

council is not compelled to, nor should it, give him another road, which seems to be required for his accommodation only.

5. Section 66 of the Public Health Act (chapter 248, R. S. O., 1897,) confers upon the medical health officer of a municipality the powers mentioned in sections 75, 76 and 79 of the Act. The latter sections empower him to enter and examine premises in the municipality, to notify the owner or occupant to cleanse the premises and to remove all objectionable matter found thereon, and in case the owner or occupant neglects or refuses to obey his orders in this regard, to cause the cleaning of the premises and the removal therefrom of all objectionable or unsanitary matter (section 79). Section 71 of the Act provides that "all reasonable costs and charges incurred in abating a nuisance shall be deemed to be money paid for the use and at the request of the person by whose act, default, or sufferance the nuisance was caused, and such costs and expenses shall be recovered by the municipal council or Local Board of Health or person incurring same, under ordinary process of law." It is not stated whether the medical health officer is engaged at an annual salary or is paid for the work he actually does as and when he performs it. If the former, his charges in this matter are covered by his salary, and if the latter, his fees can be included in the amount of the costs and charges, collectible from the person by whose act, default or sufferance, the nuisance was caused.

6. This amount cannot be entered on the collector's roll and collected at the same time and in the same manner as ordinary taxes, but is recoverable from the person by whose act, default or sufferance the nuisance was caused, by the municipal council or Local Board of Health, under ordinary process of law.

Irregular Assessment of Cost of Local Improvements.

544—G. W.—The council took up the eight-inch tile in the Main street drain and replaced it with 20-inch tile. Then, in council assembled, passed a resolution authorizing the clerk to charge property owners benefited by the change for the new tile for the price of eight-inch tile, giving each one credit for their share of the proceeds of the sale of the old tile, which was sold at a reduced rate. The clerk placed on the collector's roll, with other rates, the several sums chargeable to the said owners. Is this proceeding legal, or should there have been a by-law passed to legally impose the said sums?

If this was the reconstruction and enlargement of a drain, undertaken under the authority of sub-section 2 of section 664 of the Consolidated Municipal Act, 1903, a by-law should have

been passed by the council specifying the properties to be benefited by the work, and the portion of the cost to be assessed against each lot or part of lot according to their respective frontages. Notice of the by-law should be given as provided in section 671 of the Act, and a court of revision held in the regular way, otherwise the tax, as a frontage tax, cannot be legally imposed or collected. This work may be done at the general expense of the municipality, but in this event, the cost should be borne and paid by the owners of ALL the taxable property within the limits of the municipality. If the amount is not to be paid within the year in which the debt is incurred, a by-law providing for the raising of the necessary funds will have to be submitted to and receive the assent of the electors. (See sub-section 1 of section 389 of the Act.)

Qualification of Tax Defaulter to Vote in Townships in Districts.

545—W. J. H.—Can a ratepayer, who is not otherwise disqualified, be deprived of his vote because he has not paid his taxes? If so, please quote chapter and section.

No, unless the council of the municipality has passed a by-law pursuant to sub-section 1 of section 535 of the Consolidated Municipal Act, 1903. It is very doubtful, however, as to whether this municipality (being located in one of the unorganized districts) can pass such a by-law. Sub-section 1 of section 32 of chapter 225 (R. S. O., 1897,) enumerates the sections of the Municipal Act, under the authority of which the councils of such municipalities may pass by-laws, and section 535 is not one of them. Until some legislation is enacted making this point clear, we do not think the council of this municipality can safely pass a by-law of the kind mentioned.

Liability of Municipalities and Owners for Damage to Traction Engines and Bridges.

546—A. S.—1. Are there any laws in the statutes governing traction engines drawing threshing machines on highways?

2. Can municipalities hold owners of same good for damages sustained to bridges?

5. If a traction engine drops through a bridge, is the municipality liable?

4. Is there any law relating to how many tons a bridge shall carry?

1. The general law regulating the use of traction engines on highways will be found in chapter 242 of the Revised Statutes of Ontario, 1897. Section 43 of chapter 7 of the Ontario Statutes, 1903, adds to section 10 of the general act the following sub-section: "(3) The two preceding sub-sections shall not apply to engines used for THRESHING PURPOSES or for machinery in the construction of roadways." This means that township

municipalities must build and maintain their culverts and bridges of sufficient strength to permit of the safe passage thereover of engines used for threshing purposes.

2. No, but, on the contrary, the owner of the threshing engine can recover from the municipality such damages as he may sustain by breaking through a defective culvert or bridge under its jurisdiction. (See the above legislation and also the case of *Pattison v. Township of Wainfleet* cited in our answer to question No. 481, 1902, November issue.)

3. Yes, if the engine is being used for threshing purposes, and there is no negligence on the part of the owner or his employer contributing to the happening of the accident.

4. No. Every bridge must be of sufficient strength to meet the reasonable requirements of the locality in which it is situated.

Electors Must Approve of By-Law for the Construction of Electric Lighting Plant.

547—H. W. E.—1. Is it necessary for the council of an incorporated village to take a vote of the ratepayers in order to purchase an electric light plant, there being no plant in the village?

2. What steps would the council have to take to proceed in the matter?

3. Would a by-law have to be passed by the council before purchasing a plant or submitting it to the people?

4. If our taxes raised in 1902 were only \$1,300, could we pay more than 10% of the total annual municipal taxation for lighting the village?

1. Assuming that reference is made to the construction of electric light works in and by the municipality, the by-law to be passed for the purpose should first be published as provided by clause (firstly) of sub-section 5 of section 569 of the Consolidated Municipal Act, 1903, and before its final passing the assent of the electors as provided in clause (secondly) of this sub-section, obtained.

2. The steps to be taken preliminary to the final passing of a by-law of this kind are those prescribed by sub-section 5 of section 569 of the Act. The procedure to be followed in submitting a by-law to the vote of the electors will be found in section 338 and following sections of the Act.

3. The by-law must be approved by a majority of the electors before it is finally passed by the council.

4. This question is not clear to us. Please explain more fully, and we will reply.

Power to Impose Percentage for Default in Payment of Taxes.

548—Y. R. H.—Our township council passed a by-law to add one per cent. unpaid taxes on first of each month from January to