The road formerly used through L. H.'s land does not appear to have been a public thoroughfare, as L. H. had a gate across it all the time, and could close it whenever he so desired. All the notice necessary to be given before passing a by-law to establish a road through L. H.'s land, is that required by section 632 of the Act.

3. Assuming that the by-law, establishing the road through L. H.'s land is properly framed, (as to which we cannot say, not having seen it), and before its passing the provisions of section 632 were strictly observed, we do not see that any mistake has been made. The council will, however, have to arrange with L. H. the amount of the compensation to which he is entitled, as stated in our answer to question No. 1.

Division of Township into School Sections—Alteration of Boundaries of—Council Can Lease Road—Effect of Resignation of Reeve—Authentication of By-laws.

414—J. B.—1. Can a council form a township into school sections when there is part of it formed into sections and some of them are not five years since they were formed?

2. Can a council form a school section 5 or 5½ miles long, and 2 miles wide?

3. Can a township council draw persons away from a town school after those residents were taken into the town school, or from the township as they were close to and around the town and their taxes are paid into the town of N. B.

4. Can a township council lease a side line in the township of W., District of Nipissing that runs into a lake. If they can't what steps are best to take to move the party off, that they leased it to as they take up the full 66 feet and no person can get to the lake. The municipality receives no rent?

5. If a reeve hands in his resignation when a council is opened and it is accepted, can a council go on with business?

6. If the by-laws are not signed at the next council meeting will they stand law?

7. Can a council withdraw any by-laws they passed at the second meeting that they passed at the meeting before, when they are not signed by the reeve?

1. Assuming that this has reference to the original formation of the township into school sections pursuant to section 12 of the Public Schools Act, 1901, the five year limit mentioned in section 41 of the Act does not apply, but if the formation of the new section in the township necessitates any alteration of the boundaries of those already in existence, the provisions of section 41 should be observed, in so far as the latter are concerned.

2. The latter part of sub-section 1 of section 12 of the Public Schools Act, 1901 contains the following clause: "Provided that no section formed hereafter shall