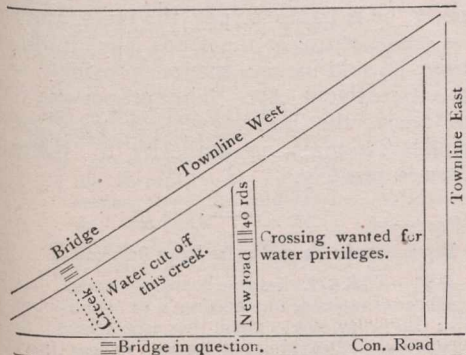


6. Is not the council exceeding its power in the matter if it agrees to put in an underground crossing for his cattle to get to spring creek cut off by said new road, at an indefinite cost?

7. How ought a clerk, in making out his voters' list, place the following names? A, B and C are residents of another municipality but have land in this township rented for pasture. They do not work the land. One of the members of the council says the statutes has it that before they appear as municipal voters, they (the tenants) must be actual residents of this municipality to be entitled to vote or to appear as municipal voters. Now the county judges both hold that they are legally entitled to appear on the list as municipal voters. Would like your opinion in the matter.



1. C does not appear to have been a party to this contract, and we are, therefore, of the opinion that A should pay these moneys to the personal representatives of B, that is, her executor or administrator.

2. A should ascertain who is the executor or administrator of B's estate, and notify him to see to the completion of the work.

3. Not unless C can show that he has legal authority to receive the money, as the duly-appointed personal representative of B, or has such authority from the personal representative of B.

4 and 5. The council can pass by-laws for stopping up the old road and opening the new one, pursuant to section 637 of the Municipal Act, after having first taken the proceedings mentioned in section 632 of the Act. The owner of the land taken for the new road is entitled to compensation under section 437 of the Act, and if he and the council cannot agree as to the amount, the question must be determined by arbitration under the Act.

6. No. See sub-section 5 of section 637 of the Act.

7. We are of the opinion that these tenants should be entered in part 2 of your voters' list, but unless they have resided within the municipality for one month next before the election, if objected to, they cannot take the oath of a tenant (see section 113 of the Act), and cannot vote.

**Amending By-Law—By-Law Preventing Cattle Running at Large—Council's Rules of Order.**

222—T. W. S.—1. Can you legally amend a by-law or must the by-law be rescinded and a new one executed?

2. Can a municipal council of incorporated village pass a by-law prohibiting cattle, pig, sheep and horses from running at large within the corporation limits, without submitting a by-law to be voted on by the people?

3. (a) If a council of an incorporated village has a rule, but not laid down either by resolution or by-law, that all accounts before being paid must be certified to by the person ordering the work done or the goods causing the account and an account is presented not certified to which is laid over for certification, can the person who presents the account, providing he goes so far as to sue said account, collect the costs that would be incurred by such action?

(b) Would the council's rule "of certification of all accounts before being paid" be a line of defence sufficient to offset costs of action?

(c) Would a council require a resolution or by-law, one or both to govern and carry out effectually the payment of accounts?

(d) What in your opinion is the proper procedure to be taken by council in the payment of accounts, seeing that an endless amount of trouble could be caused by persons holding accounts which should be presented to the retiring councillors and presenting them to the newly formed council?

1. A by-law can be legally amended.
2. Yes. See sub-section 2 of section 546 of the Municipal Act.

3. (a) If the rule you mention has not been established either by law or resolution of the council it is simply a nullity, and binding on no one. If the council has no valid defence to the account as presented, it should pay it. If the party entitled to the money sues the council and succeeds in his action against them, the council will have to pay such costs as the law allows to the plaintiff. We may also say, that even if the council had passed a resolution, that all accounts must be certified by a certain official before being paid, it would not be binding upon a contractor with the municipality unless it was part of the contract with such contractor that his claim or account should be so certified before being paid.

(b) No.

(c) Rules of order or procedure in conducting the business of the council, should be adopted by by-law of the council. Non-compliance with such rules, on the part of a councillor would not, however, deprive a person entitled to pay for services performed for the council, of his right to collect and receive his money, unless the council takes the precaution to make such rule or resolution part of the contract with such person.

(d) We do not know what method of procedure could be adopted by a council to prevent the occurrences you mention. Notwithstanding any rule the council might establish to regulate the presentation of these accounts, if they be just and correct, they would have to be paid whether presented by the person entitled to the money, to the old or the new council.

**Clerk's Salary**

223—E. N.—The resolution appointing me clerk gives it the form and effect of a by-law by having the corporate seal attached thereto. The question is: No mention of salary having been inserted in the by-law, can I collect the same salary as the ex-clerk was getting at the time of his dismissal or can I get anything?

The by-law, fixing the amount of the salary of the ex-clerk, has nothing to do with the remuneration you are to receive,

but, as you appear to have been legally appointed clerk, you are entitled to receive what your services are reasonably worth, and, if you and the council cannot agree, the amount will have to be fixed by a court or jury if you insist upon being paid.

**Assessor's Duties**

224—R. F.—A township council duly appointed an assessor. He made a declaration of office and took the books. Afterward he backed out and handed the books and his written resignation to the reeve. Said reeve, without authority from the council in session, instructed another man (the assessor for 1900) to go ahead and assess. He went over half the township before the resignation of the duly appointed assessor was accepted by the council in session and before making a declaration of office.

1. If said work is not valid, could the matter be made strictly correct without going over the ground again?

2. If no further assessment is made on that part of the township referred to before the end of April of this year, is said part exempt from taxes this year or could an additional assessment be levied next year?

3. Is the voters' list compiled from the work done by the man previous to his appointment valid? Could it be used correctly at the next provincial election?

4. What is the safest way out of the difficulty?

1. See answer to question No. 207 in this issue.

2. If the course suggested in our answer to question No. 1 is followed, this part of the municipality will not be exempt from taxation. In any event, an additional assessment could not be levied again next year.

3. Yes, in view of the above. See also section 72 of the Assessment Act as to the finality of the assessment roll.

4. Our answers to Nos. 2 and 3 render it unnecessary to reply to this question.

**Council's Obligation to Carry out Contract.**

225—S. J.—Last year's council let job of filling watercourse last December. Contractor was to fill ditch with brush and stone in December, which he did. He was to put on more brush and cover ditch with dirt in spring. Price of job \$30. This year's council decided that last year's council made a mistake in closing said watercourse and has opened it. Should present council pay contractor the amount he took the job at in full or would it be legal to give contractor good pay for the amount of work he did and notify him not to do any more work at said ditch?

If there was no by-law, we do not think the council is liable for more than the value of the work done, if it notify the contractor not to do any more work.

**By-Law to Raise Money for Extending Water and Electric Light Systems.**

226—C. M. T.—In case where the council of a town municipality want to extend the water and electric light systems of the town, and where the power-plant in power-station is altogether inadequate to light the town and do the pumping for the town is it absolutely necessary for the council to submit the by-law authorizing the issue of the necessary debentures to the ratepayers in accordance with the provisions of the Municipal Act? If not, kindly quote chapter and sections under which to proceed.

If the cost of the proposed extension of your water and electric light system is