

### Clerk is Custodian of Corporate Seal—Proceedings to Divide School Section.

251—J. M. M.—1. Who should be the custodian of the municipal seal, the reeve, clerk or treasurer?

2. Can a council divide a school section after the ratepayers voted to build on the old site, and the kind of building, also by-law for levying the amount passed by the council, contract let by the School Board and work proceeded with? A party is getting up a petition and urging the council to divide the section. I might say that the School Board acted in accordance with statutes every step of the way.

3. Why have you changed the order of the Municipal Calendar from last year, as we found the old way much more serviceable in the back woods, as mail is slow in reaching us?

1. The clerk.

2. Yes, if the council deems it advisable to do so, and passes a by-law for the purpose in accordance with the provisions of section 41 of The Public Schools Act, 1901.

3. This change is not intended to be a permanent one, but was rendered necessary in the last two issues by reason of the large number of questions that had to be indexed on the same page.

### No General School Levy in Union Between Township and Urban Municipality.

252—CLERK—Union school section 7 is rated as follows: Township A., \$50,000; incorporated village B., \$200,000. School house is situated in B. and four teachers are employed in said school. Should trustees receive one-fifth of \$450 out of general funds of township A.? or one-fifth out of what sum? The law states that \$150 is to be paid for principal and \$100 for each assistant. Whether that is applicable to a union of that nature is my doubt.

This is a union section formed between a township and urban municipality and the latter part of sub-section 2 of section 70 of The Public Schools Act, 1901, provides that "this section (that is section 70) shall not apply to union sections formed between township and urban municipalities." Therefore there is no authority for the levy of the general school rate mentioned in section 70 or any part of it in either that part of the union section which is located in the township, or that which is located in the village municipality.

### Collection of Taxes in Union School Section Formed of Organized and Unorganized Territory.

253—C. C.—There is a union school house in the unorganized township G— adjoining us in N—. Quite a few of the ratepayers are in N—. This school put in their estimate of amount they wanted for school purposes, and we had the ratepayers in our township taxed accordingly. Now it turns out that they are unable to procure a teacher, and therefore will not need so much money, if any at all. The ratepayers of our township (of the section) are quite dissatisfied. This would not be so had they a like tax in G—. G— would possibly have tried to collect the same rate, but they failed to assess in their section last year, and some of their ratepayers refuse to pay taxes because they were not assessed. Can they collect taxes on the old assessment roll? If not, will we have to refund money (taxes) of those ratepayers in our township?

The trustees of this union section cannot levy a rate for school purposes in that part of the section in the unorganized township on the values fixed by the old assessment roll. The Public Schools Act, 1901, makes provision for the making of an assessment annually, and no other. We presume that it is the intention of the trustees to engage a teacher as soon as they can obtain one, and they can borrow their share of the money required to pay him and other expenses of maintaining the school until they can levy and collect it the coming fall, pursuant to sub-section 10 of section 65 of the Act. We presume that the share of the amount required by the trustees levied against and collected from the ratepayers in the organized municipality has been paid over by the council to the trustees in accordance with the provisions of sub-section 1 of section 71 of the Act, and cannot

therefore now be refunded to the parties who paid it. If it is not required by the trustees for the purposes of the school this year, these ratepayers will have this much less to pay the ensuing fall.

### Council Cannot Grant Privilege to Obstruct Road.

254—SUBSCRIBER.—A. and B. have been in partnership in the wood business and have had the privilege of piling their wood on a certain street in town, which is not used much, the piling to be done in such a way as not to interfere with traffic. They have dissolved partnership this spring, and B. applies to the council for the privilege of the same street to pile his wood on which was granted. A. applies to the council for the same street, but council could not grant his request.

1. Can he bring action against the corporation and have the council take the privilege away from B.?

2. Has the council the power to grant that privilege to any person?

1. The corporation can be indicted for allowing an obstruction to remain on the highway, and will be liable for any damages sustained by any person by reason of this wood having been allowed to remain on the highway.

2. No, the public is entitled to the use of the whole width of this street, and the council has no power to grant authority to use it for private purposes or obstruct it to any one. We assume, of course, that this street has been legally established and dedicated to the public as a highway.

### Proceedings to Enforce Cleaning Out of Drain.

255—J. C.—Three years ago the engineer came on and made an award, and my lot is a corner lot and the water empties on my lot from two sides that front on the lake road and concession 2. The ditches were made on the roads by the township. The two farms west of me also empty the water in the ditch on my place, first coming into the ditches on the roads. It is a branch ditch, and the two ditches come into one east of my place. I will enclose a map of the ditch. Last fall, in October, about the first of the month, I got blank forms from the clerk and filled them in and served them on the parties that own the farms below me that the ditches run through as well as the township. *The township part was done according to the award*, but the parties below my place never did theirs in the first place, nor did they do it according to the award last fall, after I had given them their 30 days' notice to clean out their ditches. The fact of the matter is this, my fields and buildings are flooded with the water off the road.

Can the township empty the water off the two roads when the parties below me do not take it away, and if I can collect damages, and from what parties, if any, if I warned the engineer to come and inspect the ditches last fall, in November, but he did not come. I told the reeve I had done so, also told him that the engineer had not come on to inspect the ditches?

We gather from the statement of the facts that this water was caused to flow and remain on the complainant's land by reason of the completion by the municipality of the repairing of its portion of the drain in accordance with the terms of the award, and of the non-completion of the repairing of their respective portions by the parties below. If this is so, the municipality cannot be held responsible in damages, as it only did what the law required it to do. Nor are the owners of the lands below the complainant (who seem to be the real instigators of the trouble) responsible in damages to the complainant. Section 35 of The Ditches and Watercourses Act (R. S. O., 1897, chapter 285), provides a remedy under these circumstances, and the party aggrieved must seek his remedy in the way thus provided. If the engineer WILFULLY neglected to make the inspection mentioned in sub-section 1 of section 35 of the Act, he is liable to the penalty mentioned in section 37 of the Act.

### Duties of Auditors.

256—ENQUIRER.—Does the Act empower auditors to investigate back of the vouchers?

For instance, it may appear from a voucher that a commissioner or other person has been paid an amount for some special work which to the auditors appears excessive. Can they investigate or have the matter investigated?