

section. Sub-section 6 of section 9 of the Drainage Act, as amended by section 2 of the Municipal Drainage Amendment Act, 1902, provides that "any owner of lands affected by the drainage work, if dissatisfied with the report of the engineer in respect of any of the provisions of THIS SECTION, that is section 9 of the Act, may appeal therefrom, to the referee, etc." It will be observed that this right of appeal is given only in respect of matters mentioned in section 9 of the Act and since the Act adding section 8a, makes no provision for an appeal to the referee in respect of matters mentioned in section 8a, and no such provision is made elsewhere, we are of opinion that no appeal lies to the referee from the report of the engineer in respect of matters mentioned in section 8a.

2. Section 32 of the Municipal Drainage Act provides that "any owner of land, or, where roads in the municipality are assessed, any ratepayer, complaining of overcharges in the assessment of his own land, or of any roads of the municipality, or of the undercharge of any other lands, or of any road in the municipality, or that lands or roads within the area described in the petition which should have been assessed for benefit, have been wrongly omitted from the assessment or that lands or roads which should have been assessed for outlet, liability or injuring liability have been wrongly omitted, may personally or by his agent, give notice in writing to the clerk of the municipality, that he considers himself aggrieved for any or all of the causes aforesaid." The matters referred to in section 8a are not by the above section, or by the Act adding it to the drainage Act or elsewhere, made the subject of appeal to the Court of Revision. We are therefore of opinion that such an appeal will not lie. Further legislation is necessary to confer either of the above rights of appeal.

#### Clearing of River of Obstructions—A Teacher's Agreement.

470—P. S. T. P.—1. A river or a branch of the river has its head waters in our township. It has scarcely any banks and for miles runs through bear meadow flats, and in many places the river bed is filled with timber in stretches of 80 rods long or more, so as to dam back the water in springtime, until the lands and roads are covered for miles, making it impossible to keep clear or cultivate lands. The ratepayers along said river and also the township council are anxious to know what steps or under what clause of the Act would it be necessary to pursue to clean out river.

2. A teacher having been engaged by the trustees and the agreement signed engaging said teacher until 31st. December, 1903. In the agreement the notice required to be given is one month. Can the trustees terminate engagement on the 31st December, 1902 by giving one month's notice, or will the trustees have to keep on teacher who is not giving satisfaction, until end of 1903. Ours is a rural school.

3. If the Board of Trustees fill up the agreement by stating that \$30 shall be paid at Easter and \$30 the 1st July, if teacher after signing this agreement, tenders his resignation on the 28th. May, are the trustees obliged to accept, and put up salary in full, or can they deduct

the interest when they have to borrow the money, or would it be legal to tender teacher notes of trustees falling due the 31st December as per agreement?

1. The parties interested should obtain the signature of the petition required by subsection 1 of section 3 of the Municipal Drainage Act (R. S. O., 1897, chap. 226) by the proper number of parties, and present it to the council, with a view to inducing them to pass a by-law under the provisions of the above Act for the clearing of this stream of obstructions.

2. It is difficult to answer this question satisfactorily without seeing the agreement. If it provides that the trustees may terminate the agreement at any time by giving one month's previous notice, they may so terminate it, paying the teacher his salary up to the time of the expiration of the notice, and they are not bound to retain him until the 31st December, 1903.

3. We cannot express any opinion upon this question without a copy of the agreement.

#### Assessment of Goods in Store.

471—T. C. N.—Are there different legal methods of assessing store goods and stocks? The present method of assessing only the paid up part is unsatisfactory. Please answer fully.

Section 28 of the Assessment Act provides that real and PERSONAL property shall be estimated, (for purposes of assessment), at their actual cash value, as they would be appraised in payment of a just debt from a solvent debtor. Sub-section 24 of section 7 of the Act exempts from assessment and taxation "so much of the personal property of any person as is equal to the just debts owed by him on account of such property, etc." This is the only legal method at present, provided for the assessment of goods or stocks in a store.

#### Gift of Wood on Road Allowance—Collection of Non-Resident Defaulter's Statute Labor.

472—X.—1. Can a municipal council legally grant to any one without receiving any compensation therefor, the wood on an unopened concession road?

2. (a) In case council cannot give the wood gratis to any one, is there anything in the statutes compelling council to give the party whose land is contiguous to said unopened and unfenced road the first chance as to purchase of said wood? (b) Has the one whose lot is contiguous the sole right of possession?

3. A pathmaster returns his road list too late to have defaulter's entered on roll for 1902. Is there any provision made for charging non-resident defaulter's? I mean non-residents entered on the Resident roll (section 109 (1) chapter 224.) I cannot see that the clerk has any right to change such in 1903.

1. No. Sub-section 6 of section 640 of the Municipal Act empowers councils of townships to pass by-laws "for preserving or SELLING timber, trees, etc., on any allowance or appropriation for a public road, etc.," but no authority is given to a council to make a voluntary GIFT of such timber or trees to any one.

2. (a). No.

(b). The party is legally in possession of this road allowance "as against any PRIVATE person" until a by law for opening such allowance for road has been passed by the council having jurisdiction over the same, but not as against the MUNICIPALITY, provided it has not been opened for public use by reason of another road being used in lieu thereof or if parallel and near to it, a road has been established by law in lieu thereof. See section 642 of the Municipal Act.

3. The sub-section you refer to requires overseers of highways to return these non-resident's defaulters to the clerk of the municipality, before the 15th August and further provides that "in that case" that is in the event of the return having been duly made as required by this sub-section, the clerk shall enter the commutation for statute labor against the names of such defaulters on the collector's roll. If the return is not made as required by the sub-section, the clerk has no authority to enter the commutation on the collector's roll either for the year then current or the following year, as this sub-section does not contain a provision in the latter regard, similar to that to be found in sub-section 1 of section 110.

#### Statute Labor on Unopened Road.

473—F. G. J.—1. I am shut in and have to pass through a neighbor's field to get out. There is a road allowance along my farm to the town line, but not open. How can I get more statute labor put on it than my own?

2. The council consult the wishes of the rate-payers and as no one but myself is interested in opening it out, I cannot get extra work. What power has the council to arrange the work if they consider it advisable to open a road, cannot they draw the labor near it even if the owners of the lots near have no interest?

3. If they cannot do this, would it be well to ask the council to annually expend a sum of money till it is opened?

4. In the event of the council refusing to do either of the above, what remedy have I to get the road opened?

1. Statute labor of residents must be performed in the division in which they reside unless the council of the municipality sees fit to direct or order otherwise. See the latter part of subsection 2 of section 109 of the Assessment Act. The council could not be reasonably expected to, nor should it so order unless the road has been duly opened for public travel, because the public interests require it. The council is not BOUND to open any road, nor should it do so, unless the PUBLIC convenience requires it.

2. The council has no reasonable excuse for ordering persons whose lands are outside your division, if any such has been established, to perform statute labor upon a road which you state has not been opened, and should not do so.

3. If the council is of opinion that the convenience of the public requires the opening of this road, it may pass a by-law pursuant to the provisions of the Municipal Act applicable to the circumstances, making provisions for so doing, but it should not do this for the benefit of one individual only.