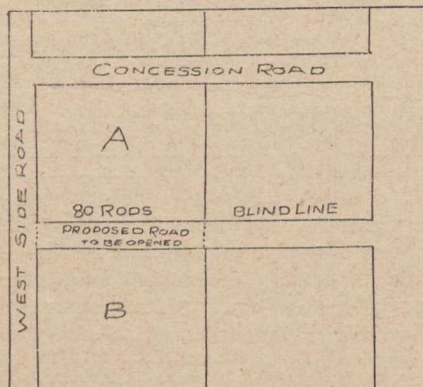


2. If a road be opened up by the municipal council along the line of adjoining farms but wholly on the one can the owner of the adjoining farm obtain compensation from the council for the construction of one-half of the line fence the road being taken from the farm abutting his. Payment being made for value of land, and cost of new fence, eighty rods long, to owner of land acquired for the road?



3. Can the owner of the farm from which the road is taken remove the one-half of line fence acknowledged to be his part in six months after the road is opened up and the other owner be forced to build the said half without compensation?

1. The council is required to post up the notices mentioned in clause (a) of sub-section 1 of section 632 of The Consolidated Municipal Act, 1903, but need not publish it, as required by clause (b). (See sub-section 4 of section 632).

2. The owner of this farm is entitled to compensation for such additional fence, as the opening of the new road renders it necessary for him to build, if any, but we do not think the existing fence should be interfered with.

3. There should be no occasion for the removal of the existing fence. The compensation allowed to the owner of the farm from which the road is taken should include the cost of erecting such a fence as is required between his land and the line of the new road.

Payment for Work Unauthorized by Council.

420—I. H.—W. D. lives three miles from the main travelled road on a road made expressly for him and several others to get out on the road being bush nearly all the way to D's farm. D. was unable to do his road work or get anyone to do it for him at the time the road work was done last year, so he paid for his road work one dollar for day under the commuted statute labor system. Late last fall D. hired a man to go on and cut some brush and fix said road without being authorized by either council or road overseer. He then billed the council for \$3.75 for road work which they refused to pay.

1. Can D. compel the council to pay this bill?
2. Can anyone do work on a road when they like and where they like and compel the council to pay?
3. Is the council compelled to fix any part of road when notified to do so?

1. No.

2. No.

3. No, but it should see that all the public highways under its jurisdiction are kept in a reasonably safe condition for public travel, taking into consideration the nature and circumstances of the particular locality. If the council neglects to do this and an accident happens, the municipality will be liable in damages for its negligence.

Restoring Water to Its Natural Course.

421—J. E. H.—1. Is there any time limit for water running on the roadside out of its natural channel to be returned to its natural one.

2. If the council would be compelled to replace culvert to take away this natural flow could they remove it if the flow was sent its natural course?

1 and 2. These questions are somewhat difficult to understand, but we gather that the council has con-

structed a drain along the road which is conducting water out of its natural course, and that objection is now being raised to this proceeding. If this is so, the council should take steps to fill up the illegal drain, and restore the drain to its natural and proper course as soon as possible. It must be observed, however, that if this drain has been in existence for 20 years or over, and any adjoining owner or owners has or have acquired the right to drain water through it, it cannot now be interfered with.

Proceedings to Elect School Trustee to Fill Vacancy.

422—T. S.—Trustees of public school board requested the council to hold nomination and election for school trustees in 1903 on the same day and time as municipal elections. This was done and trustees elected. Since then one trustee has resigned.

1. Who are the proper parties to call a meeting of the rate-payers to fill the vacancy, the clerk of the municipality or the secretary of the school board and should the election be by ballot?

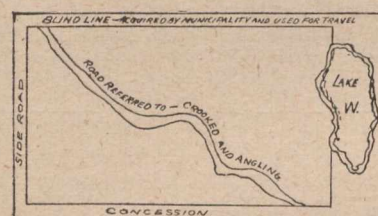
2. If the trustee is illegally elected what steps should be taken to have him unseated?

1. Sub-section 1 of section 62 of The Public Schools Act, 1901, provides that "in case the office of trustee becomes vacant from any cause, the remaining TRUSTEES shall, except as provided in the next sub-section forthwith hold a new election, etc." Unless the trustees have discontinued the use of the ballot at trustee elections as provided by the latter part of sub-section 1 of section 61 of the Act, this election must be by ballot.

2. The proceedings necessary to unseat a disqualified trustee will be found in section 63 of the Act.

Power of Private Owner to Close Road.

423—N. F.—About thirty-five years ago a road was opened on what was then the most convenient place to make it and the easiest to clear for traffic. This road was made without the consent of the owner of lot that it crosses, yet never has been objected to until now as it has been woodland. But there is nothing on record to show that it ever was acquired by the municipality for public use. Taxes for the whole lot have been paid regularly, no allowance given for the privilege of the road allowance. Now the owner desires to fence the lot in as part of it has been cleared and all is



useful for pasturage. The road runs along across the lot and is very inconvenient to it. The road can be made in the right place, the only objection is the cost of making a fit road in the regular allowance for public way. Can the owner close the road, if so, outline the steps to be taken?

There does not appear to have ever been any dedication of this road to the public, or conveyance of it to the municipality for use as a public highway, and we are of opinion that the owner of the adjoining land may close it at any time in any way he sees fit.

Power of Provincial Municipal Auditor.

424—B.—Can the Provincial Municipal Auditor compel the treasurer of a municipality to appear at a certain time and place in another municipality with his books, etc., there being no request in any way for either audit or inspection?

We are of opinion that the Provincial Municipal Auditor has power to compel the attendance of the treasurer of the township at the place, and for the purpose named by him. (See sections 10 and 12 of chapter 228, R. S. O., 1897.) We think, however, that if it be represented to the auditor that the attendance of the local treasurer at the place appointed would involve that official and the municipality in considerable trouble and expense, he would, we have no doubt, appoint some more convenient place for the audit.