

repair it. In the meantime we do not think that the municipality will be held responsible for any accident that may happen any one by reason of the bridge being out of repair, but the council should use every reasonable means of warning travellers on and over the road in the municipality leading to it, of its unsafe condition and that the municipality will not be responsible for any accident which may happen.

#### Remedy Against Person Piling Cordwood on Street.

188.—H. M.—Our township has no by-law re obstruction on the highways. In an unincorporated village Mr. A. has placed in the centre of the highway several cords of firewood. Mr. B. told him not to do so. Mr. A. did so last year and in spring wood pile fell and covered about ten feet of roadway. Has Mr. B. any recourse other than through township council? If so, how should he proceed? The road is a public one and has been long established.

Mr. B. should request the council of the township to pass a by-law, pursuant to sub-sections 3 and 4 of section 557 of the Municipal Act, providing for the removal of this firewood at the expense of the party who placed it on the highway. This party may also be indicted for placing and maintaining a nuisance on a public highway.

#### Protection of Dangerous Railway Crossing—Custody of Treasurer's Bond—Treasurer's Bond Need Not be Registered.

189.—A. C.—1. The G. T. R. double track crosses our township. In one place a road that is very much traveled crosses it. At the point of crossing there is a cut of about four or five feet, making an exceedingly dangerous crossing. Have we any redress except by appeal to the railway committee referred to in answer to question seventy-five in February issue?

2. In appealing to said committee could the council in any way be held liable for costs except their own solicitors fees?

3. Failing to get a watchman, would we require to appeal through the same channel for an overhead bridge?

4. Is there any special Act regarding double tracked railroads?

5. If a township treasurer's bond is not registered, should it not be held by the clerk? If not, who should hold it?

6. Does the law require that the bond should be registered? I refer to a bond given by any number of ratepayers, say five.

1. No.

2. No.

3. Yes.

4. No.

5. The clerk of a municipality is the proper custodian of the treasurer's bond, under any circumstances.

6. A bond of this kind does not require registration.

#### Duties of Auditors.

190.—AUDITOR.—1. A initiates a drain under the Drainage Act and serves copy of report on B. B adopted report and passed by-law Dec. 16th, 1901.

Engineer's estimate :

Excavating, spreading, etc.	\$319 20	B Township.	
Survey, plan, profile, report.	35 00	Total ass. agnst pri. lands.	\$104 50
Assistance on survey.	3 00	Against municipality of B.	70 75
Pub. and serving by-laws B	6 00		\$175 25
Pub. and serving by-laws A	6 00	A Township.	
Clerk's fees, A	6 00	Total ass. agnst pri. lands.	342 50
" " B	3 00	Against municipality of A.	70 25
Letting and superintending.	14 80		\$312 75
	\$393 00		

Bridges from highways to private lands in A..... 95 00

\$488 00

By-law provides that the reeve of B may borrow the sum of \$175.25 and issue debentures at that amount bearing interest at 6% per annum, also for the collection of rates, etc. The total special rates and interest against each lot or part of lot shall be divided into three equal parts, one part to be levied and collected each year for three years, after final passing of by-law. Rates against roads and lands of municipality similarly provided for. No rates are entered on the collector's roll of 1902. No debentures have been issued. B has not had any settlement with A. B paid clerk for serving by-laws \$2, fees \$3, also for printing \$5.

(a) Is it necessary to register "Drainage By-laws" or is it legal if not registered?

(b) Please give correct entries to be entered in the assets and liabilities by auditors of 1902 of the above drain.

2. Should commutation tax collected from those who fail to perform statute labor be treated as a liability? It is generally paid back to the road division on which the labor should have been performed.

3. The council passed a motion remitting the taxes of Jno. Brown, indigent, \$4. They also issued an order in favor of the collector for the said \$4. The treasurer holds the order, but did not enter it in the cash book. The statement of settlement between the treasurer and collector states the \$4 was remitted.

a. Was it necessary to issue the order or was the motion sufficient?

b. Did the treasurer make correct entry or should the \$4 appear on both sides of cash book?

c. What shall we do with the order?

4. A and B have a settlement about a drain, drain initiated by A.

Total assessment against A....\$256 00

" " " B.... 121 00

\$377 00

Items included in above: Clerk's fees, including preparing and distributing by-laws, A and B each \$10; publishing by-laws, each \$5; registering by-laws, each \$2. By-law passed April 7th, 1900. B did not register by-law, but paid clerk \$5 and printer \$5.

Among the settlement papers we find the following statement, but no itemized accounts:

Total cost....\$377 00 A 68% } for construction  
Actual cost... 298 44 B 32%

Less estimate \$78 56

A's proportion.\$202 66

B's " 95 78, less \$17 fees,

by-laws, etc.....\$78 78

Due to A by B \$78.78.

Actual cost of drain to parties in B

\$78.78 x \$17.00..... 95 78

Estimated..\$121 00

Actual.... 95 78

\$25 22 to be refunded to assessed lands.

A. Is the above statement correct? (You notice B only paid \$10, whereas \$17 is deducted in settling with A, also in determining the refund.)

B. When each municipality pays its own clerk's fees, printing, etc., or when these items are not the same in each township, would it be better to include only such items as cost of construction, engineer's expenses, etc., in settling? (These amounts are proportional to amount assessed against each municipality, less clerk's fees, etc.)

C. Is \$25.22 the correct amount to pay back to the lands?

1. (a) By section 15 of chapter 33 of the Ontario statutes, 1900, section 398 of the Municipal Act is made to apply to township municipalities. Therefore it is optional with the municipality as to whether it registers by-laws providing for the issue of debentures passed under the provisions of the Municipal Drainage Act or not.

(b) It is not stated whether these drainage works have been gone on with and completed by the initiating municipality. (a) If they have been, B's share of the cost of these drainage works is a liability of B to A and should be so entered in the statement of assets and liabilities of the former. The fact that debentures have not been issued should be referred to by the auditors in their report.

2. Yes. The overseer of the statute labor division in which the property is situate, shall expend the amount of the commutation money, and the treasurer of the municipality is required to pay the amount to the person performing the work on the order of the overseer or pathmaster. (See section 110 of the Assessment Act, sub-section 2.)

3. In this case, a motion passed by the council instructing the collector not to collect this amount from John Brown is all that is necessary. In making his return to the treasurer, pursuant to section 147 of the Assessment Act an entry should be made opposite this item thereon "instructed by council not to collect" and a certified copy of this resolution would be a sufficient voucher, for the treasurer, collector and auditors, as to the lawful disposition of this item.

(c) This order should be cancelled by the council and we do not see that it should be entered anywhere by the treasurer, or taken into consideration by the auditors in making their report.

A, B and C. In arriving at the sum to be refunded to the owners of lands assessed for these drainage works in B the sum ACTUALLY paid for preparing, publishing or printing, and registering the by-law and all other expenses of and incidental to the preparation, etc., of the by-law should first be deducted from the portion of the cost of the drainage works, estimated by the engineer to be payable by B, which in this case would be \$10 from \$121, leaving \$111—from the latter sum should then be deducted B's proportionate part of the ACTUAL cost of construction, that is 32 per cent of \$298.44, or \$95.50, leaving a balance of \$15.50 to be refunded to parties assessed in B for these drainage works.