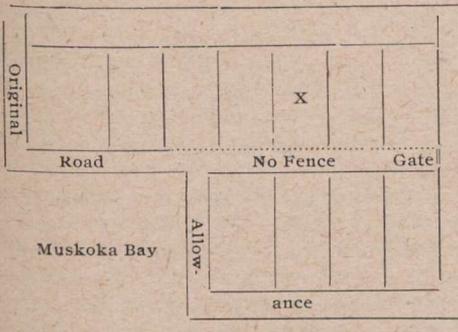


have closed the street without authority from the Council. The neighboring property owners object, and have asked the Council to order the street re-opened. Have the parties any right to close this street. It has always been opened to the water's edge; is shown on a registered plan by a P. L. S. and certified to in accordance with the registry Act. The dotted line is the street line, but the owners of property marked X have no fence, and they put the gate across the street presumably to save fencing their own property and keeping out cows.

2. Can the Council remove the gate?
3. If not, what steps can be taken to re-open the street and keep it open.



1. We gather from the facts as stated that W street is not an original or public allowance for road, but is a reservation for street or road purposes shown on a registered plan of a survey of the lands in the vicinity into town lots. In the case of *In re Morton* and the city of St. Thomas, (6 A. R., 323), it was held that the registration of a plan of a sub-division of a town lot and sales made in accordance with it, does not constitute a dedication of the streets thereon to the public. Unless this street has been assumed as a public highway by by-law of the municipality, the owner of the lands adjoining has a legal right to enclose it with a fence or gate. If on the contrary this street has been assumed by by-law of the council as a public highway, no one has any right or power to enclose or obstruct it in any way.

2. If it has not already done so, the council should pass a by-law pursuant to section 637 of the Municipal Act, providing for the assumption opening and establishing of this street, after the provisions of section 632 have been strictly observed and then the municipality will be in a position to prevent its obstruction in any way.

**Setting Aside Bicycle Path—Assessment of Separate School Supporters—Appeals to Court of Revision.**

407—J. C. M.—1. Our council (township) passed a by-law setting aside side of roadway as a bicycle path and requesting all to take side on a leading road when meeting or passing teams. Can such a by-law be enforced?

2. Has township to make such a path?
3. Where there are a number of R. C. Separate School Sections in a municipality the assessor is to place the parties in section nearest residence. Where there is no residence, where would the distance be measured from?

4. Can there be any appeal to council or Judge to place parties in a different section from that made by assessors. As I understand it, council can only act when assessor or clerk makes an error in placing a party by mistake in a separate or public school.

1. Sub-section 1 of section 640 of the Municipal Act empowers councils of townships to pass by-laws "for setting apart so much of any highway or road as the council of the municipality having control over the same, deems necessary for the purpose of a bicycle path," but the council has no authority to provide by by-law that a bicycle rider shall take the side of the road when meeting or passing teams. Sub-section 2 of section 1 and sub-sections 3 and 4 of section 2 of chapter 236, (R. S. O., 1897), regulate the conduct of bicycle riders when meeting a passing team or vehicle, or overtaking any such on a public highway.

2. No.

3. Section 46 of the Separate Schools Act, (R. S. O., 1897, chapter 294), provides that a non-resident land owner may, on giving the notice under section 3 of the Assessment Act, require that all his land, situated either in the municipality in which the Separate school is situated or within three miles in a direct line of the site of the Separate school, shall be assessed for the purposes of the Separate school."

4. Yes. See sub-section 8 of section 49 of the Separate Schools Act.

**Proceedings at Court of Revision.—A Poundage By-Law.**

408 A. W. W.—1. At our Court of Revision an appeal was made against the agent of the Deer Lake Cheese Factory. The Court consisted of the reeve and four councillors who had voted the reeve in the chair. As, however, the reeve was president of the Cheese Factory Co. he could not act in this matter, consequently a councillor was voted chairman temporarily. It was moved by A, seconded by B the chairman that the property be assessed at \$325. In amendment by C, seconded by D, that the property be assessed at \$400. This leaving it a tie what was the proper course to pursue. Ultimately the question was reconsidered and as a good many on the roll were not appealed against who in proportion might have been, and a motion was made and carried unanimously assessing the property at \$300.

2. I am also instructed to ask your opinion on copy of enclosed by-law No. 117. If not legal, what steps will make it legal? It has never been amended or repealed and has never been placed in Court until recently, but has been on the by-law book and supplied to pound-keepers for a good many years. It was not of use at a trial recently but I have not been able to learn the correct grounds for ignoring it.

1. Each of these motions should have been put to the meeting, and if the vote on each had been a tie, they should both have been declared "lost" by the chairman. (See section 274 of the Municipal Act.) If they were not put to the vote of the meeting, they were simply nullities and should not be recorded. The motion to assess the factory at \$300 seems to have been carried in due form and will fix the assessment, unless altered on appeal to the county judge, under the provisions of the Assessment Act.

2. The greater part of the by-law submitted is unnecessary, as the Act respecting pounds, (R. S. O., 1897, chapter 272) already makes similar provisions. Before going into a minute examination of the

by-law, we would like to know the grounds on which it was objected to, as this would make an investigation and criticism of it more satisfactory.

**Release of Treasurer's Surety—Substitution of New Surety—Audit of Treasurer's Accounts.**

409—X. Y. Z.—1. If a bondsman for the treasurer gives a written notice to the reeve to be presented to the Council at their next meeting, that he desires his name withdrawn as bondsman for the treasurer and that he will not consider himself liable for any malfeasance of office after the date of the ensuing meeting, does such a notice relieve him from responsibility after the council meets?

2. Would a motion stating that the certain bondsman is relieved from liability after that date be sufficient action on the part of the council?

3. Will it be necessary to make a new bond if a number of the bondsmen withdraw and are relieved by the council?

4. Can any bondsman require the council at any time to make an audit or investigation of the treasurer's books?

1. No.

2. A resolution of this kind would relieve the surety of responsibility for any defaults or irregularities of the treasurer, subsequent to its date, but not before. In *County of Frontenac v Breden* (17 Grant 645) one of the sureties of a treasurer, being desirous of being relieved from his suretyship, the treasurer offered to the council a new surety in his place, the council thereupon passed a resolution approving of the new surety, and declaring that on the completion of the necessary bonds the withdrawing surety should be relieved. No further act on the part of the council took place, but the treasurer and his new surety (omitting the second surety) joined in a bond conditioned for due performance of the treasurer's duties for the future, and the treasurer executed a mortgage to the same effect. The clerk, on receiving these gave up the treasurer the old bond and the treasurer destroyed it. Eight years afterwards a false charge was discovered in the accounts of the treasurer of a date prior to these transactions, and it was held that the sureties on the first bond were responsible for it.

3. Yes.

4. No, but he has the right to examine the books of the treasurer for his own protection and at his own expense.

**Liability for Accidents on Sidewalks in Unincorporated Village—Removal of Obstructions From Road Allowance.**

410—CLERK—1. There is a small village in our municipality. Some eight years ago a sidewalk was laid by the villagers without consulting council. No grant, statute labor or municipal aid was ever given towards said sidewalk. Now they are in a very dangerous condition. Are we liable for damages for accidents?

2. Can we remove these sidewalks?
3. Should we grant aid to improve them? Would that increase our liability?

4. A sideroad (an original road allowance) has been opened for over thirty years and heavily travelled and is kept up by statute labor and grants when necessary. One of the owners of a farm along said sideroad finds tha